



# Air Weapons and Licensing (Scotland) Act 2015

2015 asp 10

## PART 2

### ALCOHOL LICENSING

VALID FROM 15/05/2017

#### *Licensing objectives*

**41 Licensing objectives: protecting young persons from harm**

In section 4 of the Licensing (Scotland) Act 2005 (“the 2005 Act”) (the licensing objectives), in subsection (1)(e), after “children” insert “ and young persons ”.

#### *Statements of licensing policy*

**42 Statements of licensing policy: licensing policy periods**

In section 6 of the 2005 Act (statements of licensing policy)—

- (a) in subsection (1), for “3 year period” substitute “ licensing policy period ”,
- (b) in subsection (2), for “3 year period” substitute “ licensing policy period ”,
- (c) after subsection (3) insert—

“(3ZA) A Licensing Board may, in preparing a licensing policy statement, decide that the licensing policy period to which the statement relates is to begin on a date earlier than it otherwise would under subsection (7).

(3ZB) Where a Licensing Board make a decision under subsection (3ZA) they must, when publishing the licensing policy statement under subsection (6), publicise the date on which they have decided the licensing policy period is to begin.”

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- (d) in subsection (4), for “3 year period” substitute “licensing policy period”,
- (e) for subsection (7) substitute—

“(7) Subject to subsection (3ZA), in this section, “licensing policy period” means the period between each relevant date.

(8) For the purposes of subsection (7), “relevant date” means the date occurring 18 months after an ordinary election of councillors for local government areas takes place under section 5 of the Local Government etc. (Scotland) Act 1994.”.

#### Commencement Information

- II** S. 42 in force at 30.9.2016 by S.S.I. 2016/132, art. 2(a) (with art. 3)

VALID FROM 15/05/2017

#### *Fit and proper person test*

#### **43 Premises licence application: ground for refusal**

- (1) The 2005 Act is amended as follows.
- (2) In section 22 (objections and representations)—
  - (a) after subsection (1) insert—
 

“(1A) A person giving a notice under subsection (1) may include in the notice any information that the person considers may be relevant to consideration by the Board of any ground for refusal including, in particular, information in relation to—

    - (a) the applicant,
    - (b) where the applicant is neither an individual nor a council, a connected person in relation to the applicant, or
    - (c) any person who would be an interested party in relation to the subject premises if the application were to be granted.”,
  - (b) in subsection (3)(b), after “representation” insert “ (including any information included under subsection (1A)) ”.
- (3) In section 23 (determination of premises licence application)—
  - (a) in subsection (5)—
    - (i) after paragraph (b) insert—
 

“(ba) that the Licensing Board consider, having regard to the licensing objectives, that the applicant is not a fit and proper person to be the holder of a premises licence,”,
    - (ii) in paragraph (c), after “would” insert “ otherwise ”,
  - (b) in subsection (6), for the words “the granting of the application would be inconsistent with one or more of the licensing objectives,” substitute “ either of the grounds for refusal specified in subsection (5)(ba) and (c) applies, ”,
  - (c) in subsection (8)(b), for “(5)(c)” substitute “ (5)(ba) or (c) ”.

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#### **44 Application to transfer premises licence: ground for refusal**

- (1) The 2005 Act is amended as follows.
- (2) In section 33 (transfer on application of licence holder)—
  - (a) after subsection (7) insert—

“(7A) On giving a notice under subsection (6)(a) or (b), the chief constable may also provide to the Licensing Board any information in relation to—

    - (a) the transferee,
    - (b) where the transferee is neither an individual nor a council, a connected person, or
    - (c) any person who would be an interested party in relation to the licensed premises if the application for the transfer of the licence to the transferee were to be granted,

that the chief constable considers may be relevant to consideration by the Board of the application.”
  - (b) in subsection (8)—
    - (i) the word “and” immediately following paragraph (a) is repealed,
    - (ii) after paragraph (b) insert “, and
    - (c) no information has been provided under subsection (7A),”
  - (c) in subsection (10)—
    - (i) after “notice” insert “ and any information provided under subsection (7A) ”,
    - (ii) in paragraph (a), for the words from “it” to “objectives” substitute “ a ground for refusal applies ”,
  - (d) after subsection (10) insert—

“(11) The grounds for refusal are—

    - (a) that, having regard to the licensing objectives, the transferee is not a fit and proper person to be the holder of a premises licence,
    - (b) that it is otherwise necessary to refuse the application for the purposes of any of the licensing objectives.”

