Licensing (Scotland) Act 2005

2005 asp 16

The Bill for this Act of the Scottish Parliament was passed by the Parliament on 16th November 2005 and received Royal Assent on 21st December 2005

An Act of the Scottish Parliament to make provision for regulating the sale of alcohol, and for regulating licensed premises and other premises on which alcohol is sold; and for connected purposes.

Modifications etc. (not altering text)

C1 Act applied (with modifications) (30.7.2009) by Licensing (Scotland) Act 2005 (Transitional Provisions) Order 2009 (S.S.I. 2009/277), **art. 7**

PART 1

CORE PROVISIONS

1 Prohibition of unlicensed sale of alcohol

(1) Alcohol is not to be sold on any premises except under and in accordance with—

(a) a premises licence, or

(b) an occasional licence,

granted under this Act in respect of the premises.

(2) Subsection (1) does not apply to the selling of alcohol—

(a) on exempt premises, or

(b) to trade.

(3) A person who—

(a) sells alcohol, or

(b) [F1]... allows alcohol to be sold,

in breach of subsection (1) commits an offence.

(4) A person guilty of an offence under subsection (3) is liable on summary conviction to—

(a) a fine not exceeding £20,000,

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Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) imprisonment for a term not exceeding 6 months, or
(c) both.

Textual Amendments

F1 Word in s. 1(3)(b) repealed (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 195(2)(a)**, 206(1); S.S.I. 2010/413, art. 2, Sch.

Commencement Information

I1 S. 1 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

2 Meaning of "alcohol"

(1) In this Act, "alcohol"—
(a) means spirits, wine, beer, cider or any other fermented, distilled or spirituous liquor, but
(b) does not include—
(i) alcohol which is of a strength of 0.5% or less at the time of its sale,
(ii) perfume,
(iii) any flavouring essence recognised by the Commissioners of Customs and Excise as not being intended for consumption as or with dutiable alcoholic liquor,
(iv) the aromatic flavouring essence commonly known as angostura bitters,
(v) alcohol which is, or is included in, a medicinal product,
(vi) denatured alcohol,
(vii) methyl alcohol,
(viii) naphtha, or
(ix) alcohol contained in liqueur confectionery.

(2) In this section—
"beer", "cider", "denatured alcohol", "dutiable alcoholic liquor" and "wine" have the same meanings as in the Alcoholic Liquor Duties Act 1979 (c. 4), and
"medicinal product" has the same meaning as in section 130 of the Medicines Act 1968 (c. 67).

Commencement Information

I2 S. 2 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **sch.**

3 Certain supplies of alcohol to be treated as sales

(1) A supply of alcohol which is not otherwise a sale of the alcohol is, in the circumstances described in subsection (2) or (3), to be treated for the purposes of this Act as if it were a sale of the alcohol.

(2) The first set of circumstances is where the supply is by or on behalf of a club to, or to the order of, a member of the club.

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(3) The second set of circumstances is where the supply is made to, or to the order of, a person pursuant to a right acquired by the person under a contract.

Commencement Information
I3 S. 3 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

4 The licensing objectives

(1) For the purposes of this Act, the licensing objectives are—
- (a) preventing crime and disorder,
- (b) securing public safety,
- (c) preventing public nuisance,
- (d) protecting and improving public health, and
- (e) protecting children from harm.

(2) In this Act, references to the "crime prevention objective" are references to the licensing objective mentioned in subsection (1)(a).

Commencement Information
I4 S. 4 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **sch.**

PART 2

LICENSING BODIES AND OFFICERS

Licensing Boards

5 Licensing Boards

(1) There is to continue to be a Licensing Board for—
- (a) the area of each council whose area is not, at the time this section comes into force, divided into licensing divisions under section 46(1) of the Local Government etc. (Scotland) Act 1994 (c. 39) ("the 1994 Act"), and
- (b) each licensing division of such an area which is so divided at that time.

(2) A council whose area is not so divided at that time may subsequently make a determination that their area is to be divided into divisions for the purposes of this Act.

(3) Where a council makes such a determination—
- (a) there is to be a separate Licensing Board for each of the divisions,
- (b) the Licensing Board for the council's area is dissolved on the date on which those separate Licensing Boards are elected in accordance with schedule 1, and
- (c) anything done by the Licensing Board for the council's area before the Board is dissolved is, to the extent that it has effect at that time, to have effect after

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that time as if done by such of the separate Licensing Boards as the council may determine.

(4) A council which has made a determination (whether under subsection (2) or section 46(1) of the 1994 Act) that their area is to be divided into divisions may revoke the determination.

(5) Where a council revokes such a determination—
- (a) there is to be a single Licensing Board for the whole of the council's area,
- (b) each of the Licensing Boards for the divisions is dissolved on the date on which the single Licensing Board is elected in accordance with schedule 1, and
- (c) anything done by the Licensing Boards for the divisions before they are dissolved is, to the extent that it has effect at that time, to have effect after that time as if done by the single Licensing Board.

(6) Subsection (7) applies where a council—
- (a) makes a determination under subsection (2), or
- (b) revokes such a determination or a determination made under section 46(1) of the 1994 Act.

(7) The council must, no later than 7 days after the making of the determination or the revocation—
- (a) notify the Scottish Ministers of the determination or revocation, and
- (b) publicise it in such manner as the council sees fit.

(8) Schedule 1 makes further provision about the constitution of Licensing Boards, their procedure and other administrative matters relating to them.

Commencement Information
I5 S. 5 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

6 Statements of licensing policy

(1) Every Licensing Board must, before the beginning of each 3 year period, publish a statement of their policy with respect to the exercise of their functions under this Act during that period (referred to in this Act as a "licensing policy statement").

(2) A Licensing Board may, during a 3 year period, publish a supplementary statement of their policy with respect to the exercise of their functions during the remainder of that period (referred to in this Act as a "supplementary licensing policy statement").

(3) In preparing a licensing policy statement or a supplementary licensing policy statement, a Licensing Board must—
- (a) ensure that the policy stated in the statement seeks to promote the licensing objectives, and
- (b) consult—
  - (i) the Local Licensing Forum for the Board's area,
  - (ii) if the membership of the Forum is not representative of the interests of all of the persons specified in paragraph 2(6) of schedule 2, such

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person or persons as appear to the Board to be representative of those interests of which the membership is not representative, and

(iii) such other persons as the Board thinks appropriate.

(4) In exercising their functions under this Act during each 3 year period, a Licensing Board must have regard to the licensing policy statement, and any supplementary licensing policy statement, published by the Board in relation to that period.

(5) At the request of a Licensing Board—

(a) the appropriate chief constable, or

(b) the relevant council,

must provide to the Board such statistical or other information as the Board may reasonably require for the purpose of preparing a licensing policy statement or supplementary licensing policy statement.

(6) On publishing a licensing policy statement or a supplementary licensing policy statement, a Licensing Board must—

(a) make copies of the statement available for public inspection free of charge, and

(b) publicise—

(i) the fact that the statement has been published, and

(ii) the arrangements for making copies available for public inspection in pursuance of paragraph (a).

(7) In this section, “3 year period” means—

(a) the period of 3 years beginning with such day as the Scottish Ministers may by order appoint, and

(b) each subsequent period of 3 years.

Modifications etc. (not altering text)

C2 S. 6(7)(a): 30.11.2007 appointed as the day for the beginning of the period of 3 years by The Licensing (Appointed Day and Transitional Provisions) (Scotland) Order 2007 (S.S.I. 2007/128), art. 2

Commencement Information

I6 S. 6 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

7 Duty to assess overprovision

(1) Each licensing policy statement published by a Licensing Board must, in particular, include a statement as to the extent to which the Board considers there to be overprovision of—

(a) licensed premises, or

(b) licensed premises of a particular description,

in any locality within the Board's area.

(2) It is for the Licensing Board to determine the “localities” within the Board's area for the purposes of this Act.

(3) In considering whether there is overprovision for the purposes of subsection (1) in any locality, the Board must—

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(a) have regard to the number and capacity of licensed premises in the locality, and

(b) consult the persons specified in subsection (4).

(4) Those persons are—

(a) the appropriate chief constable,

(b) such persons as appear to the Board to be representative of the interests of—

(i) holders of premises licences in respect of premises within the locality,

(ii) persons resident in the locality, and

(c) such other persons as the Board thinks fit.

(5) In this section, references to "licensed premises" do not include references to any premises in respect of which an occasional licence has effect.

Commencement Information

I7 S. 7(1)(3)-(5) in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

I8 S. 7(2) in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

8 Applicants attempting to influence Board members

(1) If a person making an application under this Act to a Licensing Board attempts, at any time before the application is determined by the Board, to influence a member of the Board to support the application, the person commits an offence.

(2) If, in relation to any application made to, but not yet determined by, a Licensing Board under this Act, proceedings for an offence under subsection (1) are brought against the applicant—

(a) the Board must not determine the application until after the proceedings are concluded, and

(b) if the applicant is convicted of the offence, the Board may refuse to consider the application.

(3) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Commencement Information

I9 S. 8 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

9 Licensing Board's duty to keep a public register

(1) Each Licensing Board must keep a register (referred to in this Act as a "licensing register") containing information relating to—

(a) premises licences, personal licences and occasional licences issued by the Board,

(b) the Board's decisions in relation to applications made to the Board under this Act, and

(c) other decisions of the Board relating to the licences mentioned in paragraph (a).

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(2) The Scottish Ministers may by regulations make provision as to—
- (a) matters, in addition to those specified in paragraphs (a) to (c) of subsection (1), in relation to which licensing registers are to contain information,
- (b) the information which such registers are to contain, and
- (c) the form and manner in which the registers are to be kept.

(3) A Licensing Board must make the licensing register kept by the Board available for public inspection at all reasonable times.

Commencement Information
I10 S. 9 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

Local Licensing Forums

10 Local Licensing Forums

(1) Each council must establish a Local Licensing Forum for their area.

(2) However, where the area of a council is divided into licensing divisions, the council may, instead of establishing a Local Licensing Forum for their area, establish separate such Forums for each division.

(3) Each Licensing Board must hold, at least once in each calendar year, a joint meeting with the Local Licensing Forum for the Board's area.

(4) Schedule 2 makes further provision about Local Licensing Forums, including provision about their membership and procedural and other administrative matters in relation to them.

Commencement Information
I11 S. 10 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

11 General functions of Local Licensing Forums

(1) Each Local Licensing Forum has the following general functions—
- (a) keeping under review—
  - (i) the operation of this Act in the Forum's area, and,
  - (ii) in particular, the exercise by the relevant Licensing Board or Boards of their functions, and
- (b) giving such advice and making such recommendations to that or any of those Boards in relation to those matters as the Forum considers appropriate.

(2) Subsection (1) does not enable a Local Licensing Forum to—
- (a) review, or
- (b) give advice, or make recommendations, in relation to,

the exercise by a Licensing Board of their functions in relation to a particular case.

Status: *Point in time view as at 13/12/2010.*
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(3) In this section, section 12 and schedule 2, "relevant Licensing Board", in relation to a Local Licensing Forum, means—

(a) the Licensing Board for the Forum's area, or

(b) in the case of a Local Licensing Forum for a council area which is divided into licensing divisions, each of the Licensing Boards for those divisions.

Commencement Information

I12 S. 11 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

12 Licensing Boards' duties in relation to Local Licensing Forums

(1) A Licensing Board must—

(a) in exercising any function, have regard to any advice given, or recommendation made, to them in relation to the function by a Local Licensing Forum, and

(b) where the Board decides not to follow the advice or recommendation, give the Forum reasons for the decision.

(2) At the request of a Local Licensing Forum, a relevant Licensing Board must provide to the Forum copies of such relevant statistical information as the Forum may reasonably require for the purposes of the Forum's general functions.

(3) In this section, "relevant statistical information" means, in relation to a Licensing Board, such statistical information as the Board may have obtained under section 6(5).

Commencement Information

I13 S. 12 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

Licensing Standards Officers

13 Licensing Standards Officers

(1) Each council must appoint for their area one or more officers to be known as Licensing Standards Officers.

(2) A person may hold more than one appointment under subsection (1) (so as to be a Licensing Standards Officer for more than one council area).

(3) A Licensing Standards Officer is to exercise, in relation to the (or each) council area for which the Officer is appointed, the functions conferred on a Licensing Standards Officer by virtue of this Act.

(4) The number of Licensing Standards Officers for any council area is to be such as the council may determine.

(5) The Scottish Ministers may by regulations prescribe qualifications and experience required for appointment as a Licensing Standards Officer.

Status: *Point in time view as at 13/12/2010.*
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(6) Where the Scottish Ministers have made regulations under subsection (5), a council must not appoint an individual to be a Licensing Standards Officer unless the individual possesses the qualifications and experience prescribed in the regulations in relation to that appointment.

(7) Otherwise, the terms and conditions of appointment of a Licensing Standards Officer appointed by a council under this section are to be such as the council may determine.

Commencement Information
I14 S. 13 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

14 General functions of Licensing Standards Officers

(1) A Licensing Standards Officer for a council area has the following general functions—

(a) providing to interested persons information and guidance concerning the operation of this Act in the area,

(b) supervising the compliance by the holders of—

(i) premises licences, or

(ii) occasional licences,

in respect of premises in the area with the conditions of their licences and other requirements of this Act,

(c) providing mediation services for the purpose of avoiding or resolving disputes or disagreements between—

(i) the holders of the licences referred to in paragraph (b), and

(ii) any other persons,

concerning any matter relating to compliance as referred to in that paragraph.

