



# Licensing (Scotland) Act 2005

## 2005 asp 16

### PART 9

#### MISCELLANEOUS AND GENERAL

##### *Procedures, forms etc.*

#### **133 Hearings**

- (1) Where a Licensing Board is to hold a hearing under any provision of this Act, the hearing must be held at a meeting of the Board.
- (2) The Scottish Ministers may by regulations make provision as to the procedure to be followed at or in connection with any hearing to be held by a Licensing Board under this Act.
- (3) Regulations under subsection (2) may, in particular, make provision—
  - (a) for notice of the hearing to be given to such persons as may be prescribed in the regulations,
  - (b) about the rules of evidence which are to apply for the purposes of the hearing,
  - (c) about the representation of any party at the hearing,
  - (d) as to the times by which any step in the procedure must be taken, and
  - (e) as to liability for expenses.

#### **134 Form etc. of applications, proposals, and notices**

- (1) The Scottish Ministers may by regulations prescribe—
  - (a) the form of any application, proposal or notice under this Act,
  - (b) the manner in which it is to be made or given,
  - (c) the time by which it is to be made or given,
  - (d) requirements as to the publicising of the making or giving of the application, proposal or notice,
  - (e) the information to be contained in it (in addition to any required to be contained in it by virtue of any other provision of this Act), and

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- (f) the documents which are to accompany it (in addition to any required to accompany it by virtue of any other provision this Act).
- (2) Regulations under subsection (1) may provide that any application, proposal or notice made or given under this Act may be treated as not made or given if any requirement prescribed in the regulations in relation to it is not complied with.

### **135 Power to relieve failure to comply with rules and other requirements**

- (1) A Licensing Board may relieve any applicant or other party to proceedings before the Board of any failure to comply with any procedural provision if—
  - (a) the failure is due to mistake, oversight or other excusable cause, and
  - (b) the Board considers it appropriate in all the circumstance to relieve the failure.
- (2) Where a Board exercises the power under subsection (1), the Board may make such order as appears necessary or expedient to enable the proceedings to continue as if the failure had not occurred.
- (3) In subsection (1), “procedural provision” means—
  - (a) any requirement of regulations under—
    - (i) section 133(2),
    - (ii) section 134(1), or
    - (iii) paragraph 12(4) of schedule 1,
  - (b) any requirement of rules under paragraph 12(5) of that schedule, and
  - (c) any other requirement imposed by virtue of this Act as respects the procedure to be followed in connection with applications made to, or other proceedings before, a Licensing Board.

### **136 Fees**

- (1) The Scottish Ministers may by regulations make provision for the charging of fees by Licensing Boards—
  - (a) in respect of applications under this Act, and
  - (b) otherwise in respect of the performance of functions by Licensing Boards, councils and Licensing Standards Officers under this Act.
- (2) Regulations under subsection (1) may, in particular—
  - (a) specify fees or provide for them to be determined by reference to such factors as may be specified in or determined under the regulations,
  - (b) provide for annual or other recurring fees,
  - (c) provide for the remission or repayment of fees in such circumstances as may be specified in or determined under the regulations.
- (3) Before making any regulations under subsection (1) (other than regulations consolidating other regulations), the Scottish Ministers must consult—
  - (a) such body or bodies as appear to them to be representative of the interests of—
    - (i) Licensing Boards,
    - (ii) councils, and
    - (iii) those likely to be affected by the regulations, and
  - (b) such other persons (if any) as they think appropriate.

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- (4) Where regulations under subsection (1) provide for a fee to be charged in respect of any application made to a Licensing Board under this Act, the Board need not consider the application unless and until the fee is paid.
- (5) Any fee chargeable by a Licensing Board under any regulations made under subsection (1) is to be paid to the clerk of the Board.
- (6) The clerk of a Licensing Board must pay any sums received under subsection (5) to the relevant council.