#### **45 Ground for review of premises licence**

- (1) The 2005 Act is amended as follows.
- (2) In section 36 (application for review of premises licence)—
  - (a) in subsection (3), before paragraph (a) insert—

“(za) that, having regard to the licensing objectives, the licence holder is not a fit and proper person to be the holder of a premises licence,”
  - (b) in subsection (5), before paragraph (a) insert—

“(za) where the ground is that specified in subsection (3)(za), a summary of the information on which the applicant's view that the alleged ground applies is based,”
  - (c) after subsection (5) insert—

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- “(5A) A person making a premises licence review application may include in the application any information that the applicant considers may be relevant to consideration by the Licensing Board of the alleged ground for review including, in particular, information in relation to—
- (a) the licence holder,
  - (b) where the licence holder is neither an individual nor a council, a connected person in relation to the licence holder, or
  - (c) any person who is an interested party in relation to the licensed premises.”.
- (3) In section 37 (review of premises licence on Licensing Board's initiative)—
- (a) in subsection (4), before paragraph (a) insert—
    - “(za) where the ground is that specified in section 36(3)(za), a summary of the information on which the Board's view that the alleged ground applies is based,”,
  - (b) after subsection (4) insert—
    - “(5) A Licensing Board making a premises licence review proposal may include in the proposal any information that the Board considers may be relevant to their consideration of the alleged ground for review including, in particular, information in relation to—
      - (a) the licence holder,
      - (b) where the licence holder is neither an individual nor a council, a connected person in relation to the licence holder, or
      - (c) any person who is an interested party in relation to the licensed premises.”.
- (4) In section 39 (Licensing Board's powers on review)—
- (a) after subsection (1), insert—
    - “(1A) Subsection (1) is subject to subsection (2A).”,
  - (b) after subsection (2), insert—
    - “(2A) Where, at a review hearing in relation to any premises licence, the Licensing Board are satisfied that the ground for review specified in section 36(3)(za) is established, the Board must revoke the licence.
    - “(2B) Subject to section 39B, a revocation under subsection (2A) takes effect at the end of the period of 28 days beginning with the day on which the Board makes the decision.”.
- (5) In section 39A (notification of determinations), in subsection (1)—
- (a) the word “or” immediately following paragraph (a) is repealed,
  - (b) after paragraph (b), insert “, or
  - (c) decides to revoke a premises licence under section 39(2A).”.
- (6) After section 39A insert—

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### **“39B Recall of revocation of licence under section 39(2A)**

- (1) This section applies where a Licensing Board decides to revoke a premises licence under section 39(2A).
- (2) The Board must recall the revocation if—
  - (a) a relevant application is made before the end of the period referred to in section 39(2B) (“the 28 day period”), and
  - (b) the Board grants the application.
- (3) The Board may extend the 28 day period pending determination of a relevant application.
- (4) In this section, “relevant application” means—
  - (a) an application under section 33(1) for the transfer of the premises licence, or
  - (b) a premises licence variation application seeking a variation of the licence that the Board considers would remove the ground on which the licence was revoked under section 39(2A).
- (5) This section does not affect the right to appeal against the decision to revoke the licence under section 39(2A).”.
- (7) In Part 1 of schedule 5 (appeals to the sheriff principal), in the entry in the left-hand column relating to a decision under section 39(1), after “39(1)” insert “ or (2A) ”.