(2) The function under subsection (1)(b) includes, in particular, power—

(a) where a Licensing Standards Officer believes that any condition to which a premises licence or occasional licence is subject has been or is being breached—

(i) to issue a notice to the holder of the licence requiring such action to be taken to remedy the breach as may be specified in the notice, and

(ii) if, in the case of a premises licence, such a notice is not complied with to the satisfaction of the Officer, to make a premises licence review application in respect of the licence,

(b) in relation to a premises licence, to make an application under that section for review of the licence on any other competent ground for review.

Commencement Information
I15 S. 14 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **sch.**

Status: *Point in time view as at 13/12/2010.*
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15 Powers of entry and inspection

(1) A Licensing Standards Officer for a council area may, for the purpose of determining whether the activities being carried on in any licensed premises in the area are being carried on in accordance with—

(a) the premises licence or, as the case may be, occasional licence in respect of the premises, and

(b) any other requirements of this Act,

exercise the powers specified in subsection (2).

(2) The powers referred to subsection (1) are—

(a) power to enter the premises at any time for the purpose of exercising the power specified in paragraph (b), and

(b) power to carry out such inspection of the premises and of any substances, articles or documents found there as the Officer thinks necessary.

(3) Where a Licensing Standards Officer exercises either of those powers in relation to any licensed premises, the persons specified in subsection (4) must—

(a) give the Officer such assistance,

(b) provide the Officer with such information, and

(c) produce to the Officer such documents,

as the Officer may reasonably require.

(4) The persons referred to in subsection (3) are—

(a) the holder of the premises licence or, as the case may be, occasional licence in respect of the premises,

(b) in the case of licensed premises in respect of which a premises licence has effect, the premises manager, and

(c) in any case, any person working on the premises at the time the Officer is exercising the power.

(5) A person who—

(a) intentionally obstructs a Licensing Standards Officer in the exercise of any power under subsection (2), or

(b) refuses or fails, without reasonable excuse, to comply with a requirement made under subsection (3),

commits an offence.

(6) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Commencement Information

I16 S. 15 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

16 Training of Licensing Standards Officers

(1) A Licensing Standards Officer must comply with such requirements as to the training of Licensing Standards Officers as may be prescribed.

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(2) If a Licensing Standards Officer fails to comply with subsection (1), the (or each) council which appointed the Officer must terminate the Officer's appointment.

(3) Regulations under subsection (1) prescribing training requirements may, in particular—

(a) provide for accreditation by the Scottish Ministers of—

(i) courses of training, and

(ii) persons providing such courses,

for the purposes of the regulations,

(b) prescribe different requirements in relation to different descriptions of Licensing Standards Officers, and

(c) require that any person providing training or any particular description of training in accordance with the regulations holds such qualification as may be prescribed in the regulations.

Commencement Information

I17 S. 16 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

PART 3

PREMISES LICENCES

Introductory

17 Premises licence

In this Act, "premises licence", in relation to any premises, means a licence issued by a Licensing Board under section 26(1) or 47(2) authorising the sale of alcohol on the premises.

Commencement Information

I18 S. 17 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

18 Meaning of "appropriate Licensing Board"

(1) In this Part, "the appropriate Licensing Board" means, in relation to any premises or premises licence issued in respect of any premises—

(a) the Licensing Board in whose area the premises are situated, or

(b) where the premises are situated in the area of more than one Licensing Board—

(i) the Board in whose area the greater or greatest part of the premises is situated, or

(ii) if neither or none of those Boards falls within sub-paragraph (i), such of the Boards as is nominated in accordance with subsection (2).

Status: *Point in time view as at 13/12/2010.*
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(2) In a case falling within subsection (1)(b)(ii), the applicant for a premises licence in respect of the premises must nominate one of the Licensing Boards to be the Licensing Board for the purposes of the application of this Part in relation to the premises.

Commencement Information

I19 S. 18 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

19 Premises manager

(1) In this Act, "premises manager", in relation to any licensed premises in respect of which a premises licence has effect, means the individual for the time being specified as such in the premises licence.

(2) An individual may not, at any one time, be the premises manager of more than one licensed premises; and, accordingly, if an individual who is the premises manager of licensed premises is subsequently specified in the premises licence of other licensed premises as the premises manager of those other premises, the subsequent specification is of no effect.

Modifications etc. (not altering text)

C3 S. 19(2) modified (1.2.2008) by Licensing (Vessels etc.) (Scotland) Regulations 2007 (S.S.I. 2007/545), regs. 1(1), **4**

Commencement Information

I20 S. 19(1) in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

I21 S. 19(2) in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

Premises licence applications

20 Application for premises licence

(1) Any person, other than an individual under the age of 18, may apply to the appropriate Licensing Board for a premises licence in respect of any premises.

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

(a) contain a description of the subject premises, and

(b) be accompanied by—

(i) an operating plan for the subject premises,

(ii) a plan (referred to in this Act as a "layout plan"), in the prescribed form, of the subject premises, and

(iii) the certificates required by section 50(1).

(3) An application under subsection (1) which complies with subsection (2) is referred to in this Act as a "premises licence application".

(4) An "operating plan" in relation to any premises is a document in the prescribed form containing—

(a) a description of the activities to be carried on in the premises,

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(b) a statement of the times during which it is proposed that alcohol be sold on the premises,

(c) a statement as to whether the alcohol is to be sold for consumption on the premises, off the premises or both,

(d) a statement of the times at which any other activities in addition to the sale of alcohol are to be carried on in the premises,

(e) where alcohol is to be sold for consumption on the premises, a statement as to whether children or young persons are to be allowed entry to the premises and, if they are to be allowed entry, a statement of the terms on which they are allowed entry including, in particular—

(i) the ages of children or young persons to be allowed entry,

(ii) the times at which they are to be allowed entry, and

(iii) the parts of the premises to which they are to be allowed entry,

(f) information as to the proposed capacity of the premises,

(g) prescribed information about the individual who is to be the premises manager, and

(h) such other information in relation to the premises and the activities to be carried on there as may be prescribed.

(5) Where alcohol is to be sold both for consumption on and for consumption off any premises, the operating plan for the premises may, under subsection (4)(b), state different times for—

(a) the sale of alcohol for consumption on the premises, and

(b) the sale of alcohol for consumption off the premises.

Modifications etc. (not altering text)

C4 S. 20(2)(b)(ii) modified (1.2.2008) by Licensing (Vessels etc.) (Scotland) Regulations 2007 (S.S.I. 2007/545), regs. 1(1), **5**

Commencement Information

I22 S. 20 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

21 Notification of application

(1) Where a Licensing Board receives a premises licence application, the Board must give notice of the application to—

(a) each person having a notifiable interest in neighbouring land,

(b) any community council within whose area the premises are situated,

(c) the council within whose area the premises are situated (except where the council is the applicant),

(d) the appropriate chief constable, and

(e) the enforcing authority within the meaning of section 61 of the Fire (Scotland) Act 2005 (asp 5) in respect of the premises.

[[F2](2) On giving notice of an application under subsection (1), the Licensing Board—

(a) must provide the appropriate chief constable with a copy of the application, and

(b) may provide any other person to whom notice is given with a copy of the application.**]**

(3) The appropriate chief constable must, within 21 days of the date of receipt of a notice under subsection (1)(d), respond to the notice by giving the Licensing Board—

(a) one or other of the notices mentioned in subsection (4), [F3]...

[F4](b) . . . . . .

(4) Those notices are—

(a) a notice stating that neither—

(i) the applicant, nor

(ii) in the cases where the applicant is neither an individual nor a council, or where the application is in respect of premises which are to be used wholly or mainly for the purposes of a club, any connected person,

has been convicted of any relevant offence or foreign offence, or

(b) a notice specifying any convictions of—

(i) the applicant, or

(ii) in any of the cases mentioned in paragraph (a)(ii), any connected person,

for a relevant offence or a foreign offence.

[F5](5) . . . . . .

(6) In this section—

[F6]...

"neighbouring land" and, in relation to that expression, "notifiable interest" have such meanings as may be prescribed for the purposes of this section, [F7]...

[F8]...

Textual Amendments

F2 S. 21(2) substituted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 180(2)**, 206(1); S.S.I. 2010/413, art. 2, Sch.

F3 Word in s. 21(3) repealed (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 180(3)(a)**, 206(1); S.S.I. 2010/413, art. 2, Sch.

F4 S. 21(3)(b) repealed (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 180(3)(b)**, 206(1); S.S.I. 2010/413, art. 2, Sch.

F5 S. 21(5) repealed (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), s. 206(1), **Sch. 6 para. 3**; S.S.I. 2010/413, art. 2, Sch.

F6 Definition in s. 21(6) repealed (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 180(4)(a)**, 206(1); S.S.I. 2010/413, art. 2, Sch.

F7 Word in s. 21(6) repealed (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 180(4)(b)**, 206(1); S.S.I. 2010/413, art. 2, Sch.

F8 Definition in s. 21(6) repealed (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 180(4)(c)**, 206(1); S.S.I. 2010/413, art. 2, Sch.

Commencement Information

I23 S. 21 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

22 Objections and representations

(1) Where a premises licence application is made to a Licensing Board, any person may, by notice to the Licensing Board—

(a) object to the application on any ground relevant to one of the grounds for refusal specified in section 23(5), or

(b) make representations to the Board concerning the application, including, in particular, representations—

(i) in support of the application,

(ii) as to modifications which the person considers should be made to the operating plan accompanying the application, or

(iii) as to conditions which the person considers should be imposed.

[F9](2) . . . . . .

[[F10](2A) The appropriate chief constable may, under subsection (1)(b), make representations concerning a premises licence application by giving to the Licensing Board a report detailing—

(a) any cases of antisocial behaviour indentified by constables as having taken place on, or in the vicinity of, the premises,

(b) any complaints or other representations made to constables concerning antisocial behaviour on, or in the vicinity of, the premises.**]**

(3) Where a Licensing Board receives a notice of objection or representation under subsection (1) relating to any premises licence application made to the Board, the Board must—

(a) give a copy of the notice to the applicant in such manner and by such time as may be prescribed, and

(b) have regard to the objection or representation in determining the application,

unless the Board rejects the notice under subsection (4).

(4) A Licensing Board may reject a notice of objection or representation received by the Board under subsection (1) if the Board considers the objection or representation is frivolous or vexatious.

(5) Where a Licensing Board rejects a notice of objection or representation under subsection (4), the Board may recover from the person who gave the notice any expenses incurred by the Board in considering the notice.

(6) In any proceedings by a Licensing Board for the recovery of expenses under subsection (5), a copy of any minute of proceedings of the Licensing Board—

(a) recording the Board's rejection of the notice and the grounds for the rejection, and

(b) certified by the clerk of the Board to be a true copy,

is sufficient evidence of the rejection and of the establishment of the ground for rejection.

Textual Amendments

F9 S. 22(2) repealed (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), s. 206(1), **Sch. 6 para. 4**; S.S.I. 2010/413, art. 2, sch.

F10 S. 22(2A) inserted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 183(2)**, 206(1); S.S.I. 2010/413, art. 2, sch.

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I24 S. 22 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **sch. 1**

23 Determination of premises licence application

(1) A premises licence application received by a Licensing Board is to be determined in accordance with this section.

(2) The Licensing Board must hold a hearing for the purpose of considering and determining the application.

(3) In considering and determining the application, the Board must take account of the documents accompanying the application under section 20(2)(b).

(4) The Board must, in considering and determining the application, consider whether any of the grounds for refusal applies and—

(a) if none of them applies, the Board must grant the application, or

(b) if any of them applies, the Board must refuse the application.

(5) The grounds for refusal are—

(a) that the subject premises are excluded premises,

(b) that the application must be refused under section 25(2), 64(2) or 65(3),

(c) that the Licensing Board considers that the granting of the application would be inconsistent with one or more of the licensing objectives,

(d) that, having regard to—

(i) the nature of the activities proposed to be carried on in the subject premises,

(ii) the location, character and condition of the premises, and

(iii) the persons likely to frequent the premises,

the Board considers that the premises are unsuitable for use for the sale of alcohol,

(e) that, having regard to the number and capacity of—

(i) licensed premises, or

(ii) licensed premises of the same or similar description as the subject premises,

in the locality in which the subject premises are situated, the Board considers that, if the application were to be granted, there would, as a result, be overprovision of licensed premises, or licensed premises of that description, in the locality.

[[F11](6) In considering whether the granting of the application would be inconsistent with one or more of the licensing objectives, the Licensing Board must in particular take into account—

(a) any conviction, notice of which is given by the appropriate chief constable under subsection (4)(b) of section 21, and

(b) any report given by the appropriate chief constable under section 24A(2).**]**

(7) Where the Licensing Board considers that—

(a) they would refuse the application as made, but

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(b) if a modification proposed by them were made to the operating plan **[**[F12]or layout plan (or both)**]** for the subject premises accompanying the application, they would be able to grant the application,

the Board must, if the applicant accepts the proposed modification, grant the application as modified.

(8) Where the Licensing Board refuses the application—

(a) the Board must specify the ground for refusal, and

(b) if the ground for refusal is that specified in subsection (5)(c), the Board must specify the licensing objective or objectives in question.

(9) In subsection (5)(e), references to "licensed premises" do not include licensed premises in respect of which an occasional licence has effect.

Textual Amendments

F11 S. 23(6) substituted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), s. 206(1), **Sch. 6 para. 5**; S.S.I. 2010/413, art. 2, sch.

F12 Words in s. 23(7)(b) inserted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 181**, 206(1); S.S.I. 2010/413, art. 2, sch.

