

## SCHEDULE 6 FUNCTIONING OF PUBLIC BODIES

### PART 1

#### LICENSING OTHER THAN ALCOHOL LICENSING

##### *Modifications of Civic Government (Scotland) Act 1982 etc.*

- 1 (1) The Civic Government (Scotland) Act 1982 applies in accordance with the modifications in sub-paragraphs (2) to (8).
- (2) Section 3 (discharge of functions of licensing authorities) has effect as if—
  - (a) in subsection (1)(b), for “6 months” there were substituted “9 months”,
  - (b) in both subsections (2) and (4)(a), for “6 month” there were substituted “9 month”.
- (3) Section 7 (offences, etc.) has effect as if after subsection (7) there were inserted—

“(7A) Where an extract cannot be transmitted to the licensing authority within the period required by subsection (7) because of a reason relating to coronavirus, it must be transmitted as soon as reasonably practicable afterwards.”.
- (4) Section 27 (functions of the court in relation to second-hand dealers convicted of offences) has effect as if after subsection (1) there were inserted—

“(1A) Where an extract cannot be transmitted to the licensing authority within the period required by subsection (1) because of a reason relating to coronavirus, it must be transmitted as soon as reasonably practicable afterwards.”.
- (5) Section 35 (functions of the court in relation to metal dealers convicted of offences) has effect as if after subsection (1) there were inserted—

“(1A) Where an extract cannot be transmitted to the licensing authority within the period specified in subsection (1) because of a reason relating to coronavirus, it must be transmitted as soon as reasonably practicable afterwards.”.
- (6) Section 133 (interpretation) has effect as if after “requires—” there were inserted—

““coronavirus” has the meaning given by section 1 of the Coronavirus (Scotland) Act 2020,”.
- (7) Schedule 1 (licensing: further provisions as to the general system) has effect as if—
  - (a) in paragraph 2(8), after “the authority” there were inserted “, or by publication of a notice on the licensing authority’s website,”,
  - (b) in paragraph 8(5A), for “28 days” there were substituted “3 months”,
  - (c) in paragraph 10(3), the words “to attend and” were repealed,
  - (d) in paragraph 13(2)(a), for “7 days” there were substituted “14 days”,
  - (e) after paragraph 13(2) there were inserted—

“(2A) Where a licence cannot be delivered to the licensing authority within the period required by sub-paragraph (2)(a) because of a reason relating to coronavirus, it must be delivered as soon as reasonably practicable afterwards.”,
  - (f) in paragraph 17(1), for “10 days” there were substituted “15 days”,

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(g) after paragraph 17(2) there were inserted—

“(2A) Where a licensing authority cannot give reasons for a decision within the period required by sub-paragraph (1) because of a reason relating to coronavirus, it must—

- (a) notify the person who made the request that there will be a delay, and
- (b) give the reasons as soon as reasonably practicable after that period.”,

(h) after paragraph 18A there were inserted—

*“Further provision about hearings*

18B Where by virtue of this schedule a licensing authority is required to, or may, give a person an opportunity to be heard, the authority may determine that the hearing cannot be held in person because of a reason relating to coronavirus.

18C Where a licensing authority determines under paragraph 18B that a hearing cannot be held in person, the authority must comply with paragraph 18D before reaching a decision on the matter which would have been the subject of the hearing.

18D The licensing authority must give any person who would have been given the opportunity to be heard at the hearing the opportunity to be heard instead by whichever of the following means the person prefers—

- (a) telephone,
- (b) written representations, including by means of an electronic communication, or
- (c) video conference, if the authority has video conference facilities.

18E For the purposes of this schedule, where a licensing authority gives a person an opportunity to be heard by written representations and the hearing is to take place on a particular day, the hearing is to be treated as taking place on the day on which the authority determines that it will consider the written representations (if any), and a reference to the date or day of any such hearing (which is to take place) is to be construed accordingly.

18F Where a licensing authority gives a person an opportunity to be heard under paragraph 18D by telephone, written representations or video conference, and the holding of the hearing by that means would be inconsistent with a requirement imposed by regulations under paragraph 18A, the requirement of the regulations is to be construed as permitting the hearing by that means.”.

(8) Schedule 2 (control of sex shops) has effect as if—

- (a) in paragraph 7(2), after “area” there were inserted “, or by publishing an advertisement on the local authority’s website,”,
- (b) in paragraph 12(3A), for “28 days” there were substituted “3 months”,

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- (c) in paragraph 15(3), the words “to attend and” were repealed,
- (d) in paragraph 16(2), for “7 days”, in both places where it occurs, there were substituted “14 days”,
- (e) after paragraph 16(2) there were inserted—
  - “(2A) Where a licence cannot be delivered to the local authority within the period required by sub-paragraph (2) because of a reason relating to coronavirus, it must be delivered as soon as reasonably practicable afterwards.”,
- (f) in paragraph 23(1), for “10 days” there were substituted “15 days”,
- (g) after paragraph 23(2) there were inserted—
  - “(2A) Where a local authority cannot give reasons for a decision within the period required by sub-paragraph (1) because of a reason relating to coronavirus, it must—
    - (a) notify the person who made the request that there will be a delay, and
    - (b) give the reasons as soon as reasonably practicable after that period.”,
- (h) after paragraph 24A there were inserted—

*“Further provision about hearings*

- 24B Where by virtue of this schedule a local authority is required to, or may, give a person an opportunity to be heard, the authority may determine that the hearing cannot be held in person because of a reason relating to coronavirus.
- 24C Where a local authority determines under paragraph 24B that a hearing cannot be held in person, the authority must comply with paragraph 24D before reaching a decision on the matter which would have been the subject of the hearing.
- 24D The local authority must give any person who would have been given the opportunity to be heard at the hearing the opportunity to be heard instead by whichever of the following means the person prefers—
  - (a) telephone,
  - (b) written representations, including by means of an electronic communication, or
  - (c) video conference, if the authority has video conference facilities.
- 24E For the purposes of this schedule, where a local authority gives a person an opportunity to be heard by written representations and the hearing is to take place on a particular day, the hearing is to be treated as taking place on the day on which the authority determines that it will consider the written representations (if any), and a reference to the date or day of any such hearing (which is to take place) is to be construed accordingly.
- 24F Where a local authority gives a person an opportunity to be heard under paragraph 24D by telephone, written representations or video conference, and the holding of the

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hearing by that means would be inconsistent with a requirement imposed by regulations under paragraph 24A, the requirement of the regulations is to be construed as permitting the hearing by that means.”.

- (9) The Civic Government (Scotland) Act 1982 (Licensing of Skin Piercing and Tattooing) Order 2006 ([S.S.I. 2006/43](#)) applies in accordance with the modification in sub-paragraph (10).
- (10) In the schedule (application of Part 1 of the 1982 Act), paragraph 2 has effect as if for the number “6”, in both places where it occurs, there were substituted “9”.