## **46 Personal licence applications and renewals: ground for refusal**

- (1) The 2005 Act is amended as follows.
- (2) In section 73 (notification of application to the chief constable), after subsection (4) insert—
  - “(5) On giving a notice under subsection (3)(a) or (b), the chief constable may also provide to the Licensing Board any information in relation to the applicant that the chief constable considers may be relevant to consideration by the Board of the application.”.
- (3) After section 73 of the 2005 Act insert—

### **“73A Notification of application to Licensing Standards Officer**

- (1) Where a Licensing Board receive a personal licence application, the Board must give notice of it, together with a copy of the application, to a Licensing Standards Officer for the Board's area.
- (2) A Licensing Standards Officer may, within 21 days of the date of receipt of a notice under subsection (1), respond to the notice by giving the Licensing Board any information in relation to the applicant that the Officer considers may be relevant to consideration by the Board of the application.”.
- (4) In section 74 (determination of personal licence application)—
  - (a) in subsection (2), after paragraph (c) insert—

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- “(ca) no information has been provided under section 73(5) or 73A(2),”
- (b) after subsection (5A) insert—
- “(5AA) If—
- (a) all of those conditions are met in relation to the applicant,
- (b) the notice received from the chief constable under subsection (3)(a) or (b) of section 73 does not include a recommendation under subsection (4) of that section, and
- (c) information has been provided under subsection (5) of that section or under section 73A(2),
- the Board may hold a hearing for the purpose of considering and determining the application.”
- (c) in subsection (5B), after “(5A)” insert “ or (5AA) ”,
- (d) in subsection (6)—
- (i) for “(5) or (5A)” substitute “ (5), (5A) or (5AA) ”,
- (ii) after “notice” insert “ and any information provided under section 73(5) or 73A(2) ”,
- (iii) in paragraph (a), for the words from “it” to “objectives” substitute “ a ground for refusal applies ”,
- (e) after subsection (6) insert—
- “(6A) The grounds for refusal are—
- (a) that, having regard to the licensing objectives, the applicant is not a fit and proper person to be the holder of a personal licence,
- (b) that it is otherwise necessary to refuse the application for the purposes of any of the licensing objectives.”
- (5) In section 78 (renewal of personal licence), in subsection (5), for “73 and 74” substitute “ 73, 73A and 74 ”.

#### **47 Personal licence holders: procedure on receipt of notice of conviction**

- (1) The 2005 Act is amended as follows.
- (2) In section 83 (procedure where Licensing Board receive notice of conviction)—
- (a) after subsection (8), insert—
- “(8A) Subsection (8) is subject to subsection (9A).”
- (b) after subsection (9), insert—
- “(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.”
- (c) in subsection (10), after “(9)” insert “ or (9A) ”.
- (3) In Part 2 of schedule 5 (appeals to the sheriff), in the entry in the left-hand column relating to a decision to make an order under section 83(9), 84(7) or 86(3), for “83(9)” substitute “ 83(9) or (9A) ”.

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#### **48 Personal licence holders: conduct inconsistent with the licensing objectives**

- (1) The 2005 Act is amended as follows.
- (2) In section 84 (conduct inconsistent with the licensing objectives)—
  - (a) after subsection (6), insert—
 

“(6A) Subsection (6) is subject to subsection (7A).”
  - (b) after subsection (7), insert—
 

“(7A) 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.”
  - (c) in subsection (8), after “(7)” insert “ or (7A) ”.
- (3) In section 84A (power of chief constable to report conduct inconsistent with the licensing objectives), in subsection (3), for “(6), (7)” substitute “ (6), (6A), (7), (7A) ”.
- (4) In Part 2 of schedule 5 (appeals to the sheriff), in the entry in the left-hand column relating to a decision to make an order under section 83(9), 84(7) or 86(3), for “84(7)” substitute “ 84(7) or (7A) ”.

PROSPECTIVE

#### *Transfer of premises licences*

#### **49 Transfer of premises licences**

- (1) The 2005 Act is amended as follows.
- (2) In section 33 (transfer of premises licence on application of licence holder)—
  - (a) for subsections (1) to (3) substitute—
 

“(1) Any person, other than an individual under the age of 18, may apply to the appropriate Licensing Board for the transfer of a premises licence to the person (such person being referred to in this section and section 33A as the “transferee”).