Commencement Information

I25 S. 23 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **sch. 1**

24 Applicant's duty to notify Licensing Board of convictions

(1) This section applies where any of the persons specified in subsection (2) is convicted of a relevant or foreign offence during the period beginning with the making of a premises licence application and ending with determination of the application.

(2) Those persons are—

(a) the applicant, and

(b) where—

(i) the applicant is neither an individual nor a council, or

(ii) the premises in respect of which the licence is sought are used wholly or mainly for the purposes of a club,

any connected person.

(3) The applicant must, no later than one month after the date of the conviction, give notice of the conviction to the Licensing Board to which the application was made.

(4) A notice under subsection (3) must specify—

(a) the nature of the offence, and

(b) the date of the conviction.

(5) Where the Licensing Board receives a notice under subsection (3) at any time before they have determined the application, the Board must—

(a) suspend consideration of the application, and

(b) give notice of the conviction to the appropriate chief constable.

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(6) The appropriate chief constable must, within 21 days of the date of receipt of a notice under subsection (5)(b), respond to the notice by giving the Licensing Board one or other of the notices mentioned in subsection (7).

(7) Those notices are—

(a) a notice stating that the chief constable is unable to confirm the existence of the conviction or that the conviction does not relate to a relevant offence or foreign offence, or

(b) a notice confirming the existence of the conviction and that it relates to a relevant offence or foreign offence.

(8) Where the chief constable—

(a) proposes to give a notice under subsection (7)(b), and

(b) considers that, having regard to the conviction specified in the notice, it is necessary for the purposes of **[**[F13]any of the licensing objectives**]** that the application be refused,

the chief constable may include in the notice a recommendation to that effect.

(9) On receipt of the chief constable's notice under subsection (7), the Licensing Board must resume consideration of the application and determine it in accordance with section 23.

[[F14](10) In considering for the purposes of section 23 whether the granting of the application would be inconsistent with one or more of the licensing objectives, the Licensing Board must take into account, in addition to the matters in subsection (6) of that section—

(a) any conviction confirmation of which is given by the appropriate chief constable in a notice under subsection (7)(b) of this section, or

(b) any recommendation of the chief constable included in such a notice.**]**

(11) A person who, without reasonable excuse, fails to comply with subsection (3) commits an offence.

(12) A person guilty of an offence under subsection (11) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Textual Amendments

F13 Words in s. 24(8)(b) substituted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), s. 206(1), **Sch. 6 para. 6(2)**; S.S.I. 2010/413, art. 2, Sch.

F14 S. 24(10) substituted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), s. 206(1), **Sch. 6 para. 6(3)**; S.S.I. 2010/413, art. 2, Sch.

Modifications etc. (not altering text)

C5 S. 24(3) modified (1.2.2008) by Licensing (Relevant Offences) (Scotland) Regulations 2007 (S.S.I. 2007/513), regs. 1(1), **3**

Commencement Information

I26 S. 24 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[F15 24A Power to request antisocial behaviour report

(1) A Licensing Board may, at any time before determining a premises licence application, request the appropriate chief constable to give the Board a report detailing—

(a) all cases of antisocial behaviour indentified within the relevant period by constables as having taken place on, or in the vicinity of, the premises,

(b) all complaints or other representations made within the relevant period to constables concerning antisocial behaviour on, or in the vicinity of, the premises.

(2) The appropriate chief constable must give the report within 21 days of the request.

(3) Where the Licensing Board requests a report under subsection (1), the Board must suspend consideration of the application until it receives the report.

(4) On receipt of the chief constable's report under subsection (2), the Licensing Board must—

(a) give a copy of the report to the applicant in such manner and by such time as may be prescribed by regulations, and

(b) resume consideration of the application and determine it in accordance with section 23.

(5) In this section—

" antisocial behaviour " has the same meaning as in section 143 of the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), and

" relevant period " means the period of one year ending with the date of the request.]

Textual Amendments

F15 S. 24A inserted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 183(3)**, 206(1); S.S.I. 2010/413, art. 2, Sch.

25 Further application after refusal of premises licence application

(1) Subsection (2) applies where a Licensing Board has refused a premises licence application in respect of any premises (such a refusal being referred to in this section as the "earlier refusal").

(2) Subject to subsection (3), the Board must refuse any subsequent premises licence application in respect of the same premises made before the expiry of the period of one year beginning with the date of the earlier refusal.

(3) Subsection (2) does not apply in relation to any subsequent application made during that period if—

(a) at the time of the earlier refusal, the Board directed that the subsection would not apply to any subsequent application, or

(b) the Board is satisfied that there has been a material change of circumstances since the earlier refusal.

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Commencement Information

I27 S. 25 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

26 Issue of licence and summary

(1) Where a Licensing Board grants a premises licence application, the Board must issue to the applicant—

(a) a premises licence—

(i) in the prescribed form, and

(ii) containing the information and documents specified in subsection (2), and

(b) a summary of the licence in the prescribed form.

(2) The information and documents referred to in subsection (1)(a)(ii) are—

(a) the name and address of—

(i) the holder of the licence, and

(ii) the premises manager in respect of the premises to which the licence relates,

(b) a description of the premises in respect of which the licence is issued,

(c) the date on which the licence takes effect,

(d) the conditions to which the licence is subject, or, in relation to any such condition, a reference to another document in which details of the condition can be found,

(e) the operating plan and layout plan in respect of the premises to which the licence relates, and

(f) such other information as may be prescribed.

[[F16](3) Where a Licensing Board grants a premises licence application, the Board must send a copy of the premises licence to the appropriate chief constable.**]**

Textual Amendments

F16 S. 26(3) inserted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 187(2)**, 206(1); S.S.I. 2010/413, art. 2, Sch.

Commencement Information

I28 S. 26 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

Conditions of premises licence

27 Conditions of premises licence

(1) Except to the extent that schedule 3 provides otherwise, every premises licence is subject to the conditions specified in that schedule.

(2) The Scottish Ministers may by regulations modify schedule 3 so as—

(a) to add such further conditions as they consider necessary or expedient for the purposes of any of the licensing objectives, or

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(b) to extend the application of any condition specified in the schedule.

(3) The Scottish Ministers must by regulations prescribe further conditions which Licensing Boards must impose on the granting by them of premises licences falling within subsection (4).

(4) A premises licence falls within this subsection if the operating plan for the premises to which the licence relates specifies that the premises will, on any occasion, be open for a continuous period beginning on one day and ending after 1am on the following day.

(5) The Scottish Ministers may by regulations prescribe further conditions as conditions which Licensing Boards may, at their discretion, impose on the granting by them of premises licences.

(6) Without prejudice to subsection (5), where a Licensing Board grants a premises licence, the Board may impose such other conditions (in addition to those to which the licence is subject by virtue of subsection (1) or (3)) as they consider necessary or expedient for the purposes of any of the licensing objectives.

(7) A Licensing Board may not impose a condition under subsection (6) which—

(a) is inconsistent with any condition—

(i) to which the premises licence is subject by virtue of subsection (1), or

(ii) prescribed under subsection (5),

(b) would have the effect of making any such condition more onerous or more restrictive, or

(c) relates to a matter (such as planning, building control or food hygiene) which is regulated under another enactment.

(8) The conditions which may be—

(a) added under subsection (2)(a),

(b) prescribed under subsection (5), or

(c) imposed under subsection (6),

include, in particular, conditions of the kind described in subsection (9).

(9) Those are conditions requiring anything to be done, or prohibiting or restricting the doing of anything, in connection with—

(a) the sale of alcohol on the premises in respect of which a premises licence has effect, or

(b) any other activity carried on in such premises.

(10) Where, under any provision of this Act, a Licensing Board has power to make a variation of the conditions to which a premises licence is subject, the power may not be exercised so as to have the effect of imposing a condition which the Board could not have imposed under this section on the granting of the licence.

Commencement Information

I29 S. 27 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Duration of premises licence

28 Period of effect of premises licence

(1) A premises licence—
- (a) takes effect on such date as the Licensing Board issuing it may determine, and
- (b) ceases to have effect on the occurrence of any of the events mentioned in subsection (5).

(2) However, a premises licence is not to be taken to have ceased to have effect under subsection (1)(b) by virtue of the occurrence of any of the events mentioned in paragraphs (c) to (e) of subsection (5) if, within 28 days of the occurrence of the event, an application for the transfer of the licence is made under section 34(1).

(3) If such an application is made but refused, the premises licence ceases to have effect on the refusal.

(4) A premises licence does not have effect for any period during which it is suspended by virtue of any provision of this Act.

(5) The events referred to in subsection (1)(b) are—
- (a) the premises licence is revoked under any provision of this Act,
- (b) the licensed premises in respect of which the licence was issued cease to be used for the sale of alcohol,
- (c) the premises licence holder, being an individual—
  - (i) dies, or
  - (ii) becomes incapable within the meaning of section 1(6) of the Adults with Incapacity (Scotland) Act 2000 (asp 4),
- (d) the premises licence holder, being an individual, a partnership or a company, becomes insolvent,
- (e) the premises licence holder, being a person other than an individual, a partnership or a company, is dissolved, and
- (f) the appropriate Licensing Board receives from the premises licence holder a notice under subsection (6).

(6) That is a notice—
- (a) accompanied by the premises licence, or where that is not practicable, by a statement of reasons for failure to produce the licence, and
- (b) stating that the licence holder wishes to surrender the licence.

(7) For the purposes of subsection (5)(d)—
- (a) an individual or partnership becomes insolvent on—
  - (i) the approval of a voluntary arrangement proposed by the individual or partnership,
  - (ii) being adjudged bankrupt,
  - (iii) the individual's or partnership's estate being sequestrated,
  - (iv) entering into a deed of arrangement made for the benefit of creditors, or
  - (v) granting a trust deed for creditors, and
- (b) a company becomes insolvent on—
  - (i) the approval of a voluntary arrangement proposed by its creditors,

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(ii) the appointment of an administrator or administrative receiver in respect of it, or

(iii) going into liquidation.

(8) An expression used in subsection (7) which is also used in the Bankruptcy (Scotland) Act 1985 (c. 66) or the Insolvency Act 1986 (c. 45) has the same meaning in that subsection as it has in that Act.

Commencement Information

I30 S. 28 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

Variation of premises licence

29 Application to vary premises licence

(1) A premises licence holder may apply to the appropriate Licensing Board for a variation of the licence.

(2) An application under subsection (1) must be accompanied by—

(a) the premises licence to which the application relates, or

(b) if that is not practicable, a statement of the reasons for failure to produce the licence.

(3) An application under subsection (1) which complies with subsection (2) is referred to in this Act as a "premises licence variation application".

(4) Sections 21(1) and (2) and 22 apply in relation to a premises licence variation application (other than one in which the only variation sought is a minor variation) as they apply to a premises licence application.

(5) In this Act, "variation", in relation to a premises licence, means any variation of—

(a) any of the conditions to which the licence is subject (other than those to which the licence is subject by virtue of section 27(1)),

(b) any of the information contained in the operating plan contained in the licence,

(c) the layout plan contained in the licence, or

(d) any other information contained or referred to in the licence,

and includes an addition, deletion or other modification.

(6) In this Act, "minor variation" means—

(a) any variation of the layout plan, if the variation does not result in any inconsistency with the operating plan,

(b) where, under the operating plan contained in the licence, children or young persons are allowed entry to the premises, any variation reflecting any restriction or proposed restriction of the terms on which they are allowed entry to the premises,

(c) any variation of the information contained in the licence relating to the premises manager (including a variation so as to substitute a new premises manager), and

(d) any other variation of such description as may be prescribed for the purposes of this subsection.

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I31 S. 29 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

30 Determination of application for variation

(1) A premises licence variation application received by a Licensing Board is to be determined by the Board in accordance with this section.

(2) If the variation sought is a minor variation, the Board must grant the application.

(3) In any other case, the Licensing Board must hold a hearing for the purpose of considering and determining the application.

(4) Where a hearing is held under subsection (3), the Board must consider whether any of the grounds for refusal applies and—

(a) if none of them applies, the Board must grant the application,

(b) if any of them applies, the Board must refuse the application.

(5) The grounds for refusal are—

(a) that the application must be refused under section 32(2), 64(2) or 65(3),

(b) that the Licensing Board considers that the granting of the application would be inconsistent with one or more of the licensing objectives,

(c) that, having regard to—

(i) the nature of the activities carried on or proposed to be carried on in the subject premises,

(ii) the location, character and condition of the premises, and

(iii) the persons likely to frequent the premises,

the Board considers that the premises are unsuitable for use for the sale of alcohol in accordance with the proposed variation,

(d) that, having regard to the number and capacity of—

(i) licensed premises, or

(ii) licensed premises of the same or similar description as the subject premises (taking account of the proposed variation),

in the locality in which the subject premises are situated, the Board considers that, if the application were to be granted, there would, as a result, be overprovision of licensed premises, or licensed premises of that description, in the locality.

(6) Where the Licensing Board grants the application, the Board may make a variation of the conditions to which the licence is subject.

(7) Where the Licensing Board refuses the application—

(a) the Board must specify the ground for refusal, and

(b) if the ground for refusal is that specified in subsection (5)(b), the Board must specify the licensing objective or objectives in question.

(8) In subsection (5)(d), references to “licensed premises” do not include references to licensed premises in respect of which an occasional licence has effect.

Status: *Point in time view as at 13/12/2010.*
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Commencement Information
I32 S. 30 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

31 Variation to substitute new premises manager

(1) This section applies in relation to a premises licence variation application where—
- (a) the variation sought is the substitution of another individual as the premises manager, and
- (b) the applicant requests in the application that the variation should have immediate effect.

