



Licensing (Scotland) Act 2005

2005 asp 16

PART 6

PERSONAL LICENCES

Conviction of licence holder for relevant or foreign offence

80 Duty to notify court of personal licence

- (1) Subsection (2) applies where—
- (a) a person who holds a personal licence is charged with a relevant offence, or
 - (b) a person charged with a relevant offence is granted a personal 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, no later than the person's first or, as the case may be, next appearance in court in connection with the offence—
- (a) produce to the court the personal licence, or
 - (b) if that is not practicable, notify the court of—
 - (i) the existence of the personal licence,
 - (ii) the identity of the Licensing Board which issued the licence, 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. 80 in force at 1.2.2008 by [S.S.I. 2007/472](#), art. 2, [Sch. 1](#)

Changes to legislation: Licensing (Scotland) Act 2005, Cross Heading: Conviction of licence holder for relevant or foreign offence is up to date with all changes known to be in force on or before 17 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

81 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 personal 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 personal licence held by the licence holder.
- (3) Where—
 - (a) a Licensing Board receives a notice under subsection (2) (“the receiving Board”), and
 - (b) that Board has reason to believe that the personal licence holder in respect of whom the notice is given is working in licensed premises situated in the area of another Licensing Board (“the other Board”),
 the receiving Board must give notice of the conviction to the other Board.

Commencement Information

I2 S. 81 in force at 1.2.2008 by [S.S.I. 2007/472](#), art. 2, [Sch. 1](#)

82 Licence holder's duty to notify Licensing Board of convictions

- (1) This section applies where a personal licence holder is convicted of a relevant or foreign offence.
- (2) The licence holder must, no later than one month after the date of the conviction, give notice of the conviction to—
 - (a) the Licensing Board which issued the personal licence held by the licence holder, and
 - (b) if different, the Licensing Board for the area in which are situated any licensed premises in which the licence holder is working.
- (3) A notice of conviction under subsection (2) must—
 - (a) specify—
 - (i) the nature of the offence, and
 - (ii) the date of the conviction, and
 - (b) be accompanied by—
 - (i) the personal licence held by the licence holder, or
 - (ii) if that is not practicable, a statement of the reasons for failure to produce the licence.
- (4) Where—
 - (a) a Licensing Board receives a notice under subsection (2) (“the receiving Board”), and
 - (b) that Board has reason to believe that the personal licence holder in respect of whom the notice is given is working in licensed premises situated in the area of another Licensing Board (“the other Board”),
 the receiving Board must give notice of the conviction to the other Board.
- (5) A licence holder who fails, without reasonable excuse, to comply with subsection (2) commits an offence.

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- (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. 82(2) modified (1.2.2008) by [Licensing \(Relevant Offences\) \(Scotland\) Regulations 2007 \(S.S.I. 2007/513\)](#), regs. 1(1), 3

Commencement Information

- I3** S. 82 in force at 1.2.2008 by [S.S.I. 2007/472](#), art. 2, [Sch. 1](#)

83 Procedure where Licensing Board receives notice of conviction

- (1) Subsection (2) applies where the relevant Licensing Board—
- (a) receives a notice of conviction relating to a personal licence holder, or
 - (b) becomes aware that a personal licence holder was, during the application period, convicted of a relevant offence or a foreign offence.
- (2) The Licensing Board must give notice of the conviction to the [^{F1}chief constable].
- (3) The [^{F2}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 a foreign offence, or
 - (b) a notice confirming the existence of the conviction and that it relates to a relevant or a foreign offence.
- (5) Where the [^{F3}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 [^{F4}any of the licensing objectives] that the licence holder's personal licence should be revoked, suspended or endorsed,
- the chief constable may include in the notice a recommendation to that effect.
- (6) If the Licensing Board receives from the [^{F5}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 [^{F6}chief constable] a notice under subsection (4)(b) [^{F7}which includes a recommendation under subsection (5)] , the Licensing Board must hold a hearing.
- [^{F8}(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) hold a hearing, or
 - (b) decide to take no further action in relation to the conviction.]