(1A) An application under subsection (1) must—

    - (a) specify the date on which the transfer is to take effect, and
    - (b) be accompanied by—
      - (i) the premises licence to which the application relates or, if that is not practicable, a statement of the reasons for failure to produce the licence, and
      - (ii) a written statement signed by the holder of the premises licence consenting to its transfer to the transferee (a “consent statement”) or, if that is not practicable, a statement of the reasons for failure to obtain the licence holder's written consent.”

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- (b) in subsection (4), after “constable” insert “, unless the Board must refuse the application under subsection (8A) ”,
- (c) in subsection (8), before paragraph (a) insert—
  - “(za) the application is accompanied by a consent statement referred to in subsection (1A)(b)(ii),”,
- (d) after subsection (8) insert—
  - “(8A) If the application is not accompanied by a consent statement referred to in subsection (1A)(b)(ii), the Board must refuse the application, unless the Board dispenses with the requirement for a consent statement under section 33A(4).”.

(3) The title of section 33 becomes “ **Application for transfer of premises licence** ”.

(4) After section 33 insert—

**“33A Application for transfer: further provision**

- (1) This section applies where a Licensing Board receives an application under section 33(1) for the transfer of a premises licence.
- (2) The Board must take all reasonable steps to give notice of the application to the premises licence holder.
- (3) Subsection (4) applies where the application is not accompanied by a consent statement referred to in section 33(1A)(b)(ii).
- (4) The Board may dispense with the requirement for a consent statement if satisfied that the transferee has taken all reasonable steps to contact the premises licence holder in order to obtain consent but has received no response.
- (5) Where the Board decides under subsection (4) not to dispense with the requirement for a consent statement, the Board must give notice of the decision, and of the reasons for it, to the transferee.
- (6) Where the Board decides under subsection (4) to dispense with the requirement for a consent statement the Board must hold a hearing under section 33(9) for the purpose of considering and determining the application.
- (7) Where the Board grants the application, the transfer of the licence takes effect—
  - (a) on the date specified in the application in accordance with section 33(1A)(a), or
  - (b) where the Board grants the application after that date, on such date as the Board may determine.”.

(5) Section 34 (transfer on application of person other than licence holder) is repealed.

(6) In Part 1 of schedule 5 (appeals to the sheriff principal)—

- (a) in column 1 of the entry relating to a decision to refuse an application under section 33(1) or 34(1) for transfer of a premises licence, the words “or 34(1)” are repealed,
- (b) in column 2 of that entry, after “applicant” insert “ or the premises licence holder ”,



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(c) after that entry insert—

“A decision to grant an application under section 33(1) for transfer of a premises licence	The person from whom the premises licence is to be transferred
A decision under section 33A(4), in relation to an application under section 33(1) for transfer of a premises licence, not to dispense with the requirement for a consent statement	The applicant”.

VALID FROM 15/05/2017

*Relevant offences and foreign offences*

**50 Premises licences: procedure in relation to relevant offences or foreign offences**

In section 44 of the 2005 Act (procedure where Licensing Board receive notice of conviction in relation to a premises licence)—

- (a) in subsection (7), after “subsection (4)(b)” insert “ which includes a recommendation under subsection (5) ”,
- (b) after subsection (7) insert—

“(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.”.

**51 Personal licences: procedure in relation to relevant offences or foreign offences**

In section 83 of the 2005 Act (procedure where Licensing Board receive notice of a conviction in relation to a personal licence)—

- (a) in subsection (7), after “subsection (4)(b)” insert “ which includes a recommendation under subsection (5) ”,
- (b) after subsection (7) insert—

“(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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- (c) in subsection (8), for “the hearing” substitute “ a hearing under subsection (7) or (7A)(a) ”.

PROSPECTIVE

## 52 Relevant offences and foreign offences: spent convictions

In section 129 of the 2005 Act (relevant offences and foreign offences), subsection (4) is repealed.