(2) Where this section applies, the premises licence to which the application relates has effect during the application period as if it were varied as proposed in the application.

(3) In subsection (2), "the application period" means the period—
- (a) beginning when the application is received by the Licensing Board, and
- (b) ending—
  - (i) when the variation takes effect, or
  - (ii) if the application is withdrawn before it is determined, when it is withdrawn.

Commencement Information
I33 S. 31 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

32 Further application after refusal of application for variation

(1) Subsection (2) applies where a Licensing Board has refused a premises licence variation application (such a refusal being referred to in this section as the "earlier refusal").

(2) Subject to subsection (3), the Board must refuse any subsequent premises licence variation application—
- (a) in respect of the same premises licence, and
- (b) seeking the same variation,

made before the expiry of the period of one year beginning with the date of the earlier refusal.

(3) Subsection (2) does not apply in relation to any subsequent application made during that period if—
- (a) at the time of the earlier refusal, the Board directed that the subsection would not apply to any subsequent application, or
- (b) the Board is satisfied that there has been a material change of circumstances since the earlier refusal.

Commencement Information
I34 S. 32 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Transfer of premises licence

33 Transfer on application of licence holder

(1) A premises licence holder may apply to the appropriate Licensing Board for the transfer of the licence to such person as is specified in the application (such person being referred to in this section as the "transferee").

(2) The transferee may not be an individual under the age of 18.

(3) An application under subsection (1) must be accompanied by—
- (a) the premises licence to which the application relates, or
- (b) if that is not practicable, a statement of the reasons for failure to produce the licence.

(4) Where a Licensing Board receives an application under subsection (1), the Board must give notice of it, together with a copy of the application, to the appropriate chief constable.

(5) The appropriate chief constable must, within 21 days of the date of receipt of a notice under subsection (4), respond to the notice by giving the Licensing Board one or other of the notices mentioned in subsection (6).

(6) Those notices are—
- (a) a notice stating that neither—
  - (i) the transferee, nor
  - (ii) where the transferee is neither an individual nor a council, any connected person,

  has been convicted of any relevant offence or foreign offence, or
- (b) a notice specifying any convictions of—
  - (i) the transferee, and
  - (ii) where the transferee is neither an individual nor a council, any connected person,

  for a relevant offence or a foreign offence.

[[F17](7) On giving a notice under subsection (6)(a) or (b), if the appropriate chief constable considers that it is necessary for the purposes of any of the licensing objectives that the application for the transfer of the licence to the transferee be refused, the chief constable may include in the notice a recommendation to that effect.**]**

[[F17](8) Where, in relation to an application under subsection (1)—
- (a) the Licensing Board receives a notice under subsection (6)(a), and
- (b) the notice does not include a recommendation under subsection (7),

the Board must grant the application.**]**

[[F17](9) In any other case, the Licensing Board must hold a hearing for the purpose of considering and determining the application.**]**

(10) Where a hearing is held under subsection (9), the Licensing Board must, having regard to the chief constable's notice—
- (a) if satisfied that it is necessary to do so for the purposes of **[**[F18]any of the licensing objectives**]**, refuse the application, or
- (b) if not so satisfied, grant the application.

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F17 S. 33(7)-(9) substituted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), s. 206(1), **Sch. 6 para. 7(2)**; S.S.I. 2010/413, art. 2, sch.

F18 Words in s. 33(10)(a) substituted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), s. 206(1), **Sch. 6 para. 7(3)**; S.S.I. 2010/413, art. 2, Sch.

Commencement Information

I35 S. 33 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **sch. 1**

34 Transfer on application of person other than licence holder

(1) A person other than—

(a) the holder of a premises licence, or

(b) an individual under the age of 18,

(being a person of a prescribed description) may, within 28 days of the occurrence of any of the events specified in subsection (3), apply to the appropriate Licensing Board for the transfer to that person of the licence.

(2) An application under subsection (1) must be accompanied by—

(a) the premises licence to which the application relates, or

(b) if that is not practicable, a statement of the reasons for failure to produce the licence.

(3) The events referred to in subsection (1) are—

(a) the premises licence holder, being an individual—

(i) dies, or

(ii) becomes incapable within the meaning of section 1(6) of the Adults with Incapacity (Scotland) Act 2000 (asp 4),

(b) the premises licence holder, being an individual, a partnership or a company, becomes insolvent,

(c) the premises licence holder, being a person other than an individual, a partnership or a company, is dissolved, and

(d) the business carried on in the licensed premises to which the licence relates is transferred (whether by sale or otherwise) to another person.

(4) Subsections (4) to (10) of section 33 apply for the purposes of an application under subsection (1) of this section as they apply for the purposes of an application under subsection (1) of that section, but as if references in them to the transferee were references to the applicant in relation to the application under subsection (1) of this section.

(5) Subsections (7) and (8) of section 28 apply for the purposes of subsection (3)(b) of this section as they apply for the purposes of subsection (5)(d) of that section.

Commencement Information

I36 S. 34 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

35 Variation on transfer

(1) A person making an application to a Licensing Board under section 33(1) or 34(1) for transfer of a premises licence may also make an application to the Board for a variation of the licence.

(2) Sections 29 and 30 apply in relation to an application under subsection (1) for a variation as they apply to a premises licence variation application.

(3) Where—

(a) an application is made under subsection (1), and

(b) the applicant intimates to the Licensing Board that the application under section 33(1) or 34(1) for transfer of the premises licence is contingent on the grant of the application under subsection (1),

the Licensing Board must determine the application under subsection (1) before determining the application for the transfer of the licence.

(4) In such a case, if the Licensing Board refuses the application under subsection (1), the application for the transfer of the licence falls.

(5) In any other case where an application under subsection (1) is made—

(a) the Licensing Board must first determine the application for transfer of the licence before determining the application under subsection (1), and

(b) if the application for the transfer of the licence is refused, the application under subsection (1) falls.

Commencement Information

I37 S. 35 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

Review of premises licence

36 Application for review of premises licence

(1) Any person may apply to the appropriate Licensing Board in respect of any licensed premises in relation to which a premises licence has effect for a review of the licence on any of the grounds for review.

(2) An application under subsection (1) is referred to in this Act as a "premises licence review application".

(3) The grounds for review referred to in subsection (1) are—

(a) that one or more of the conditions to which the premises licence is subject has been breached, or

(b) any other ground relevant to one or more of the licensing objectives.

(4) A Licensing Standards Officer may make a premises licence review application on the ground specified in subsection (3)(a) only if—

(a) in relation to the alleged ground for review, the Officer or any other Licensing Standards Officer has issued to the licence holder a notice under section 14(2)(a)(i), and

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) the licence holder has failed to take the action specified in the notice to the satisfaction of the Officer.

(5) A premises licence review application must specify the alleged ground for review, including in particular—

(a) where the ground is that specified in subsection (3)(a), the condition or conditions alleged to have been breached,

(b) where the ground is that specified in subsection (3)(b), the licensing objective or objectives to which the alleged ground of review relates.

(6) The Licensing Board may reject a premises licence review application if the Board considers the application—

(a) is vexatious or frivolous, or

(b) does not disclose any matter relevant to any ground for review.

(7) Where the Licensing Board rejects a premises licence review application under subsection (6), the Board—

(a) must give notice of the decision, and the reasons for it, to the applicant, and

(b) where it is rejected on the ground that it is frivolous or vexatious, may recover from the applicant any expenses incurred by the Board in considering the application.

(8) In any proceedings by a Licensing Board for the recovery of expenses under subsection (7)(b), a copy of any minute of proceedings of the Licensing Board—

(a) recording the Board's rejection of the application and the grounds for rejection, and

(b) certified by the clerk of the Board to be a true copy,

is sufficient evidence of the rejection and of the establishment of the grounds for rejection.

Commencement Information

I38 S. 36 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

37 Review of premises licence on Licensing Board's initiative

(1) The appropriate Licensing Board in respect of any licensed premises in relation to which a premises licence has effect may, on their own initiative, propose to review the licence on any of the grounds for review.

(2) A proposal under subsection (1) is referred to in this Act as a "premises licence review proposal".

(3) The grounds for review referred to in subsection (1) are those specified in subsection 36(3).

(4) A premises licence review proposal must specify the alleged ground for review, including in particular—

(a) where the ground is that specified in subsection 36(3)(a), the condition or conditions alleged to have been breached,

(b) where the ground is that specified in subsection 36(3)(b), the licensing objective or objectives to which the alleged ground of review relates.

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I39 S. 37 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

38 Review hearing

(1) Where a Licensing Board—

(a) makes a premises licence review proposal, or

(b) receives a premises licence review application,

the Board must hold a hearing for the purposes of considering and determining the proposal or application unless, in the case of a premises licence review application, the Board has rejected the application under subsection 36(6).

(2) A hearing under subsection (1) is referred to in this Act as a "review hearing".

(3 Where a review hearing is to be held, the Licensing Board must—

(a) in the case of a premises licence review application, give notice of the hearing to the applicant, and

(b) give notice of the hearing and a copy of the premises licence review proposal or application to—

(i) the licence holder, and

(ii) any Licensing Standards Officer for the area in which the premises concerned are situated, unless, in the case of a premises licence review application, the applicant is such an Officer.

(4) Where a Licensing Standards Officer receives under subsection (3)(b)(ii) a copy of a premises licence review proposal or application—

(a) the Officer must, before the review hearing, prepare and submit to the Licensing Board a report on the proposal or application, and

(b) the Licensing Board must take the report into account at the hearing.

(5) The Licensing Board may, for the purposes of the review hearing—

(a) obtain further information from such persons, and in such manner, as the Board thinks fit, and

(b) take the information into account.

(6) In particular, the Board may—

(a) request—

(i) the attendance at the review hearing of any person for the purpose of providing information, and

(ii) the production at the review hearing by any person of any documents in that person's possession or under that person's control, and

(b) take into account any information relevant to any ground for review even though it is not relevant to any circumstances alleged in the review proposal or application under consideration.

Modifications etc. (not altering text)

C6 S. 38(3)-(6) applied (with modifications) (1.1.2008) by Licensing (Transitional and Saving Provisions) (Scotland) Order 2007 (S.S.I. 2007/454), arts. 1, **17(9)**

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I40 S. 38 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

39 Licensing Board's powers on review

(1) At a review hearing in relation to any premises licence, the Licensing Board may, if satisfied that a ground for review is established (whether or not on the basis of any circumstances alleged in the premises licence review proposal or application considered at the hearing) take such of the steps mentioned in subsection (2) as the Board considers necessary or appropriate for the purposes of any of the licensing objectives.

(2) Those steps are—
- (a) to issue a written warning to the licence holder,
- (b) to make a variation of the licence,
- (c) to suspend the licence for such period as the Board may determine,
- (d) to revoke the licence.

(3) On making a variation under subsection (2)(b), the Board may provide for the variation to apply only for such period as they may determine.

Commencement Information
I41 S. 39 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

40 Review of Licensing Board's decision to vary or suspend licence

Where a Licensing Board has made a variation under subsection (2)(b) of section 39 or suspended the licence under subsection (2)(c) of that section, the Board may—
- (a) on the application of the licence holder, and
- (b) if satisfied that, by reason of a change of circumstances, the variation or suspension is no longer necessary,

revoke the variation or suspension.

Commencement Information
I42 S. 40 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

[F19 Connected persons and interested parties

Textual Amendments
F19 S. 40A inserted (13.12.2010 for specified purposes, 29.6.2018 in so far as not already in force) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 184(2)**, 206(1); S.S.I. 2010/413, art. 2, sch.; S.S.I. 2018/102, art. 2(a)

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

40A Connected persons and interested parties: licence holder's duty to notify changes

(1) A premises licence holder must, not later than one month after a person becomes or ceases to be—

(a) a connected person in relation to the licence holder, or

(b) an interested party in relation to the licensed premises,

give the appropriate Licensing Board notice of that fact.

(2) A notice under subsection (1) that a person has become a connected person or an interested party must specify—

(a) the name and address of the person, and

(b) if the person is an individual, the person's date of birth.

(3) Where a Licensing Board receives a notice under subsection (1), the Board must give a copy of the notice to the appropriate chief constable.

(4) A premises licence holder who fails, without reasonable excuse, to comply with subsection (1) commits an offence.

(5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.**]**

Conviction of licence holder etc. for relevant or foreign offence

41 Duty to notify court of premises licence

(1) Subsection (2) applies where—

(a) a person who holds a premises licence is charged with a relevant offence, or

(b) a person charged with a relevant offence is granted a premises licence after the person's first appearance in court in connection with the offence but before—

(i) conviction and sentencing for the offence or acquittal, or

(ii) where an appeal is brought against conviction, sentence or acquittal, the disposal of the appeal.

(2) The person must, not later than the person's first appearance or, as the case may be, next appearance in court in connection with the offence—

(a) produce to the court the premises licence, or

(b) if that is not practicable, notify the court of—

(i) the existence of the premises licence,

(ii) the identity of the Licensing Board which issued it, and

(iii) the reasons why it is not practicable to produce the licence.

(3) A person who, without reasonable excuse, fails to comply with subsection (2) commits an offence.

(4) A person guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Commencement Information

I43 S. 41 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

42 Court's duty to notify Licensing Board of convictions

(1) This section applies where the clerk of a court in Scotland by or before which a person is convicted of a relevant offence is aware that the person holds a premises licence.

(2) The clerk of the court must, as soon as reasonably practicable after the conviction, give notice of the conviction to the Licensing Board which issued the premises licence held by the person convicted.

