

AIR WEAPONS AND LICENSING (SCOTLAND) ACT 2015

EXPLANATORY NOTES

STRUCTURE AND SUMMARY OF THE ACT

Part 2 – Alcohol Licensing

Fit and proper person test

Section 45 – Ground for review of premises licence

143. **Section 45** makes amendments with regards to review of a premises licence (both on an application by a third party for a review and on a proposal for a review initiated by the Licensing Board itself). Section 45 provides that it is a ground for review of a premises licence, if having regard to the licensing objectives, the licence holder is not a fit and proper person to be the holder of a premises licence. If a review is based on this ground, the review application or proposal must include a summary of the information on which the applicant or the Board based its view that the alleged ground applies.
144. **Section 45** clarifies that any person who makes a premises licence review application may include in the application any information that the person considers relevant to the Licensing Board's consideration of the alleged ground of review, including information related to the licence holder, connected persons in relation to the licence holder or an interested party in relation to the licensed premises.
145. **Section 45** also amends section 37 of the 2005 Act in relation to a review of a premises licence on the Licensing Board's initiative. Section 45 clarifies that the Licensing Board's review proposal may include information that the Board considers relevant to its consideration of the alleged ground of review, in relation to the licence holder, connected persons in relation to the licence holder or interested parties in relation to the licensed premises.
146. If at the review hearing the Licensing Board is satisfied that the fit and proper person ground for review is established, the Board must revoke the licence. Thereafter the Board must provide notification of its determination to the licence holder and where the decision is taken in connection with a premises licence review application, the applicant.
147. **Section 45** also amends section 39 of the 2005 Act to provide that a revocation of a licence will take effect 28 days after the Board makes its decision. This provides a short period of grace in which action may be taken to render the premises licence acceptable to the Licensing Board, for example by varying the licence to remove a premises manager or by transferring the premises licence to a new licence holder.
148. **Section 45** also inserts a new section 39B into the 2005 Act, which provides that, where a Licensing Board has revoked a premises licence on the grounds that the licence holder is not a fit and proper person, then the Board must recall the revocation if a relevant application is made within the 28 day period, and the Board ultimately

*These notes relate to the Air Weapons and Licensing (Scotland)
Act 2015 (asp 10) which received Royal Assent on 4 August 2015*

grants the relevant application. The period of 28 days may be extended by the Board pending determination of a relevant application. Such relevant applications would be applications for transfer of the licence, or for a premises licence variation that the Board considers would remove the ground on which the licence had been revoked. A decision to revoke the licence is added to the list of decisions in schedule 5 to the 2005 Act that are appealable to the sheriff principal.