VALID FROM 15/05/2017

### *Supply of alcohol to a child or young person*

## 53 Offences of supplying alcohol to a child or young person

- (1) After section 104 of the 2005 Act insert—

### “104A Supply of alcohol to a child

- (1) A person, other than a child or young person, who—
- (a) buys or attempts to buy alcohol—
    - (i) on behalf of a child, or
    - (ii) for a child, or
  - (b) gives alcohol (or otherwise makes it available) to a child, commits an offence.
- (2) Subsection (1)(a)(ii) and (b) does not apply to the buying of alcohol for, or (as the case may be) giving or making available of alcohol to, a child—
- (a) for consumption other than in a public place, or
  - (b) for the purposes of religious worship.
- (3) In subsection (2)(a), “public place” includes—
- (a) relevant premises,
  - (b) any place to which the public have access for the time being (whether on payment of a fee or otherwise), and
  - (c) any place to which the public do not have access but to which the child unlawfully gains access.
- (4) A person who commits an offence under subsection (1) is liable on summary conviction to—
- (a) a fine not exceeding level 5 on the standard scale,
  - (b) imprisonment for a term not exceeding 3 months, or
  - (c) both.

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### **104B Supply of alcohol to a young person**

- (1) A person, other than a child or young person, who knowingly—
    - (a) buys or attempts to buy alcohol—
      - (i) on behalf of a young person, or
      - (ii) for a young person, or
    - (b) gives alcohol (or otherwise makes it available) to a young person, commits an offence.
  - (2) Subsection (1)(a)(ii) and (b) does not apply to—
    - (a) the buying of alcohol for, or (as the case may be) giving or making available of alcohol to, a young person—
      - (i) for consumption other than in a public place, or
      - (ii) for the purposes of religious worship, or
    - (b) the buying, or (as the case may be) giving or making available, of beer, wine, cider or perry for consumption by a young person along with a meal supplied on relevant premises.
  - (3) In subsection (2)(a)(i), “public place” includes—
    - (a) relevant premises,
    - (b) any place to which the public have access for the time being (whether on payment of a fee or otherwise), and
    - (c) any place to which the public do not have access but to which the young person unlawfully gains access.
  - (4) A person who commits an offence under subsection (1) is liable on summary conviction to—
    - (a) a fine not exceeding level 5 on the standard scale,
    - (b) imprisonment for a term not exceeding 3 months, or
    - (c) both.”.
- (2) In section 105 of the 2005 Act (purchase of alcohol by or for a child or young person) —
- (a) subsections (4), (5) and (7) are repealed,
  - (b) the section title becomes “ **Purchase of alcohol by a child or young person** ”.

### *Miscellaneous*

VALID FROM 15/05/2017

#### **54 Meaning of “alcohol”: inclusion of angostura bitters**

In section 2 of the 2005 Act (meaning of “alcohol”), in subsection (1)(b), paragraph (iv) is repealed.

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## 55 Overprovision

- (1) The 2005 Act is amended as follows.
- (2) In section 7 (duty to assess overprovision)—
  - (a) in subsection (2), after “Act” insert “ and in doing so the Board may determine that the whole of the Board's area is a locality ”,
  - (b) in subsection (3)—
    - (i) the word “must” is repealed,
    - (ii) at the beginning of paragraph (a) insert “ must ”,
    - (iii) the word “and” immediately following that paragraph is repealed,
    - (iv) after that paragraph insert—
      - “(aa) may have regard to such other matters as the Board thinks fit including, in particular, the licensed hours of licensed premises in the locality, and”,
    - (v) at the beginning of paragraph (b) insert “ must ”.
- (3) In section 23(5)(e) (refusal of premises licence on grounds of overprovision)—
  - (a) for the words from “that,” where first occurring to “situated,” substitute “ that ”,
  - (b) for “that description,” substitute “ the same or similar description as the subject premises, ”.
- (4) In section 30(5)(d) (refusal to vary premises licence on grounds of overprovision)—
  - (a) for the words from “that,” where first occurring to “situated,” substitute “ that ”,
  - (b) for “that description,” substitute “ the same or similar description as the subject premises (taking account of the variation), ”.