Commencement Information

I44 S. 42 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

43 Licence holder's duty to notify Licensing Board of convictions

(1) This section applies where any of the persons specified in subsection (2) is convicted of a relevant or foreign offence.

(2) Those persons are—

(a) the holder of a premises licence, and

(b) where—

(i) the holder of such a licence is neither an individual nor a council, or

(ii) the premises in respect of which such a licence is held are used wholly or mainly for the purposes of a club,

any connected person.

(3) The holder of the premises licence must, no later than one month after the date of the conviction, give notice of the conviction to the Licensing Board which issued the premises licence held by the licence holder.

(4) A notice of conviction under subsection (3) must—

(a) specify—

(i) the nature of the offence, and

(ii) the date of conviction, and

(b) be accompanied by—

(i) the premises licence held by the licence holder, or

(ii) if that is not practicable, a statement of the reasons for failure to produce the licence.

(5) A premises licence holder who fails, without reasonable excuse, to comply with subsection (3) commits an offence.

(6) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Modifications etc. (not altering text)

C7 S. 43(3) modified (1.2.2008) by Licensing (Relevant Offences) (Scotland) Regulations 2007 (S.S.I. 2007/513), regs. 1(1), **3**

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I45 S. 43 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

44 Procedure where Licensing Board receives notice of conviction

(1) This section applies where the Licensing Board which issued a premises licence receives a notice of conviction relating to—

(a) the holder of the licence, or

(b) where—

(i) the holder of the licence is neither an individual nor a council, or

(ii) the premises in respect of which the licence is held are used wholly or mainly for the purposes of a club,

a connected person.

(2) The Licensing Board must give notice of the conviction to the appropriate chief constable.

(3) The appropriate chief constable must, within 21 days of the date of receipt of a notice under subsection (2), respond to the notice by giving the Licensing Board one or other of the notices mentioned in subsection (4).

(4) Those notices are—

(a) a notice stating that the chief constable is unable to confirm the existence of the conviction or that the conviction does not relate to a relevant or foreign offence, or

(b) a notice confirming the existence of the conviction and that it relates to a relevant or foreign offence.

(5) Where the chief constable—

(a) proposes to give a notice under subsection (4)(b), and

(b) considers that, having regard to the conviction specified in the notice, it is necessary for the purposes of **[**[F20]any of the licensing objectives**]** that the premises licence should be varied, suspended or revoked,

the chief constable may include in the notice a recommendation to that effect.

(6) If the Licensing Board receives from the appropriate chief constable a notice under subsection (4)(a), the Licensing Board may not take any further action in relation to the conviction.

(7) If the Licensing Board receives from the appropriate chief constable a notice under subsection (4)(b), the Licensing Board must make a premises licence review proposal in respect of the premises licence.

(8) In this section, "notice of conviction" means a notice under section 42(2) or 43(3).

Textual Amendments

F20 Words in s. 44(5)(b) substituted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), s. 206(1), **Sch. 6 para. 8**; S.S.I. 2010/413, art. 2, Sch.

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I46 S. 44 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **sch. 1**

Premises under construction or conversion

45 Provisional premises licence

(1) A premises licence application may be made in relation to any premises despite the fact that, at the time the application is made, the premises are yet to be, or are in the course of being, constructed or converted for use as licensed premises.

(2) A premises licence application in respect of any such premises is referred to in this Act as a "provisional premises licence application".

(3) A premises licence issued in respect of any such premises does not take effect unless and until it is confirmed by the Licensing Board which issued it in accordance with section 46.

(4) If a premises licence issued in respect of any such premises is not confirmed before the end of the provisional period, then at the end of that period the licence is treated as revoked.

(5) A premises licence—
  (a) to which subsection (3) applies, and
  (b) which has not been confirmed in accordance with section 46,
is referred to in this Act as a "provisional premises licence".

(6) The provisional period, in relation to a provisional premises licence, is the period of **[**[F21]4**]** years beginning with the date of issue of the licence.

(7) On the application of the holder of a provisional premises licence made before the expiry of the provisional period, the Licensing Board which issued the licence may, if satisfied as to the matter mentioned in subsection (8), extend the provisional period by such period as the Board considers appropriate.

(8) That matter is that—
  (a) completion of the construction or conversion of the premises to which the licence relates has been delayed, and
  (b) the delay has been caused by factors outwith the premises licence holder's control.

(9) Where the provisional period in relation to any provisional premises licence has been extended under subsection (7), references in this section and section 46 to the provisional period are to that period as so extended.

(10) Section 20 has effect in relation to a provisional premises licence application as if—
  (a) in subsection (2)(b), for sub-paragraph (iii) there were substituted—
    "(iii) the certificate required by section 50(2),", and
  (b) in subsection (4), paragraph (g) were omitted.

(11) In this section, "construct" and "convert" have the same meanings as they have for the purposes of the Building (Scotland) Act 2003 (asp 8).

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F21 Figure in s. 45(6) substituted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 185**, 206(1); S.S.I. 2010/413, art. 2, Sch. (with art. 8)

Commencement Information

I47 S. 45 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

46 Confirmation of provisional premises licence

(1) The holder of a provisional premises licence may, at any time before the expiry of the provisional period in relation to the licence, apply to the Licensing Board which issued the licence for confirmation of the licence.

(2) An application under subsection (1) must be accompanied by—
- (a) the provisional premises licence,
- (b) the operating plan for the premises to which the licence relates,
- (c) the layout plan for the premises, and
- (d) the certificates required by section 50(3).

(3) The operating plan referred to in subsection (2)(b) must, in particular and without prejudice to subsection (4) of section 20, contain a statement of the information specified in paragraph (g) of subsection (4) of that section.

(4) Where a Licensing Board which issued a provisional premises licence receives an application under subsection (1) in respect of the licence, the Board must, if satisfied as to the matters mentioned in subsection (5), confirm the licence.

(5) Those matters are that—
- (a) since the provisional premises licence was issued, or
- (b) if, since that time, an application for a variation of the licence has been granted under section 30, since the last such application was granted,

there has been no variation (other than a minor variation) made to the operating plan or layout plan for the premises to which the licence relates.

(6) Where a Licensing Board confirms a provisional premises licence under subsection (4), the Board may, for the purpose specified in subsection (7), make a variation of the conditions to which the licence is subject.

(7) That purpose is ensuring consistency with any licensing policy statement or supplementary licensing policy statement published since the licence was issued.

Commencement Information

I48 S. 46 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

47 Temporary premises licence

(1) This section applies where any licensed premises (other than premises in respect of which a provisional premises licence or occasional licence has effect) are undergoing,

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or are to undergo, reconstruction or conversion (referred to in this section as the "principal premises").

(2) The appropriate Licensing Board in relation to the principal premises may—

(a) on the application of the holder of the premises licence in respect of the premises, and

(b) if satisfied as to the matters mentioned in subsection (3),

issue to the applicant a premises licence in respect of such other premises within the Licensing Board's area as are specified in the application (such premises being referred to in this section as the "temporary premises").

(3) The matters referred to in subsection (2)(b) are—

(a) that the temporary premises are suitable for use for the sale of alcohol, and

(b) that it is necessary to grant the application to enable the applicant to carry on business pending reconstruction or conversion of the principal premises.

(4) A premises licence issued under subsection (2) is referred to in this Act as a "temporary premises licence".

[[F22](4A) Where a Licensing Board issues a temporary premises licence, the Board must send a copy of the temporary premises licence to the appropriate chief constable.**]**

(5) A temporary premises licence—

(a) has effect for such period of not more than 2 years beginning with the date of its issue as the Licensing Board may determine, and

(b) is subject to the same conditions as those to which the premises licence in respect of the principal premises is subject at the time the temporary premises licence is issued, with such exceptions or variations (if any) as the Licensing Board considers appropriate.

(6) The Licensing Board may, on the application of the holder of a temporary premises licence, extend the period during which it has effect for such further period of not more than 12 months as they may determine.

(7) In this section—

"conversion" has the same meaning as it has for the purposes of the Building (Scotland) Act 2003 (asp 8), and

"reconstruction" includes alteration, re-erection and extension.

Textual Amendments

F22 S. 47(4A) inserted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 187(3)**, 206(1); S.S.I. 2010/413, art. 2, Sch.

Commencement Information

I49 S. 47 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Updating of licence

48 Notification of change of name or address

(1) A premises licence holder must, not later than one month after the occurrence of any change in—

(a) the licence holder's name or address, [F23]...

(b) the name or address of the premises manager specified in the licence **[**[F24], or

(c) the name or address of any person who is—

(i) a connected person in relation to the licence holder, or

(ii) an interested party in relation to the licensed premises,**]**

give the appropriate Licensing Board notice of the change.

(2) A notice under subsection (1) must be accompanied by the premises licence or, if that is not practicable, by a statement of the reasons for the failure to produce the licence.

[[F25](2A) Where a Licensing Board receives a notice under subsection (1), the Board must give a copy of the notice to the appropriate chief constable.**]**

(3) A premises licence holder who fails, without reasonable excuse, to comply with subsection (1), commits an offence.

(4) A person guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Textual Amendments

F23 Word in s. 48(1) repealed (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 184(3)(a)(i)**, 206(1); S.S.I. 2010/413, art. 2, Sch.

F24 S. 48(1)(c) and word inserted (13.12.2010 for the insertion of s. 48(1)(c)(i) only, 29.6.2018 in so far as not already in force) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 184(3)(a)(ii)**, 206(1); S.S.I. 2010/413, art. 2, sch.; S.S.I. 2018/102, art. 2(a)

F25 S. 48(2A) inserted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 184(3)(b)**, 206(1); S.S.I. 2010/413, art. 2, Sch.

Commencement Information

I50 S. 48 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

49 Licensing Board's duty to update premises licence

(1) Subsection (2) applies where a Licensing Board—

(a) receives a notice under section 48(1) in relation to a premises licence,

(b) grants a premises licence variation application or otherwise makes a variation of a premises licence,

(c) grants an application under section 33(1) or 34(1) for the transfer of a premises licence,

(d) in relation to a provisional premises licence, grants—

(i) an application under section 45(7) for an extension of the provisional period, or

(ii) an application under section 46(1) for confirmation of the licence,

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(e) in relation to a temporary premises licence, grants an application under section 47(6) for an extension of the period during which the licence has effect, or

(f) on reviewing a premises licence, takes any of the steps referred to in section 39(1).

(2) The Board must make any necessary amendments to the licence and, if necessary, issue a new summary of the licence.

[[F26](2A) Where a Licensing Board issues a new summary of the licence under subsection (2), the Board must send a copy of the new summary of the licence to the appropriate chief constable.**]**

(3) Where a Licensing Board is not in possession of a premises licence and—

(a) the licence has ceased to have effect under any provision of this Act, or

(b) the Board requires the licence for the purpose of complying with the duty under subsection (2),

the Board may require the licence holder to produce the licence to the Board within 14 days from the date on which the requirement is notified.

(4) A licence holder who, without reasonable excuse, fails to comply with a requirement made under subsection (3), commits an offence.

(5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Textual Amendments

F26 S. 49(2A) inserted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 187(4)**, 206(1); S.S.I. 2010/413, art. 2, Sch.

Commencement Information

I51 S. 49 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

Miscellaneous

50 Certificates as to planning, building standards and food hygiene

(1) A premises licence application (other than a provisional premises licence application) must be accompanied by—

(a) a planning certificate,

(b) a building standards certificate, and

(c) if food is to be supplied on the premises, a food hygiene certificate,

in respect of the subject premises.

(2) A provisional premises licences application must be accompanied by a provisional planning certificate in respect of the subject premises.

(3) An application under section 46(1) in respect of any premises must be accompanied by—

(a) if the provisional planning certificate which accompanied the provisional premises licence application in respect of the subject premises consisted

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Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

of outline planning permission **[**[F27]or planning permission in principle**]**, a planning certificate,

(b) a building standards certificate, and

(c) if food is to be supplied on the premises, a food hygiene certificate,

in respect of the subject premises.

(4) A planning certificate is a certificate signed on behalf of the appropriate authority and stating—

(a) that planning permission under the Town and Country Planning (Scotland) Act 1997 (c. 8) (referred to in this section as "the 1997 Act") in respect of any development of the subject premises in connection with their proposed use as licensed premises has been obtained, or

(b) that no such planning permission is required.

(5) A provisional planning certificate is a certificate signed on behalf of the appropriate authority and stating—

(a) that planning permission **[**[F28], planning permission in principle**]** or outline planning permission under the 1997 Act has been obtained in respect of the construction or conversion of the subject premises, or

(b) that no such planning permission is required.

(6) A building standards certificate is a certificate signed on behalf of the appropriate authority and stating—

(a) that a completion certificate has been accepted under section 18 of the Building (Scotland) Act 2003 (asp 8) (referred to in this section as "the 2003 Act") in respect of any construction or conversion of the subject premises in connection with their proposed use as licensed premises,

(b) that permission for the temporary occupation or use of the premises has been granted under section 21(3) of the 2003 Act, or

(c) that no such completion certificate or permission is required.

(7) A food hygiene certificate is a certificate signed on behalf of the appropriate authority and stating that the subject premises comply with the requirements of regulations made under section 16 of the Food Safety Act 1990 (c. 16) (referred to in this section as "the 1990 Act") relating to construction, layout, drainage, ventilation, lighting and water supply or concerned with the provision of sanitary and washing facilities.

