



# Licensing (Scotland) Act 2005

## 2005 asp 16

### PART 6

#### PERSONAL LICENCES

##### *Grant and renewal of personal licence*

#### **72 Application for personal licence**

- (1) Any individual aged 18 years or more may apply for a personal licence to—
  - (a) if the individual is ordinarily resident in the area of any Licensing Board, that Board, or
  - (b) in any other case, any Licensing Board.
- (2) An application under subsection (1) is referred to in this Act as a “personal licence application”.

#### **73 Notification of application to chief constable**

- (1) Where a Licensing Board receives a personal licence application, the Board must give notice of it, together with a copy of the application, to the appropriate chief constable.
- (2) The appropriate chief constable must, within 21 days of the date of receipt of a notice under subsection (1), respond to the notice by giving the Licensing Board one or other of the notices mentioned in subsection (3).
- (3) Those notices are—
  - (a) a notice stating that, as far as the chief constable is aware, the applicant has not been convicted of any relevant offence or foreign offence, or
  - (b) a notice specifying any convictions of the applicant for any such offence.
- (4) Where the chief constable—
  - (a) proposes to give a notice under subsection (3)(b), and
  - (b) considers that, having regard to any conviction to be specified in the notice, it is necessary for the purposes of the crime prevention objective that the personal licence application be refused,

the chief constable may include in the notice a recommendation to that effect.

#### **74 Determination of personal licence application**

- (1) A personal licence application received by a Licensing Board is to be determined by the Board in accordance with this section.
- (2) If—
  - (a) all of the conditions specified in subsection (3) are met in relation to the applicant, and
  - (b) the Board has received from the appropriate chief constable a notice under section 73(3)(a),the Board must grant the application.
- (3) The conditions referred to in subsection (2)(a) are that—
  - (a) the applicant is aged 18 or over,
  - (b) the applicant possesses a licensing qualification, and
  - (c) no personal licence previously held by the applicant has been revoked within the period of 5 years ending with the day on which the application was received.
- (4) If any of those conditions is not met in relation to the applicant, the Licensing Board must refuse the application.
- (5) If—
  - (a) all of those conditions are met in relation to the applicant, and
  - (b) the Board has received from the appropriate chief constable a notice under section 73(3)(b),the Licensing Board must hold a hearing for the purpose of considering and determining the application.
- (6) At a hearing under subsection (5), the Licensing Board must, after having regard to the chief constable's notice—
  - (a) if satisfied that it is necessary to do so for the purposes of the crime prevention objective, refuse the application, or
  - (b) if not so satisfied, grant the application.

#### **75 Applicant's duty to notify Licensing Board of convictions**

- (1) This section applies where, during the period beginning with the making of a personal licence application and ending with determination of the application, the applicant is convicted of a relevant offence or a foreign offence.
- (2) The applicant must, no later than one month after the date of the conviction, give notice of the conviction to the Licensing Board to which the personal licence application was made.
- (3) A notice under subsection (2) must specify—
  - (a) the nature of the offence, and
  - (b) the date of the conviction.
- (4) Where the Licensing Board receives a notice under subsection (2) at any time before they have determined the personal licence application, the Board must—

- (a) suspend consideration of the application, and
  - (b) give notice of the conviction to the appropriate chief constable.
- (5) The appropriate chief constable must, within 21 days of the date of receipt of a notice under subsection (4)(b), respond to the notice by giving the Licensing Board one or other of the notices mentioned in subsection (6).
- (6) 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 offence or foreign offence, or
  - (b) a notice confirming the existence of the conviction and that it relates to a relevant offence or foreign offence.
- (7) Where the chief constable—
  - (a) proposes to give a notice under subsection (6)(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 personal licence application be refused,the chief constable may include in the notice a recommendation to that effect.
- (8) On receipt of the chief constable's notice under subsection (6), the Licensing Board must resume consideration of the personal licence application and determine it in accordance with section 74.
- (9) For that purpose, that section has effect as if—
  - (a) references in it to a notice under section 73(3)(a) included references to a notice under subsection (6)(a) of this section, and
  - (b) references in it to a notice under section 73(3)(b) included references to a notice under subsection (6)(b) of this section.
- (10) A person who, without reasonable excuse, fails to comply with subsection (2) commits an offence.
- (11) A person guilty of an offence under subsection (10) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