### Commencement Information

**I2** S. 55 in force at 30.9.2016 by S.S.I. 2016/132, art. 2(b) (with art. 4)

## 56 Duties of Licensing Boards to produce annual reports

- (1) The 2005 Act is amended as follows.
- (2) After section 9 insert—

### “9A Annual functions report

- (1) Each Licensing Board must prepare and publish a report not later than 3 months after the end of each financial year.
- (2) A report under this section must include—
  - (a) a statement explaining how the Board has had regard to—
    - (i) the licensing objectives, and
    - (ii) their licensing policy statement and any supplementary licensing policy statement (including the Board's statement under section 7(1) (duty to assess overprovision)),

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- in the exercise of their functions under this Act during the financial year,
- (b) a summary of the decisions made by (or on behalf of) the Board during the financial year, and
  - (c) information about the number of licences held under this Act in the Board's area (including information about the number of occasional licences issued during the year).
- (3) A report under this section may include such other information about the exercise of the Licensing Board's functions under this Act as the Board consider appropriate.
- (4) At the request of a Licensing Board the relevant council must provide the Board with such information as the Board may reasonably require for the purpose of preparing a report under this section.
- (5) In discharging their duties under subsection (1) and section 9B(1) (annual financial report), a Licensing Board may, if they consider it appropriate, prepare and publish a combined report containing the information required under this section and under section 9B (which combined report must be published not later than 3 months after the end of the financial year in question).
- (6) The Scottish Ministers may by regulations make further provision about reports under this section including, in particular, provision about—
- (a) the form and required content of reports,
  - (b) the publication of reports.
- (7) In this section, “financial year” means a yearly period ending on 31 March.

### **9B Annual financial report**

- (1) Each Licensing Board must prepare and publish a report not later than 3 months after the end of each financial year.
- (2) A report under this section must include—
- (a) a statement of—
    - (i) the amount of relevant income received by the Licensing Board during the financial year, and
    - (ii) the amount of relevant expenditure incurred in respect of the Board's area during the year, and
  - (b) an explanation of how the amounts in the statement were calculated.
- (3) For the purposes of subsection (2)—
- “relevant income”, in relation to a Licensing Board, means income received by the Board in connection with the exercise of the Board's functions under or by virtue of—
- (a) this Act, or
  - (b) section 14(1) of the Alcohol etc. (Scotland) Act 2010 (social responsibility levy) in so far as relating to holders of premises licences or occasional licences, and
- “relevant expenditure”, in relation to a Licensing Board, means any expenditure—

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- (a) which is attributable to the exercise of the Board's functions under or by virtue of—
    - (i) this Act, or
    - (ii) section 14(1) of the Alcohol etc. (Scotland) Act 2010 (social responsibility levy) in so far as relating to holders of premises licences or occasional licences, and
  - (b) which is incurred by—
    - (i) the Board,
    - (ii) the relevant council, or
    - (iii) the Licensing Standards Officer (or Officers) for the Board's area.
- (4) At the request of a Licensing Board the relevant council must provide the Board with such information as the Board may reasonably require for the purpose of preparing a report under this section.
- (5) The Scottish Ministers may by regulations make further provision about reports under this section including provision—
- (a) about the form and content of reports including, in particular—
    - (i) how a statement required under subsection (2) is to be set out, and
    - (ii) what constitutes relevant income and relevant expenditure for the purposes of subsection (2), and
  - (b) the publication of reports.
- (6) Regulations under subsection (5)(a) may modify subsection (3).
- (7) In this section, “financial year” means a yearly period ending on 31 March.”.
- (3) In section 146 (orders and regulations: affirmative procedure),
- (a) in subsection (4)(c), after “applies,” insert “ regulations under section 9B(5) or ”,
  - (b) in subsection (5), before paragraph (a) insert—
    - “(za) regulations under section 9B(5) containing provisions which add to, replace or omit any part of the text of subsection (3) of that section,”.

