



# Local Government (Scotland) Act 1973

## 1973 CHAPTER 65

### PART X

#### LICENSING, ETC

##### *Licensing Courts and Courts of Appeal*

#### **185 Licensing courts and courts of appeal**

For sections 1 to 5 of the Licensing (Scotland) Act 1959 there shall be substituted the following sections:—

##### **“1 Licensing courts.**

- (1) There shall be a separate licensing court for—
  - (a) each islands area and district, not being such an area which has been divided into licensing divisions under subsection (2) of this section, and
  - (b) each licensing division.
- (2) The council of any islands area or district may from time to time determine whether their area shall be divided into divisions (in this Act referred to as "licensing divisions") for the purpose of this Act, and such a council shall, on making a determination under this subsection, forthwith notify the Secretary of State of such determination and shall cause particulars thereof to be published in two successive weeks in one or more newspapers circulating in their area.

##### **2 Composition of licensing courts.**

A licensing court shall consist—

- (a) as to one half, of justices of the peace for the area which constitutes or includes the area of the court who reside in the islands area or district which constitutes or (in the case of an area divided into licensing divisions) which includes the area of the court;

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- (b) as to one half, of councillors for the islands area or district whose area constitutes or includes the area of the court;

and the court shall, according to the population of the licensing area ascertained in accordance with section 31 of this Act, consist of such number of members as is determined by reference to the scale set out in Schedule 1 to this Act.

### **3 Courts of appeal.**

- (1) For the purpose of hearing appeals from licensing courts and applications for the confirmation of new certificates under this Act there shall be courts (in this Act referred to as " courts of appeal ") constituted as provided in section 4 of this Act.
- (2) There shall be a separate court in each islands area and district, which shall be the court of appeal from the licensing court for that area or, where that area is divided into licensing divisions, from the licensing courts for all such divisions.

### **4 Composition of courts of appeal.**

A court of appeal shall consist as to one half of justices of the peace for the area which comprises the area of the court who reside in the area of the court, and as to one half of councillors for the islands area or district whose area constitutes the area of the court, and the court shall be so constituted that it contains three more justices and three more councillors than the licensing court for the same area or for the most populous licensing division within that area, as the case may be.

### **5 Election and term of office of members of licensing courts and courts of appeal.**

- (1) The members of licensing courts and courts of appeal holding office immediately before 16th May 1975 shall cease to hold office on that date, and the new courts shall be formed in accordance with the following provisions of this section.
- (2) The members of a licensing court or court of appeal being councillors shall be elected, in the case of courts to be formed on 16th May 1975, by the islands or district council whose area constitutes or includes the area of the court at a meeting of that council to be held on a date between 16th April 1975 and 15th May 1975 to be determined by the council, and, in the case of subsequent elections, at the first meeting of the said council held after the next ordinary election of that council.
- (3) The members of a licensing court or court of appeal being justices of the peace shall be elected, in the case of courts to be formed on 16th May 1975, at a meeting of the justices for the area which comprises the area of the court to be held on the same day and at the same place as the meeting first referred to in subsection (2) above of the islands or district council whose area constitutes or includes the area of the court, and, in the case of subsequent such elections, at a meeting of the said justices to be held on the same day and at the same place as the first meeting of the said council held after the next ordinary election of that council.

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- (4) The term of office of the members of a licensing court or court of appeal, being justices of the peace or councillors, shall, in the case of members elected at the meetings held in terms of subsections (2) and (3) above between 16th April 1975 and 15th May 1975, begin on 16th May 1975, and in any other case shall begin on the day of their election (as provided in those subsections) and in every case shall end on the day of the next election of members of the court.
- (5) Notwithstanding any enactment providing that a member of a court appointed by a local authority shall cease to be a member of the court on ceasing to be a member of the local authority, a member of a licensing court or court of appeal who was appointed by a local authority and who has ceased to be a member of the authority by reason of an ordinary election to the council of that authority shall continue to be a member of the court until the first meeting of the council after the election.
- (6) At a meeting of justices of the peace to elect representatives from their own number to a licensing court or court of appeal, a justice who does not reside in the area of an islands or district council shall not be entitled to vote or to submit a motion or, except with the leave of the meeting, to take part in a discussion in connection with such an election to—
  - (a) the licensing court for that area or, where the area is divided into licensing divisions, the licensing court for any such division, or
  - (b) the court of appeal for that area.”

#### **186 Transitional and minor and consequential amendments of Licensing (Scotland) Acts**

- (1) The Secretary of State shall not make any order under section 31 of the Licensing (Scotland) Act 1959 (supplementary and local provisions) as that section had effect immediately before the passing of this Act; and no alteration shall be made in any licensing court or court of appeal by reason of any increase or decrease of population until those courts are reconstituted in terms of the said Act of 1959 as amended by subsequent enactments (including this Act).
- (2) The Licensing (Scotland) Acts 1959 to 1969 shall have effect subject to the minor and consequential modifications and amendments set out in Part I of Schedule 24 to this Act.