



# Licensing (Scotland) Act 2005

## 2005 asp 16

### PART 3

#### PREMISES LICENCES

##### *Conviction of licence holder etc. for relevant or foreign offence*

#### **41 Duty to notify court of premises licence**

- (1) Subsection (2) applies where—
  - (a) a person who holds a premises licence is charged with a relevant offence, or
  - (b) a person charged with a relevant offence is granted a premises licence after the person's first appearance in court in connection with the offence but before—
    - (i) conviction and sentencing for the offence or acquittal, or
    - (ii) where an appeal is brought against conviction, sentence or acquittal, the disposal of the appeal.
- (2) The person must, not later than the person's first appearance or, as the case may be, next appearance in court in connection with the offence—
  - (a) produce to the court the premises licence, or
  - (b) if that is not practicable, notify the court of—
    - (i) the existence of the premises licence,
    - (ii) the identity of the Licensing Board which issued it, and
    - (iii) the reasons why it is not practicable to produce the licence.
- (3) A person who, without reasonable excuse, fails to comply with subsection (2) commits an offence.
- (4) A person guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

#### **Commencement Information**

**II** S. 41 in force at 1.2.2008 by [S.S.I. 2007/472](#), art. 2, [Sch. 1](#)

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**Changes to legislation:** Licensing (Scotland) Act 2005, Cross Heading: Conviction of licence holder etc. for relevant or foreign offence is up to date with all changes known to be in force on or before 10 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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## 42 Court's duty to notify Licensing Board of convictions

- (1) This section applies where the clerk of a court in Scotland by or before which a person is convicted of a relevant offence is aware that the person holds a premises licence.
- (2) The clerk of the court must, as soon as reasonably practicable after the conviction, give notice of the conviction to the Licensing Board which issued the premises licence held by the person convicted.

### Commencement Information

**I2** S. 42 in force at 1.2.2008 by [S.S.I. 2007/472](#), art. 2, [Sch. 1](#)

## 43 Licence holder's duty to notify Licensing Board of convictions

- (1) This section applies where any of the persons specified in subsection (2) is convicted of a relevant or foreign offence.
- (2) Those persons are—
  - (a) the holder of a premises licence, and
  - (b) where—
    - (i) the holder of such a licence is neither an individual nor a council, or
    - (ii) the premises in respect of which such a licence is held are used wholly or mainly for the purposes of a club,
 any connected person.
- (3) The holder of the premises licence must, no later than one month after the date of the conviction, give notice of the conviction to the Licensing Board which issued the premises licence held by the licence holder.
- (4) A notice of conviction under subsection (3) must—
  - (a) specify—
    - (i) the nature of the offence, and
    - (ii) the date of conviction, and
  - (b) be accompanied by—
    - (i) the premises licence held by the licence holder, or
    - (ii) if that is not practicable, a statement of the reasons for failure to produce the licence.
- (5) A premises licence holder who fails, without reasonable excuse, to comply with subsection (3) commits an offence.
- (6) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

### Modifications etc. (not altering text)

**C1** S. 43(3) modified (1.2.2008) by [Licensing \(Relevant Offences\) \(Scotland\) Regulations 2007 \(S.S.I. 2007/513\)](#), regs. 1(1), [3](#)

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#### Commencement Information

**I3** S. 43 in force at 1.2.2008 by [S.S.I. 2007/472](#), [art. 2](#), [Sch. 1](#)

#### 44 Procedure where Licensing Board receives notice of conviction

- (1) This section applies where the Licensing Board which issued a premises licence receives a notice of conviction relating to—
  - (a) the holder of the licence, or
  - (b) where—
    - (i) the holder of the licence is neither an individual nor a council, or
    - (ii) the premises in respect of which the licence is held are used wholly or mainly for the purposes of a club,  
a connected person.
- (2) The Licensing Board must give notice of the conviction to the [<sup>F1</sup>chief constable].
- (3) The [<sup>F2</sup>chief constable] must, within 21 days of the date of receipt of a notice under subsection (2), respond to the notice by giving the Licensing Board one or other of the notices mentioned in subsection (4).
- (4) Those notices are—
  - (a) a notice stating that the chief constable is unable to confirm the existence of the conviction or that the conviction does not relate to a relevant or foreign offence, or
  - (b) a notice confirming the existence of the conviction and that it relates to a relevant or foreign offence.
- (5) Where the chief constable—
  - (a) proposes to give a notice under subsection (4)(b), and
  - (b) considers that, having regard to the conviction specified in the notice, it is necessary for the purposes of [<sup>F3</sup>any of the licensing objectives] that the premises licence should be varied, suspended or revoked,  
the chief constable may include in the notice a recommendation to that effect.
- (6) If the Licensing Board receives from the [<sup>F4</sup>chief constable] a notice under subsection (4)(a), the Licensing Board may not take any further action in relation to the conviction.
- (7) If the Licensing Board receives from the [<sup>F5</sup>chief constable] a notice under subsection (4)(b) [<sup>F6</sup>which includes a recommendation under subsection (5)], the Licensing Board must make a premises licence review proposal in respect of the premises licence.
- [<sup>F7</sup>(7A) If the Licensing Board receive from the chief constable a notice under subsection (4)(b) which does not include a recommendation under subsection (5), the Licensing Board must—
  - (a) make a premises licence review proposal in respect of the premises licence, or
  - (b) decide to take no further action in relation to the conviction.]
- (8) In this section, “notice of conviction” means a notice under section 42(2) or 43(3).

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### Textual Amendments

- F1** Words in s. 44(2) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), sch. 7 para. 29(2), **(3)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F2** Words in s. 44(3) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), sch. 7 para. 29(2), **(3)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F3** Words in s. 44(5)(b) substituted (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), s. 206(1), **Sch. 6 para. 8**; S.S.I. 2010/413, art. 2, Sch.
- F4** Words in s. 44(6) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), sch. 7 para. 29(2), **(3)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F5** Words in s. 44(7) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), sch. 7 para. 29(2), **(3)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F6** Words in s. 44(7) inserted (15.5.2017) by [Air Weapons and Licensing \(Scotland\) Act 2015 \(asp 10\)](#), **ss. 50(a)**, 88(2); S.S.I. 2017/119, art. 2, sch. (with art. 5)
- F7** S. 44(7A) inserted (15.5.2017) by [Air Weapons and Licensing \(Scotland\) Act 2015 \(asp 10\)](#), **ss. 50(b)**, 88(2); S.S.I. 2017/119, art. 2, sch. (with art. 5)

### Commencement Information

- I4** S. 44 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **sch. 1**

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- specified provision(s) Appointed Day(s) by [S.S.I. 2006/239 art. 2](#) (This S.S.I. is revoked on 25.5.2006 by S.S.I. 2006/286, art. 6)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 33(1)(1A) substituted for s. 33(1)-(3) by [2015 asp 10 s. 49\(2\)\(a\)](#)
- s. 33(8)(za) inserted by [2015 asp 10 s. 49\(2\)\(c\)](#)
- s. 33(8A) inserted by [2015 asp 10 s. 49\(2\)\(d\)](#)
- s. 33A inserted by [2015 asp 10 s. 49\(4\)](#)
- s. 134ZA-134ZC inserted by [2015 asp 10 s. 61\(2\)](#)