(8) In this section—

"appropriate authority" means—

(a) in relation to a planning certificate or provisional planning certificate, the planning authority (within the meaning of the 1997 Act) for the area in which the subject premises are situated,

(b) in relation to a building standards certificate, the council for that area,

(c) in relation to a food hygiene certificate, the food authority (within the meaning of the 1990 Act) for that area,

"construction" and "conversion" have the same meanings as they have in the 2003 Act,

"development" has the same meaning as it has in the 1997 Act.

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F27 Words in s. 50(3)(a) inserted (3.8.2009) by Planning etc. (Scotland) Act 2006 (Consequential Amendments) Order 2009 (S.S.I. 2009/256), arts. 1(3), **4(2)(a)**

F28 Words in s. 50(5)(a) inserted (3.8.2009) by Planning etc. (Scotland) Act 2006 (Consequential Amendments) Order 2009 (S.S.I. 2009/256), arts. 1(3), **4(2)(b)**

Commencement Information

I52 S. 50 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

51 Notification of determinations

(1) Where a Licensing Board grants or refuses an application under this Part, the Board must give notice of the grant or refusal to—

(a) the applicant,

(b) the appropriate chief constable, and

(c) in the case of the grant or refusal of a premises licence application, any person who gave a notice of objection or representation under section 22(1) in respect of the application.

(2) A person to whom notice is given under subsection (1) may, by notice to the clerk of the Board, require the Board to give a statement of reasons for the grant or refusal of the application.

(3) Where the clerk of a Licensing Board receives a notice under subsection (2), the Board must issue a statement of the reasons for the grant or refusal of the application to—

(a) the person giving the notice, and

(b) each other person to whom the Board gave notice under subsection (1).

(4) A statement of reasons under subsection (3) must be issued—

(a) by such time, and

(b) in such form and manner,

as may be prescribed.

Commencement Information

I53 S. 51 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

52 Duty to keep, display and produce premises licence

(1) A premises licence holder must secure that the premises licence, or a certified copy of it, is kept at the premises in respect of which it is issued in the custody or under the control of—

(a) the licence holder, or

(b) the premises manager.

(2) A premises licence holder must secure that the summary of the licence, or a certified copy of the summary, is prominently displayed on the premises so as to be capable of being read by anyone frequenting the premises.

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) A premises licence holder who fails, without reasonable excuse, to comply with subsection (1) or (2) commits an offence.

(4) Any of the persons specified in subsection (5) may require the person in whose custody or under whose control a premises licence (or a certified copy of it) is kept by virtue of subsection (1) to produce the licence (or certified copy) for inspection.

(5) The persons referred to in subsection (4) are—
- (a) a constable, and
- (b) a Licensing Standards Officer for the council area in which the premises are situated.

(6) A person who fails, without reasonable excuse, to comply with a requirement made under subsection (4) commits an offence.

(7) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Commencement Information
I54 S. 52 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

53 Theft, loss etc. of premises licence or summary

(1) This section applies where the appropriate Licensing Board receives from a premises licence holder an application for a replacement premises licence or a replacement summary.

(2) If satisfied that—
- (a) the premises licence held by the licence holder or, as the case may be, the summary of it has been lost, stolen, damaged or destroyed, and
- (b) where it has been lost or stolen, the licence holder has reported the loss or theft to the police,

the Licensing Board must issue to the licence holder a replacement licence or, as the case may be, a replacement summary.

(3) A replacement licence or a replacement summary is a copy of the licence or summary—
- (a) in the form in which it existed immediately before it was lost, stolen, damaged or destroyed, and
- (b) certified by the Board to be a true copy.

(4) In this Act, references to—
- (a) a premises licence include references to a replacement premises licence,
- (b) a summary of a premises licence include references to a replacement summary,

issued under this section.

Commencement Information
I55 S. 53 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

54 Dismissal, resignation, death etc. of premises manager

(1) This section applies where any of the events specified in subsection (2) occurs in relation to any licensed premises in respect of which a premises licence has effect.

(2) Those events are—
- (a) the premises manager ceases to work at the premises,
- (b) the premises manager becomes incapable for any reason of acting as premises manager,
- (c) the premises manager dies, or
- (d) the personal licence held by the premises manager is revoked or suspended.

(3) The premises licence holder must, not later than 7 days after the occurrence of the event, give notice of it to the appropriate Licensing Board.

(4) Subsection (5) applies if—
- (a) subsection (3) is complied with, and
- (b) within the period of 6 weeks beginning with the day on which the event occurs, a premises licence variation application is made seeking a variation of the premises licence in respect of the premises so as to substitute another individual as the premises manager.

(5) Any breach of the conditions specified in paragraphs 4 and 5 of schedule 3 in the period beginning with the occurrence of the event and ending with the receipt by the Licensing Board of the application referred to in subsection (4)(b) is, so far as it is attributable to the occurrence of the event, to be disregarded.

(6) If no such application as is mentioned in paragraph (b) of subsection (4) is made within the period mentioned in that paragraph, then, at the end of that period, the Licensing Board must vary the premises licence so that there is no longer any premises manager specified in it.

Commencement Information
I56 S. 54 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

55 Certified copies

Any reference in this Part to a certified copy of a premises licence or of a summary of such a licence is a reference to a copy of the licence or summary certified to be a true copy by—
- (a) the Licensing Board,
- (b) a solicitor or notary public, or
- (c) a person of a prescribed description.

Commencement Information
I57 S. 55 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

Status: *Point in time view as at 13/12/2010.*
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PART 4

OCCASIONAL LICENCES

56 Occasional licence

(1) A Licensing Board may, on the application of any of the persons mentioned in subsection (2) made in relation to any premises (other than licensed premises) within the Board's area, issue to the applicant a licence (referred to in this Act as an "occasional licence") authorising the sale of alcohol on the premises.

(2) Those persons are—
- (a) the holder of a premises licence,
- (b) the holder of a personal licence, and
- (c) a representative of any voluntary organisation.

(3) An application under subsection (1) must contain details of the information which the applicant proposes should be included in the licence under subsection (7)(b).

(4) An application under subsection (1) which complies with subsection (3) is referred to in this Act as an "occasional licence application".

(5) An occasional licence has effect for such period of not more than 14 days as the Licensing Board may determine.

(6) A Licensing Board may issue under subsection (1) in respect of any one voluntary organisation in any period of 12 months—
- (a) not more than 4 occasional licences each having effect for a period of 4 days or more, and
- (b) not more than 12 occasional licences each having effect for a period of less than 4 days,

provided that, in any period of 12 months, the total number of days on which occasional licences issued in respect of the organisation have effect does not exceed 56.

(7) An occasional licence issued by a Licensing Board under subsection (1) must—
- (a) be in the prescribed form, and
- (b) contain the information specified in subsection (8).

(8) That information is—
- (a) the name and address of the holder of the licence,
- (b) a description of the premises in respect of which it is issued,
- (c) a description of the activities to be carried on in the premises,
- (d) a statement of the period during which the licence has effect,
- (e) a statement of the times during which alcohol may be sold on the premises,
- (f) a statement as to whether alcohol may be sold for consumption on the premises, off the premises or both,
- (g) a statement of the times at which any other activities in addition to the sale of alcohol are to be carried on in the premises,
- (h) where alcohol is to be sold for consumption on the premises, a statement as to whether children or young persons are to be allowed entry to the premises

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and, if they are to be allowed entry, a statement of the terms on which they are allowed entry including, in particular—

(i) the ages of the children or young persons to be allowed entry,

(ii) the times at which they are to be allowed entry, and

(iii) the parts of the premises to which they are to be allowed entry,

(i) the conditions to which the licence is subject, or, in relation to any such condition, a reference to another document in which details of the condition can be found, and

(j) such other information as may be prescribed.

(9) Where alcohol is to be sold both for consumption on and for consumption off the premises, the occasional licence for the premises may, under subsection (8)(e), state different times for—

(a) the sale of alcohol for consumption on the premises, and

(b) the sale of alcohol for consumption off the premises.

[[F29](10) Where a Licensing Board issues an occasional licence under subsection (1), the Board must send a copy of the occasional licence to the appropriate chief constable.**]**

Textual Amendments

F29 S. 56(10) inserted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 187(5)**, 206(1); S.S.I. 2010/413, art. 2, Sch.

Commencement Information

I58 S. 56 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

57 Notification of application to chief constable and Licensing Standards Officer

(1) Where a Licensing Board receives an occasional licence application, the Board must give notice of it, together with a copy of the application, to—

(a) the appropriate chief constable, and

(b) any Licensing Standards Officer for the area in which the subject premises are situated.

(2) If the chief constable considers that it is necessary for the purposes of the crime prevention objective that the application be refused, the chief constable may, by notice to the Licensing Board given within 21 days of the date of receipt of the notice under subsection (1), make a recommendation to that effect.

(3) A Licensing Standards Officer may, within 21 days of receipt of a notice under subsection (1)(b), prepare and submit to the Licensing Board a report setting out the Officer's comments on the application.

Commencement Information

I59 S. 57 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **sch. 1**

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

58 Objections and representations

(1) Where an occasional licence application is made to a Licensing Board, any person may by notice to the Licensing Board—

(a) object to the application on any ground relevant to one of the grounds for refusal specified in section 59(6), or

(b) make representations to the Board concerning the application, including, in particular, representations—

(i) in support of the application, or

(ii) as to conditions which the person considers should be imposed.

(2) Where a Licensing Board receives a notice of objection or representation under subsection (1) relating to any occasional licence application made to the Board, the Board must—

(a) give a copy of the notice to the applicant in such manner and by such time as may be prescribed, and

(b) have regard to the objection or representation in determining the application,

unless the Board rejects the notice under subsection (3).

(3) A Licensing Board may reject a notice of objection or representation received by the Board under subsection (1) if the objection or representation is frivolous or vexatious.

(4) Where a Licensing Board rejects a notice of objection or representation under subsection (3), the Board may recover from the person who gave the notice any expenses incurred by the Board in considering the notice.

(5) In any proceedings by a Licensing Board for the recovery of expenses under subsection (4), a copy of any minute of proceedings of the Licensing Board—

(a) recording the Board's rejection of the notice and the grounds for rejection, and

(b) certified by the clerk of the Board to be a true copy,

is sufficient evidence of the rejection and of the establishment of the ground for rejection.

Commencement Information

I60 S. 58 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

59 Determination of application

(1) An occasional licence application received by a Licensing Board is to be determined in accordance with this section.

(2) If the Board has not received any—

(a) notice from the appropriate chief constable under section 57(2),

(b) report from a Licensing Standards Officer under section 57(3), or

(c) notice of objection or representation under section 58(1),

relating to the application, the Board must grant the application.

(3) In any other case, the Board must consider whether any of the grounds for refusal applies and—

(a) if none of them applies, the Board must grant the application, or

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(b) if any of them applies, the Board must refuse the application.

(4) The Board may hold a hearing for the purposes of determining any application which is to be determined in accordance with subsection (3).

(5) Where the Board does not hold a hearing for that purpose, the Board must ensure that, before determining the application, the applicant is given an opportunity to comment on any such notice or report as is referred to in subsection (2).

(6) The grounds for refusal are—

(a) that the premises to which the application relates are excluded premises,

(b) that the application must be refused under section 64(2) or 65(3),

(c) that the Licensing Board considers the granting of the application would be inconsistent with one or more of the licensing objectives,

(d) that, having regard to—

(i) the nature of the activities proposed to be carried on in the premises to which the application relates,

(ii) the location, character and condition of the premises, and

(iii) the persons likely to frequent the premises,

the Board considers that the premises are unsuitable for use for the sale of alcohol.

(7) In considering, for the purposes of the ground for refusal specified in subsection (6)(c), whether the granting of the application would be inconsistent with the crime prevention objective, the Licensing Board must, in particular, take into account any notice given by the appropriate chief constable under section 57(2).

(8) In determining any application which is to be determined in accordance with subsection (3), the Board must take into account any report from a Licensing Standards Officer under section 57(3).

Commencement Information

I61 S. 59 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

60 Conditions of occasional licence

(1) Except to the extent that schedule 4 provides otherwise, every occasional licence is subject to the conditions specified in that schedule.

(2) The Scottish Ministers may by regulations modify schedule 4 so as—

(a) to add such further conditions as they consider necessary or expedient for the purposes of any of the licensing objectives, or

(b) to extend the application of any condition specified in the schedule.

(3) The Scottish Ministers may by regulations prescribe further conditions as conditions which Licensing Boards may, at their discretion, impose on the granting by them of occasional licences.

(4) Without prejudice to subsection (3), where a Licensing Board grants an occasional licence, the Board may impose such other conditions (in addition to those to which the licence is subject by virtue of subsection (1)) as they consider necessary or expedient for the purposes of any of the licensing objectives.

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(5) A Licensing Board may not impose a condition under subsection (4) which—
- (a) is inconsistent with any condition—
  - (i) to which the occasional licence is subject by virtue of subsection (1), or
  - (ii) prescribed under subsection (3),
- (b) would have the effect of making any such condition more onerous or more restrictive, or
- (c) relates to a matter (such as planning, building control or food hygiene) which is regulated under another enactment.

(6) The conditions which may be—
- (a) added under subsection (2)(a),
- (b) prescribed under subsection (3), or
- (c) imposed under subsection (4),

include, in particular, conditions of the kind described in subsection (7).

(7) Those are conditions requiring anything to be done, or prohibiting or restricting the doing of anything, in connection with—
- (a) the sale of alcohol on the premises in respect of which an occasional licence has effect, or
- (b) any other activity carried on in such premises.

Commencement Information
I62 S. 60 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

61 Notification of determinations

(1) Where a Licensing Board grants or refuses an occasional licence application, the Board must give notice of the grant or refusal to—
- (a) the applicant,
- (b) the appropriate chief constable,
- (c) any Licensing Standards Officer for the area in which the subject premises are situated, and
- (d) any person who gave a notice of objection or representation under section 58(1) in respect of the application.