## **76 Issue of licence**

- (1) Where a Licensing Board grants a personal licence application, the Board must issue a personal licence, in the prescribed form, to the applicant.
- (2) A personal licence issued under subsection (1) must specify—
  - (a) the name and address of the individual to whom it is issued,
  - (b) the Licensing Board issuing the licence,
  - (c) the expiry date of the licence,
  - (d) any relevant offence or foreign offence of which the applicant has been convicted, and
  - (e) such other matters as may be prescribed.
- (3) A personal licence is void if, at the time it is issued under subsection (1), the individual to whom it is issued already holds a personal licence.

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

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## **77 Period of effect of personal licence**

- (1) A personal licence has effect, subject to the following provisions of this section, during the period of 10 years beginning with the date on which it is issued.
- (2) That period, and any subsequent extension of it under this subsection, is extended for a further period of 10 years if a personal licence renewal application is granted in respect of the licence.
- (3) A personal licence does not have effect for any period during which it is suspended by virtue of any provision of this Act.
- (4) Subsection (3) does not affect the calculation of the period during which a personal licence has effect by virtue of subsection (1) as read with subsection (2).
- (5) A personal licence ceases to have effect if—
  - (a) the licence is revoked under any provision of this Part, or
  - (b) the Licensing Board which issued the licence receives from the personal licence holder a notice under subsection (6).
- (6) That is a notice—
  - (a) accompanied by the personal licence or, where that is not practicable, by a statement of reasons for failure to produce the licence, and
  - (b) stating that the licence holder wishes to surrender the licence.
- (7) The date of expiry of the period during which a personal licence has effect is referred to in this Act as the “expiry date” of the licence.
- (8) Not later than 3 months before the expiry date of a personal licence, the Licensing Board which issued the licence must give notice to the licence holder that the licence will cease to have effect on the expiry date unless renewed.

## **78 Renewal of personal licence**

- (1) The holder of a personal licence may, within the period specified in subsection (2), apply to the Licensing Board which issued the licence for renewal of the licence.
- (2) The period referred to in subsection (1) is the period of 2 months beginning 3 months before the expiry date of the licence.
- (3) An application under subsection (1) must be accompanied by—
  - (a) the personal licence to which it relates, or
  - (b) if that is not practicable, a statement of the reasons for failure to produce the licence.
- (4) An application under subsection (1) which complies with subsection (3) is referred to in this Act as a “personal licence renewal application”.
- (5) Sections 73 and 74 apply to a personal licence renewal application as they apply to a personal licence application.
- (6) For that purpose, references in those sections to a personal licence application are to be read as if they included reference to a personal licence renewal application.

## **79 Notification of determinations**

- (1) This section applies where a Licensing Board grants or refuses—
  - (a) a personal licence application, or
  - (b) a personal licence renewal application.
- (2) The Board must give—
  - (a) the applicant, and
  - (b) the appropriate chief constable,notice of the grant or refusal of the application.
- (3) A person to whom notice is given under subsection (2) may, by notice to the clerk of the Board, require the Board to give a statement of reasons for the grant or refusal of the application.
- (4) Where the clerk of a Licensing Board receives a notice under subsection (3), the Board must issue a statement of the reasons for the grant or refusal of the application to—
  - (a) the person giving the notice, and
  - (b) each other person to whom the Board gave notice under subsection (2).
- (5) A statement of reasons under subsection (4) must be issued—
  - (a) by such time, and
  - (b) in such form and manner,as may be prescribed.