#### Commencement Information

**I3** S. 56 in force at 1.12.2015 for specified purposes by S.S.I. 2015/382, art. 2, Sch.

VALID FROM 15/05/2017

#### 57 Licensing Standards Officers: general function in relation to personal licences

In section 14(1) of the 2005 Act (general functions of Licensing Standards Officers), after paragraph (b) insert—

**Status:** Point in time view as at 30/09/2016. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015, PART 2. (See end of Document for details)

“(ba) providing information to Licensing Boards about any conduct of holders of, or persons applying for, personal licences in the area, which is inconsistent with the licensing objectives.”.

VALID FROM 15/05/2017

## 58 Powers of Licensing Standards Officers

(1) The 2005 Act is amended as follows.

(2) After section 84A insert—

### “84B Power of Licensing Standards Officers to report conduct inconsistent with the licensing objectives

- (1) If a Licensing Standards Officer considers that any personal licence holder who is or was working in licensed premises in the Officer's area has acted in a manner which is inconsistent with any of the licensing objectives, the Officer may report the matter to the relevant Licensing Board.
- (2) Where a Licensing Board receives a report from a Licensing Standards Officer under subsection (1), the Board may hold a hearing.
- (3) Subsections (6), (6A), (7), (7A) and (8) of section 84 and subsection (1) (b) of section 85 apply in relation to a hearing under subsection (2) of this section as they apply in relation to a hearing under subsection (3)(a) or (5) of section 84.
- (4) In subsection (1), “relevant Licensing Board” has the meaning given in section 83(11).”.

VALID FROM 29/06/2018

## 59 Interested parties

(1) The 2005 Act is amended as follows.

(2) In section 40A (connected persons and interested parties: licence holder's duty to notify changes)—

- (a) in subsection (1)—
  - (i) the word “or” immediately following paragraph (a) is repealed,
  - (ii) paragraph (b) is repealed,
- (b) in subsection (2), the words “or an interested party” are repealed,
- (c) the section title becomes “ **Connected persons: licence holder's duty to notify changes** ”.

(3) The italic cross heading preceding section 40A becomes “ Connected persons ”.

(4) In section 48(1)(c) (notification of change of name or address)—

- (a) the word “or” immediately following sub-paragraph (i) is repealed,

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*Changes to legislation: There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015, PART 2. (See end of Document for details)*

(b) sub-paragraph (ii) is repealed.

(5) In section 147(5) (interpretation), in the opening words, the words “nor the premises manager” are repealed.

## 60 Personal licences: grant, duration and renewal

- (1) The 2005 Act is amended as follows.
- (2) In section 74 (determination of personal licence application), in subsection (3)(c), after “revoked” insert “ under any provision of this Act other than section 87(3) ”.
- (3) In section 77 (period of effect of personal licence), in subsection (8), for “3” substitute “ 9 ”.
- (4) In section 78 (renewal of personal licence)—
  - (a) in subsection (2)—
    - (i) for “2” substitute “ 9 ”,
    - (ii) for “3” substitute “ 12 ”,
  - (b) in subsection (5), after “74” insert “ (other than subsection (3)(ba)) ”.
- (5) In section 84A (power of chief constable to report conduct inconsistent with the licensing objectives), in subsection (3), for “(8)(a)” substitute “ (8) ”.

PROSPECTIVE

## 61 Processing and deemed grant of applications

- (1) The 2005 Act is amended as follows.
- (2) After section 134 insert—

### “134ZA Duty to acknowledge applications

- (1) This section applies where a Licensing Board receive a relevant application.
- (2) In a case where the Licensing Board are satisfied that the application meets the prescribed requirements they must, unless subsection (3) applies, give an acknowledgement to the applicant—
  - (a) confirming that they are satisfied that the application meets the prescribed requirements,
  - (b) listing any documents received in support of the application and the date or dates on which the documents were received by them, and
  - (c) informing the applicant about the period for determining the application under section 134ZB.
- (3) This subsection applies where the Licensing Board consider it appropriate to determine the application on its merits without first giving an acknowledgement to the applicant.
- (4) In a case where the Licensing Board are not satisfied that the application meets the prescribed requirements, they must give a notice to the applicant—