(2) A person to whom notice is given under subsection (1) may, by notice to the clerk of the Board, require the Board to give a statement of reasons for the grant or refusal of the application.

(3) Where the clerk of a Licensing Board receives a notice under subsection (2), the Board must issue a statement of the reasons for the grant or refusal of the application to—
- (a) the person giving the notice, and
- (b) each other person to whom the Board gave notice under subsection (1).

(4) A statement of reasons under subsection (3) must be issued—
- (a) by such time, and
- (b) in such form and manner,

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

as may be prescribed.

Commencement Information
I63 S. 61 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

PART 5

LICENSED HOURS

General

62 Licensed hours

(1) In this Act, "licensed hours" means, in relation to licensed premises—

(a) in the case of licensed premises in respect of which a premises licence has effect, the period or periods of time specified for the time being in the operating plan contained in the premises licence as those during which alcohol is to be sold on the premises, and

(b) in the case of licensed premises in respect of which an occasional licence has effect, the period or periods of time specified in the licence as those during which alcohol may be sold on the premises,

and a reference to a period of licensed hours is a reference to any of those periods of time.

(2) In this Act—

(a) in relation to any premises—

(i) "on-sales hours" means licensed hours applying to the sale of alcohol for consumption on the premises,

(ii) "off-sales hours" means licensed hours applying to the sale of alcohol for consumption off the premises, and

(b) in relation to any licensed premises on which alcohol is sold both for consumption on the premises and for consumption off the premises, references to licensed hours are—

(i) in relation to alcohol sold for consumption on the premises, to be read as references to on-sales hours,

(ii) in relation to alcohol sold for consumption off the premises, to be read as references to off-sales hours.

(3) Subsection (1) is subject to sections 67(6) and 68(5).

Commencement Information
I64 S. 62 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

63 Prohibition of sale, consumption and taking away of alcohol outwith licensed hours

(1) Subject to subsection (2), a person commits an offence if, outwith licensed hours, the person—

(a) sells alcohol, or allows alcohol to be sold, on licensed premises,

(b) allows alcohol to be consumed on licensed premises, or

(c) allows alcohol to be taken from licensed premises.

(2) It is not an offence under subsection (1) for a person to—

(a) allow alcohol to be consumed on licensed premises at any time within 15 minutes of the end of any period of licensed hours if the alcohol was sold during that period,

(b) allow alcohol to be taken from licensed premises at any time within 15 minutes of the end of any period of licensed hours if the alcohol—

(i) was sold during that period, and

(ii) is not taken from the premises in an open container,

(c) allow alcohol to be consumed on or taken from licensed premises outwith licensed hours if the person consuming or taking the alcohol—

(i) resides on the premises, or

(ii) is a guest of a person who resides there,

(d) sell alcohol or allow alcohol to be sold on licensed premises outwith licensed hours if the alcohol is sold to a person who resides on the premises,

(e) allow alcohol to be consumed on licensed premises at a meal at any time within 30 minutes of the end of any period of licensed hours if the alcohol was sold—

(i) during that period,

(ii) at the same time as the meal, and

(iii) for consumption at the meal,

(f) sell alcohol or allow alcohol to be sold on licensed premises outwith licensed hours if the alcohol is sold to—

(i) a person who is a trader for the purposes of the person's trade, or

(ii) a person for supply to or on any premises which are occupied for the purposes of the armed forces of the Crown.

(3) It is a defence for a person ("the accused") charged with an offence under subsection (1) of allowing alcohol to be consumed on or taken from any licensed premises outwith licensed hours to prove—

(a) that the accused, or an employee or agent of the accused, took all reasonable precautions and exercised all due diligence not to commit the offence, or

(b) that there were no lawful and reasonably practicable means by which the accused could prevent the person consuming or taking the alcohol on or from the premises from so doing.

(4) A person commits an offence if, having been requested by a responsible person not to do so, the person consumes alcohol on, or takes alcohol from, licensed premises outwith licensed hours.

(5) In subsection (4), "responsible person" means—

(a) in the case of licensed premises in respect of which a premises licence has effect, the premises manager,

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(b) in the case of licensed premises in respect of which an occasional licence has effect, the holder of the licence,

(c) in either case, any person who works on the premises in a capacity (whether paid or unpaid) which authorises the person to make the request mentioned in subsection (4).

(6) Nothing in this section prevents or restricts—

(a) the ordering of alcohol for consumption off licensed premises, or

(b) the despatch of alcohol so ordered by the person selling it.

(7) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Commencement Information

I65 S. 63 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

64 24 hour licences to be granted only in exceptional circumstances

(1) Subsection (2) applies where, in relation to any premises—

(a) an application of any of the following kinds is made to a Licensing Board in respect of the premises, namely—

(i) a premises licence application,

(ii) a premises licence variation application,

(iii) an occasional licence application, or

(iv) an extended hours application, and

(b) if the application were to be granted, the licensed hours in relation to the premises would be such as to allow alcohol to be sold on the premises during a continuous period of 24 hours or more.

(2) The Licensing Board must refuse the application unless the Board is satisfied that there are exceptional circumstances which justify allowing the sale of alcohol on the premises during such a period.

Commencement Information

I66 S. 64 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

65 Licensed hours: off-sales

(1) This section applies where an application specified in subsection (2) is made to a Licensing Board in relation to any premises, but only so far as the application is for—

(a) a licence authorising the sale of alcohol for consumption off the premises, or

(b) an extension of off-sales hours in relation to the premises.

(2) That application is—

(a) a premises licence application,

(b) a premises licence variation application,

(c) an occasional licence application, or

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(d) an extended hours application.

(3) If the off-sales hours proposed in the application are such that alcohol would be sold for consumption off the premises—

(a) before 10am,

(b) after 10pm, or

(c) both,

on any day, the Board must refuse the application.

(4) The Scottish Ministers may by order substitute other times for the times specified in subsection (3).

(5) Where subsection (3) does not apply, in considering whether the granting of the application would be inconsistent with any of the licensing objectives, the Board must, in particular, consider the effect (if any) which the off-sales hours proposed in the application would have on the occurrence of antisocial behaviour.

(6) In subsection (5), "antisocial behaviour" has the same meaning as in section 143 of the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8).

(7) This section is without prejudice to the generality of sections 23(4), 30(4), 59(3) and 68(1).

Commencement Information

I67 S. 65 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

66 Effect of start and end of British Summer Time

(1) Subsection (2) applies in relation to any period of licensed hours—

(a) during which, or

(b) at the end of which,

British Summer Time is due to begin or end.

(2) The beginning or, as the case may be, ending of British Summer Time is to be disregarded for the purpose of determining the time at which that period of licensed hours ends and, accordingly, the period ends at the time it would have ended had British Summer Time not begun or ended.

(3) In this section, "British Summer Time" means the period of summer time for the purposes of the Summer Time Act 1972 (c. 6).

Commencement Information

I68 S. 66 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Occasional extensions

67 Power for Licensing Board to grant general extensions of licensed hours

(1) A Licensing Board may, if they consider it appropriate to do so in connection with a special event of local or national significance, make a determination extending licensed hours by such period as the Board may specify in the determination.

(2) A determination under subsection (1) may apply to—
- (a) the whole of the Licensing Board's area or only to specified parts of the area,
- (b) licensed hours generally or only to specified descriptions of licensed hours, and
- (c) all licensed premises in the Board's area or only to specified descriptions of such premises.

(3) A determination under subsection (1) has effect for such period as the Board may specify in it.

(4) Where a Licensing Board makes a determination under subsection (1), the Board must—
- (a) give notice of the determination to—
  - (i) the appropriate chief constable, and
  - (ii) the holders of premises licences and occasional licences in respect of premises to which the determination applies, and
- (b) publicise it in such manner as the Board sees fit.

(5) Nothing in this section is to be taken as requiring any licensed premises to be open for the sale of alcohol during the period of any extension of licensed hours specified in a determination under subsection (1).

(6) Except where the context requires otherwise, references in this Act to "licensed hours"are, in relation to any relevant premises to which a determination under subsection (1) applies, to be taken as references to such hours as extended by the determination.

(7) In this section, "specified" means specified in a determination under subsection (1).

Commencement Information
I69 S. 67 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

68 Extended hours applications

(1) The appropriate Licensing Board may—
- (a) on the application of the holder of the premises licence in respect of any licensed premises, and
- (b) if the Board consider it appropriate to do so in connection with—
  - (i) a special event or occasion to be catered for on the premises, or
  - (ii) a special event of local or national significance,

extend the licensed hours in respect of the premises by such period as is specified in the application or such other period as the Board consider appropriate.

Status: *Point in time view as at 13/12/2010.*
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(2) An extension of licensed hours under subsection (1) has effect for such period as is specified in the application or such other period as the Board consider appropriate; but in either case the period must not exceed one month.

(3) An application under subsection (1) is referred to in this Act as an "extended hours application".

(4) A period of licensed hours which is extended under this section may not be further extended under this section.

(5) Except where the context requires otherwise, references in this Act to "licensed hours" are, in relation to any period of licensed hours extended under this section, to be taken as references to such hours as so extended.

(6) References in this section to "licensed premises" do not include premises in respect of which an occasional licence has effect.

Commencement Information

I70 S. 68 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

69 Notification of extended hours application

(1) Where a Licensing Board receives an extended hours application, the Board must give notice of it, together with a copy of the application, to—

(a) the appropriate chief constable, and

(b) any Licensing Standards Officer for the area in which the subject premises are situated.

(2) The appropriate chief constable may, within 10 days of receipt of a notice under subsection (1)(a), by notice to the appropriate Licensing Board object to the application if the chief constable considers it necessary to do so for the purposes of **[**[F30]any of the licensing objectives**]**.

(3) A Licensing Standards Officer must, within 10 days of receipt of a notice under subsection (1)(b), prepare and submit to the Licensing Board a report setting out the Officer's comments on the application.

Textual Amendments

F30 Words in s. 69(2) substituted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), s. 206(1), **Sch. 6 para. 11**; S.S.I. 2010/413, art. 2, Sch.

Commencement Information

I71 S. 69 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

70 Determination of extended hours application

(1) In determining an extended hours application, the Licensing Board must take into account—

(a) any notice of objection given by the appropriate Chief Constable under section 69(2), and

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(b) the Licensing Standards Officer's report under section 69(3).

(2) The Board may hold a hearing for the purpose of determining an extended hours application.

(3) Where the Board does not hold a hearing for that purpose, the Board must, before determining the application, ensure that the applicant is given an opportunity to comment on any such notice or report as is mentioned in subsection (1).

(4) Where a Licensing Board grants or refuses an extended hours application, the Board must give notice of the grant or refusal to—
(a) the applicant,
(b) the appropriate chief constable, and
(c) any Licensing Standards Officer for the area in which the subject premises are situated.

(5) A person to whom notice is given under subsection (4) may, by notice to the clerk of the Board, require the Board to give a statement of reasons for the grant or refusal of the application.

(6) Where the clerk of a Licensing Board receives a notice under subsection (5), the Board must issue a statement of the reasons for the grant or refusal of the application to—
(a) each person giving the notice, and
(b) each other person to whom the Board gave notice under subsection (4).

(7) A statement of reasons under subsection (6) must be issued—
(a) by such time, and
(b) in such form and manner,
as may be prescribed.

Commencement Information
I72 S. 70 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

PART 6

PERSONAL LICENCES

Introductory

71 Personal licence

In this Act, "personal licence", in relation to an individual, means a licence—
(a) issued to the individual by a Licensing Board under section 76(1) of this Act, and
(b) authorising the individual to supervise or authorise the sale of alcohol.

Commencement Information
I73 S. 71 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

Status: *Point in time view as at 13/12/2010.*
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Grant and renewal of personal licence

72 Application for personal licence

(1) Any individual aged 18 years or more may apply for a personal licence to—

(a) if the individual is ordinarily resident in the area of any Licensing Board, that Board, or

(b) in any other case, any Licensing Board.

(2) An application under subsection (1) is referred to in this Act as a "personal licence application".

Commencement Information

I74 S. 72 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

73 Notification of application to chief constable

(1) Where a Licensing Board receives a personal licence application, the Board must give notice of it, together with a copy of the application, to the appropriate chief constable.

(2) The appropriate chief constable must, within 21 days of the date of receipt of a notice under subsection (1), respond to the notice by giving the Licensing Board one or other of the notices mentioned in subsection (3).

(3) Those notices are—

(a) a notice stating that, as far as the chief constable is aware, the applicant has not been convicted of any relevant offence or foreign offence, or

(b) a notice specifying any convictions of the applicant for any such offence.

[[F31](4) On giving a notice under subsection (3)(a) or (b), if the appropriate chief constable considers that it is necessary for the purposes of any of the licensing objectives that the personal licence application be refused, the chief constable may include in the notice a recommendation to that effect.**]**

Textual Amendments

F31 S. 73(4) substituted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), s. 206(1), **Sch. 6 para. 12**; S.S.I. 2010/413, art. 2, sch.

Commencement Information

I75 S. 73 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

74 Determination of personal licence application

(1) A personal licence application received by a Licensing Board is to be determined by the Board in accordance with this section.

(2) If—

(a) all of the conditions specified in subsection (3) are met in relation to the applicant, [F32]...

(b) the Board has received from the appropriate chief constable a notice under section 73(3)(a),

[[F33](c) the notice does not include a recommendation under section 73(4),

(d) the applicant has signed the application, and

(e) subsection (8) does not apply,**]**

the Board must grant the application.

