



# Air Weapons and Licensing (Scotland) Act 2015

2015 asp 10

## PART 3

### CIVIC LICENSING

#### *Miscellaneous and general*

#### 77 Deemed grant of applications

- (1) The 1982 Act is amended as follows.
- (2) In section 3 (discharge of functions of licensing authorities)—
  - (a) in subsection (1), for the words from “shall” to the end substitute “must—
    - (a) consider each relevant application made to them within the period of 3 months beginning with the date on which the application was made, and
    - (b) subject to the following provisions of this section, reach a final decision on the application within the period of 6 months beginning with the end of the 3 month period referred to in paragraph (a).”
  - (b) in subsection (4)—
    - (i) the words “applied for” are repealed,
    - (ii) for “or, as the case may be, renewed” substitute “, renewed or, as the case may be, varied”,
    - (iii) the words from “and” where first occurring to the end are repealed,
  - (c) after subsection (4) insert—

“(4A) A licence deemed to have been granted or renewed under subsection (4) is—

    - (a) in the case of a temporary licence, to remain in force for the duration of the period sought in the application (up to a maximum period of 6 weeks), or
    - (b) in any other case, to remain in force for the period of one year.

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*Status: This is the original version (as it was originally enacted).*

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- (4B) A variation of the terms of a licence deemed to have been granted under subsection (4) is to have effect for the remaining period of the licence.
- (4C) Subsections (4) and (4B) do not affect—
- (a) the powers of revocation under section 7(6)(a),
  - (b) paragraph 8(5) of Schedule 1 (which relates to renewals of existing licences),
  - (c) the powers of variation under paragraph 10 of that Schedule, or
  - (d) the powers of suspension and revocation under paragraphs 11 and 12 of that Schedule.”
- (d) for subsection (5) substitute—
- “(5A) The deemed grant, renewal or variation of the terms of a licence under subsection (4) is, for the purposes of Schedule 1, to be treated as a decision of the licensing authority to grant, renew or vary the terms of a licence.
- (5B) For the purposes of this section, a “relevant application” is an application under paragraph 1, 7 or 10 of Schedule 1.”
- (3) After section 45C (as inserted by section 76 of this Act) insert—

**“45D Deemed grant of applications**

- (1) For the purpose of the discharge of their functions under this Part, every local authority must—
  - (a) consider each relevant application made to them within the period of 3 months beginning with the date on which the application was made, and
  - (b) subject to the following provisions of this section, reach a final decision on the application within the period of 6 months beginning with the end of the 3 month period referred to in paragraph (a).
- (2) On an application by the local authority within the 6 month period referred to in subsection (1)(b), the sheriff may, if it appears that there is a good reason to do so, extend that period as the sheriff thinks fit.
- (3) The applicant is entitled to be a party to proceedings on an application under subsection (2).
- (4) Where the local authority have failed to reach a final decision on the application before the expiry of—
  - (a) the 6 month period referred to in subsection (1)(b), or
  - (b) such further period as the sheriff may have specified on application under subsection (2),
 the licence is deemed to have been granted, renewed or, as the case may be, varied on the date of such expiry.
- (5) A licence deemed to have been granted or renewed under subsection (4) is to remain in force for the period of one year.

- (6) A deemed variation of the terms of a licence deemed under subsection (4) is to have effect for the remaining period of the licence.
  - (7) Subsections (4) and (6) do not affect—
    - (a) the powers of revocation under paragraph 13 of Schedule 2, and
    - (b) the powers of variation under paragraph 15 of that Schedule.
  - (8) The deemed grant, renewal or variation of the terms of a licence under subsection (4) has the same effect, for the purposes of Schedule 2, as a decision of the licensing authority to grant, renew or vary the terms of a licence.
  - (9) For the purposes of this section, a “relevant application” is an application under paragraph 6 or 15 of Schedule 2.”.
- (4) In Schedule 1 (licensing: further provisions as to the general system), in paragraph 10, after sub-paragraph (5) insert—
- “(6) Sub-paragraph (5) does not apply to a deemed variation of the terms of a licence under section 3(4).”.
- (5) In Schedule 2 (control of sex shops and sexual entertainment venues), in paragraph 15, after sub-paragraph (4) insert—
- “(4A) Sub-paragraph (4) does not apply to a deemed variation of the terms of a licence under section 45D(4).”.