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- (a) indicating that they are treating the application as incomplete and not having been made, and
  - (b) stating their reasons for treating the application in that way.
- (5) Subsection (4) does not prevent an applicant from submitting further information in support of the application if that is otherwise competent.
- (6) A Licensing Board must give an acknowledgement under subsection (2) or give a notice under subsection (4) as soon as is practicable.
- (7) For the purposes of this section, “prescribed requirements”, in relation to a relevant application, means the requirements (as to form, content, etc.) which are imposed by or under this Act or any other enactment in respect of the type of relevant application in question.
- (8) In this section, a “relevant application” is—
- (a) a premises licence application,
  - (b) a premises licence variation application,
  - (c) an application under section 33(1) to transfer a premises licence,
  - (d) an application under section 35(1) for variation of a premises licence on transfer,
  - (e) a provisional premises licence application,
  - (f) an application under section 46 for confirmation of a provisional premises licence,
  - (g) an application under section 47(2) for a temporary premises licence,
  - (h) an occasional licence application,
  - (i) an extended hours application,
  - (j) a personal licence application,
  - (k) a personal licence renewal application.

### **134ZB Period for determination of applications**

- (1) A Licensing Board must determine every relevant application which meets the prescribed requirements (including an application mentioned in subsection (2)) before the end of the period of 9 months beginning with (the later of)—
- (a) the date on which the Licensing Board received the application, or
  - (b) where the application did not initially meet the prescribed requirements, the date on which the application met the prescribed requirements.
- (2) Where a Licensing Board consider it appropriate to determine a relevant application without first giving an acknowledgement under section 134ZA(2), they must determine the application as soon as is practicable.
- (3) A sheriff of the appropriate sheriffdom may, on an application by a Licensing Board in relation to a relevant application, extend the period for determining the application under subsection (1).
- (4) The sheriff may extend the period only if—
- (a) it appears to the sheriff that there is a good reason to do so, and

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(b) no previous extension has been granted in relation to the relevant application.

(5) The applicant in relation to a relevant application is entitled to be a party to proceedings on an application to a sheriff under subsection (3).

(6) In this section—

“prescribed requirements” has the same meaning as in section 134ZA,  
“relevant application” has the same meaning as in section 134ZA.

### **134ZC Deemed grant of applications**

(1) Subsection (2) applies where a Licensing Board have failed to determine a relevant application before the expiry of the determination period.

(2) Where this subsection applies—

(a) the application is deemed to have been granted on the date on which the determination period expired, and

(b) the deemed grant of the application has the same effect, for the purposes of this Act, as if the application had been granted by the Licensing Board.

(3) A Licensing Board may not impose any conditions (other than those which they must impose under this Act) in respect of an application which is deemed to have been granted under subsection (2).

(4) Subsection (5) applies in relation to an application—

(a) that is deemed to have been granted under subsection (2), and

(b) in respect of which the Licensing Board must, on granting such an application, determine the period during which the thing applied for is to have effect.

(5) The thing applied for is to have effect for the duration of the period stated in the application (subject to any limits imposed by this Act).

(6) In this section—

“determination period” means, in relation to a relevant application, the period for determining the application under section 134ZB(1) including (if applicable) any extension to that period granted under subsection (3) of that section,

“prescribed requirements” has the same meaning as in section 134ZA,  
“relevant application” has the same meaning as in section 134ZA.”

VALID FROM 15/05/2017

## **62 Form etc. of communications under the 2005 Act**

(1) Section 134 of the 2005 Act (form etc. of applications, proposals and notices) is amended as follows.

(2) In each of the following provisions, for “or notice” substitute “, notice or other communication”, namely—

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**Status:** *Point in time view as at 30/09/2016. This version of this part contains provisions that are not valid for this point in time.*

**Changes to legislation:** *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015, PART 2. (See end of Document for details)*

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- (a) subsection (1)(a) and (d), and
- (b) subsection (2).

(3) The section title becomes “ **Form etc. of applications, proposals, notices and other communications** ”.

**Status:**

Point in time view as at 30/09/2016. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:**

There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015, PART 2.