



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.

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.

Status: This is the original version (as it was originally enacted).

- (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.

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.
- (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.

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 appropriate chief constable.
- (3) The appropriate 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 appropriate 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 the crime prevention objective 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 appropriate 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 appropriate chief constable a notice under subsection (4)(b), the Licensing Board must hold a hearing.
- (8) At the hearing, 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 appropriate chief constable,an opportunity to be heard, and
 - (c) if satisfied that it is necessary to do so for the purposes of the crime prevention objective,make an order under subsection (9).
- (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.

- (10) Where the Licensing Board makes an order under subsection (9), the Board must give—
- (a) the licence holder concerned,
 - (b) the appropriate 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.