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- (8) At [^{F9}a hearing under subsection (7) or (7A)(a)], the Licensing Board may—
- (a) having regard to—
 - (i) the conviction, and
 - (ii) any recommendation contained in the chief constable's notice under subsection (5),
 - (b) after giving—
 - (i) the licence holder concerned, and
 - (ii) the [^{F10}chief constable],
 an opportunity to be heard, and
 - (c) if satisfied that it is necessary to do so for the purposes of [^{F11}any of the licensing objectives],
- make an order under subsection (9).

[^{F12}(8A) Subsection (8) is subject to subsection (9A).]

- (9) That order is an order—
- (a) revoking,
 - (b) suspending for such period, not exceeding 6 months, as the Board considers appropriate, or
 - (c) endorsing,
- the personal licence held by the licence holder concerned.

[^{F13}(9A) Where, at the hearing, the Licensing Board are satisfied that, having regard to the licensing objectives, the licence holder is not a fit and proper person to be the holder of a personal licence, the Board must make an order revoking the licence.]

- (10) Where the Licensing Board makes an order under subsection (9) [^{F14}or (9A)] , the Board must give—
- (a) the licence holder concerned,
 - (b) the [^{F15}chief constable], and
 - (c) if different, the Licensing Board which issued the personal licence,
- notice of the order and of the reasons for making it.

- (11) In this section—

“the application period” means, in relation to a personal licence holder, the period—

- (a) beginning with the date on which the application for the personal licence held by that licence holder was made, and
- (b) ending with the date on which that application was granted,

“notice of conviction” means a notice under section 81(2) or 82(2), and

“relevant Licensing Board” means, in relation to a personal licence holder—

- (a) if the personal licence holder is working as a premises manager at any licensed premises, the Licensing Board for the area in which those premises are situated,
- (b) in any other case, the Licensing Board which issued the personal licence held by the licence holder.

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Textual Amendments

- F1** Words in s. 83(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. 83(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. 83(5) 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)
- F4** Words in s. 83(5)(b) substituted (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), s. 206(1), [sch. 6 para. 15\(2\)](#); S.S.I. 2010/413, art. 2, [sch.](#)
- F5** Words in s. 83(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)
- F6** Words in s. 83(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)
- F7** Words in s. 83(7) inserted (15.5.2017) by [Air Weapons and Licensing \(Scotland\) Act 2015 \(asp 10\)](#), **ss. 51(a)**, 88(2); S.S.I. 2017/119, art. 2, [sch.](#) (with art. 5)
- F8** S. 83(7A) inserted (15.5.2017) by [Air Weapons and Licensing \(Scotland\) Act 2015 \(asp 10\)](#), **ss. 51(b)**, 88(2); S.S.I. 2017/119, art. 2, [sch.](#) (with art. 5)
- F9** Words in s. 83(8) substituted (15.5.2017) by [Air Weapons and Licensing \(Scotland\) Act 2015 \(asp 10\)](#), **ss. 51(c)**, 88(2); S.S.I. 2017/119, art. 2, [sch.](#) (with art. 5)
- F10** Words in s. 83(8)(b)(ii) 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)
- F11** Words in s. 83(8)(c) substituted (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), s. 206(1), [sch. 6 para. 15\(3\)](#); S.S.I. 2010/413, art. 2, [sch.](#)
- F12** S. 83(8A) inserted (15.5.2017) by [Air Weapons and Licensing \(Scotland\) Act 2015 \(asp 10\)](#), **ss. 47(2)(a)**, 88(2); S.S.I. 2017/119, art. 2, [sch.](#) (with arts. 3, 4)
- F13** S. 83(9A) inserted (15.5.2017) by [Air Weapons and Licensing \(Scotland\) Act 2015 \(asp 10\)](#), **ss. 47(2)(b)**, 88(2); S.S.I. 2017/119, art. 2, [sch.](#) (with arts. 3, 4)
- F14** Words in s. 83(10) inserted (15.5.2017) by [Air Weapons and Licensing \(Scotland\) Act 2015 \(asp 10\)](#), **ss. 47(2)(c)**, 88(2); S.S.I. 2017/119, art. 2, [sch.](#) (with arts. 3, 4)
- F15** Words in s. 83(10)(b) 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)

Commencement Information

- I4** S. 83 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\(2\)](#)