(3) The conditions referred to in subsection (2)(a) are that—

(a) the applicant is aged 18 or over,

(b) the applicant possesses a licensing qualification, [F34]...

[[F35](ba) the applicant does not already hold a personal licence, and**]**

(c) no personal licence previously held by the applicant has been revoked within the period of 5 years ending with the day on which the application was received.

(4) If any of those conditions is not met in relation to the applicant, the Licensing Board must refuse the application.

(5) If—

(a) all of those conditions are met in relation to the applicant, and

[[F36](b) the notice received from the appropriate chief constable under subsection (3)(a) or (b) of section 73 includes a recommendation under subsection (4) of that section,**]**

the Licensing Board must hold a hearing for the purpose of considering and determining the application.

[[F37](5A) If—

(a) all of those conditions are met in relation to the applicant,

(b) the Board has received from the appropriate chief constable a notice under subsection (3)(b) of section 73, and

(c) the notice does not include a recommendation under subsection (4) of that section,

the Board may hold a hearing for the purpose of considering and determining the application.

(5B) If the Board decides not to hold a hearing under subsection (5A), the Board must grant the application.**]**

(6) At a hearing under subsection (5) **[**[F38]or (5A)**]**, the Licensing Board must, after having regard to the chief constable's notice—

(a) if satisfied that it is necessary to do so for the purposes of **[**[F39]any of the licensing objectives**]**, refuse the application, or

(b) if not so satisfied, grant the application.

[[F40](7) Subsection (8) applies if—

(a) all of the conditions specified in subsection (3) are met in relation to the applicant,

(b) the Board has received from the appropriate chief constable a notice under section 73(3)(a), and

(c) the applicant has held a personal licence which—

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(i) expired within the period of 3 years ending on the day on which the application was received, or

(ii) was surrendered by the applicant by notice under section 77(6) received within that period.

(8) The Licensing Board may—

(a) hold a hearing for the purposes of considering and determining the application, and

(b) after having regard to the circumstances in which the personal licence previously held expired or, as the case may be, was surrendered—

(i) refuse the application, or

(ii) grant the application.**]**

Textual Amendments

F32 Word in s. 74(2) repealed (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 192(2)(a)(i)**, 206(1); S.S.I. 2010/413, art. 2, sch.

F33 S. 74(2)(c)-(e) added (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 192(2)(a)(ii)**, 206(1); S.S.I. 2010/413, art. 2, sch.

F34 Word in s. 74(3) repealed (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 192(2)(b)(i)**, 206(1); S.S.I. 2010/413, art. 2, sch.

F35 S. 74(3)(ba) inserted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 192(2)(b)(ii)**, 206(1); S.S.I. 2010/413, art. 2, sch.

F36 S. 74(5)(b) substituted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), s. 206(1), **sch. 6 para. 13(2)**; S.S.I. 2010/413, art. 2, sch.

F37 S. 74(5A)(5B) inserted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), s. 206(1), **Sch. 6 para. 13(3)**; S.S.I. 2010/413, art. 2, sch.

F38 Words in s. 74(6) inserted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), s. 206(1), **Sch. 6 para. 13(4)(a)**; S.S.I. 2010/413, art. 2, Sch.

F39 Words in s. 74(6)(a) substituted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), s. 206(1), **Sch. 6 para. 13(4)(b)**; S.S.I. 2010/413, art. 2, Sch.

F40 S. 74(7)(8) inserted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 192(2)(c)**, 206(1); S.S.I. 2010/413, art. 2, sch.

Commencement Information

I76 S. 74 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **sch. 1**

75 Applicant's duty to notify Licensing Board of convictions

(1) This section applies where, during the period beginning with the making of a personal licence application and ending with determination of the application, the applicant is convicted of a relevant offence or a foreign offence.

(2) The applicant must, no later than one month after the date of the conviction, give notice of the conviction to the Licensing Board to which the personal licence application was made.

(3) A notice under subsection (2) must specify—

(a) the nature of the offence, and

(b) the date of the conviction.

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(4) Where the Licensing Board receives a notice under subsection (2) at any time before they have determined the personal licence application, the Board must—
  (a) suspend consideration of the application, and
  (b) give notice of the conviction to the appropriate chief constable.

(5) The appropriate chief constable must, within 21 days of the date of receipt of a notice under subsection (4)(b), respond to the notice by giving the Licensing Board one or other of the notices mentioned in subsection (6).

(6) Those notices are—
  (a) a notice stating that the chief constable is unable to confirm the existence of the conviction or that the conviction does not relate to a relevant offence or foreign offence, or
  (b) a notice confirming the existence of the conviction and that it relates to a relevant offence or foreign offence.

(7) Where the chief constable—
  (a) proposes to give a notice under subsection (6)(b), and
  (b) considers that, having regard to the conviction specified in the notice, it is necessary for the purposes of **[**[F41]any of the licensing objectives**]** that the personal licence application be refused,

  the chief constable may include in the notice a recommendation to that effect.

(8) On receipt of the chief constable's notice under subsection (6), the Licensing Board must resume consideration of the personal licence application and determine it in accordance with section 74.

(9) For that purpose, that section has effect as if—
  (a) references in it to a notice under section 73(3)(a) included references to a notice under subsection (6)(a) of this section, [F42]...
  (b) references in it to a notice under section 73(3)(b) included references to a notice under subsection (6)(b) of this section **[**[F43], and
  (c) references in it to a recommendation under section 73(4) include references to a recommendation under subsection (7) of this section.**]**

(10) A person who, without reasonable excuse, fails to comply with subsection (2) commits an offence.

(11) A person guilty of an offence under subsection (10) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Textual Amendments

F41 Words in s. 75(7)(b) substituted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), s. 206(1), **Sch. 6 para. 14(2)**; S.S.I. 2010/413, art. 2, Sch.

F42 Word in s. 75(9) repealed (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), s. 206(1), **Sch. 6 para. 14(3)(a)**; S.S.I. 2010/413, art. 2, Sch.

F43 S. 75(9)(c) and word added (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), s. 206(1), **Sch. 6 para. 14(3)(b)**; S.S.I. 2010/413, art. 2, Sch.

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Modifications etc. (not altering text)

C8 S. 75(2) modified (1.2.2008) by Licensing (Relevant Offences) (Scotland) Regulations 2007 (S.S.I. 2007/513), regs. 1(1), **3**

Commencement Information

I77 S. 75 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

76 Issue of licence

(1) Where a Licensing Board grants a personal licence application, the Board must issue a personal licence, in the prescribed form, to the applicant.

(2) A personal licence issued under subsection (1) must specify—

(a) the name and address of the individual to whom it is issued,

(b) the Licensing Board issuing the licence,

(c) the expiry date of the licence,

(d) any relevant offence or foreign offence of which the applicant has been convicted, and

(e) such other matters as may be prescribed.

(3) A personal licence is void if, at the time it is issued under subsection (1), the individual to whom it is issued already holds a personal licence.

[[F44](4) A person who holds a void personal licence must surrender it to the Licensing Board.

(5) A person who, without reasonable excuse, fails to comply with subsection (4) commits an offence.

(6) A person who passes off a void personal licence as a valid personal licence knowing that the licence is void commits an offence.

(7) A person guilty of an offence under subsection (5) or (6) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.**]**

Textual Amendments

F44 S. 76(4)-(7) added (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 192(3)**, 206(1); S.S.I. 2010/413, art. 2, Sch.

Commencement Information

I78 S. 76 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

77 Period of effect of personal licence

(1) A personal licence has effect, subject to the following provisions of this section, during the period of 10 years beginning with the date on which it is issued.

(2) That period, and any subsequent extension of it under this subsection, is extended for a further period of 10 years if a personal licence renewal application is granted in respect of the licence.

Status: *Point in time view as at 13/12/2010.*
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(3) A personal licence does not have effect for any period during which it is suspended by virtue of any provision of this Act.

(4) Subsection (3) does not affect the calculation of the period during which a personal licence has effect by virtue of subsection (1) as read with subsection (2).

(5) A personal licence ceases to have effect if—
  (a) the licence is revoked under any provision of this Part, or
  (b) the Licensing Board which issued the licence receives from the personal licence holder a notice under subsection (6).

(6) That is a notice—
  (a) accompanied by the personal licence or, where that is not practicable, by a statement of reasons for failure to produce the licence, and
  (b) stating that the licence holder wishes to surrender the licence.

(7) The date of expiry of the period during which a personal licence has effect is referred to in this Act as the "expiry date" of the licence.

(8) Not later than 3 months before the expiry date of a personal licence, the Licensing Board which issued the licence must give notice to the licence holder that the licence will cease to have effect on the expiry date unless renewed.

Modifications etc. (not altering text)
C9 S. 77 modified (1.1.2008) by Licensing (Transitional and Saving Provisions) (Scotland) Order 2007 (S.S.I. 2007/454), arts. 1, **23**

Commencement Information
I79 S. 77 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **sch. 1**

78 Renewal of personal licence

(1) The holder of a personal licence may, within the period specified in subsection (2), apply to the Licensing Board which issued the licence for renewal of the licence.

(2) The period referred to in subsection (1) is the period of 2 months beginning 3 months before the expiry date of the licence.

(3) An application under subsection (1) must be accompanied by—
  (a) the personal licence to which it relates, or
  (b) if that is not practicable, a statement of the reasons for failure to produce the licence.

(4) An application under subsection (1) which complies with subsection (3) is referred to in this Act as a "personal licence renewal application".

(5) Sections 73 and 74 apply to a personal licence renewal application as they apply to a personal licence application.

(6) For that purpose, references in those sections to a personal licence application are to be read as if they included reference to a personal licence renewal application.

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I80 S. 78 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **sch. 1**

79 Notification of determinations

(1) This section applies where a Licensing Board grants or refuses—
- (a) a personal licence application, or
- (b) a personal licence renewal application.

(2) The Board must give—
- (a) the applicant, and
- (b) the appropriate chief constable,

notice of the grant or refusal of the application.

(3) A person to whom notice is given under subsection (2) may, by notice to the clerk of the Board, require the Board to give a statement of reasons for the grant or refusal of the application.

(4) Where the clerk of a Licensing Board receives a notice under subsection (3), the Board must issue a statement of the reasons for the grant or refusal of the application to—
- (a) the person giving the notice, and
- (b) each other person to whom the Board gave notice under subsection (2).

(5) A statement of reasons under subsection (4) must be issued—
- (a) by such time, and
- (b) in such form and manner,

as may be prescribed.

Commencement Information
I81 S. 79 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

Conviction of licence holder for relevant or foreign offence

80 Duty to notify court of personal licence

(1) Subsection (2) applies where—
- (a) a person who holds a personal licence is charged with a relevant offence, or
- (b) a person charged with a relevant offence is granted a personal licence after the person's first appearance in court in connection with the offence but before—
  - (i) conviction and sentencing for the offence or acquittal, or
  - (ii) where an appeal is brought against conviction, sentence or acquittal, the disposal of the appeal.

(2) The person must, no later than the person's first or, as the case may be, next appearance in court in connection with the offence—
- (a) produce to the court the personal licence, or
- (b) if that is not practicable, notify the court of—

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(i) the existence of the personal licence,
(ii) the identity of the Licensing Board which issued the licence, and
(iii) the reasons why it is not practicable to produce the licence.

(3) A person who, without reasonable excuse, fails to comply with subsection (2) commits an offence.

(4) A person guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Commencement Information
I82 S. 80 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

81 Court's duty to notify Licensing Board of convictions

(1) This section applies where the clerk of a court in Scotland by or before which a person is convicted of a relevant offence is aware that the person holds a personal licence.

(2) The clerk of the court must, as soon as reasonably practicable after the conviction, give notice of the conviction to the Licensing Board which issued the personal licence held by the licence holder.

(3) Where—
(a) a Licensing Board receives a notice under subsection (2) ("the receiving Board"), and
(b) that Board has reason to believe that the personal licence holder in respect of whom the notice is given is working in licensed premises situated in the area of another Licensing Board ("the other Board"),

the receiving Board must give notice of the conviction to the other Board.

Commencement Information
I83 S. 81 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

82 Licence holder's duty to notify Licensing Board of convictions

(1) This section applies where a personal licence holder is convicted of a relevant or foreign offence.

(2) The licence holder must, no later than one month after the date of the conviction, give notice of the conviction to—
(a) the Licensing Board which issued the personal licence held by the licence holder, and
(b) if different, the Licensing Board for the area in which are situated any licensed premises in which the licence holder is working.

(3) A notice of conviction under subsection (2) must—
(a) specify—
(i) the nature of the offence, and
(ii) the date of the conviction, and

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) be accompanied by—

(i) the personal licence held by the licence holder, or

(ii) if that is not practicable, a statement of the reasons for failure to produce the licence.

(4) Where—

(a) a Licensing Board receives a notice under subsection (2) ("the receiving Board"), and

(b) that Board has reason to believe that the personal licence holder in respect of whom the notice is given is working in licensed premises situated in the area of another Licensing Board ("the other Board"),

the receiving Board must give notice of the conviction to the other Board.

(5) A licence holder who fails, without reasonable excuse, to comply with subsection (2) commits an offence.

(6) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Modifications etc. (not altering text)

C10 S. 82(2) modified (1.2.2008) by Licensing (Relevant Offences) (Scotland) Regulations 2007 (S.S.I. 2007/513), regs. 1(1), **3**

Commencement Information

I84 S. 82 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

83 Procedure where Licensing Board receives notice of conviction

(1) Subsection (2) applies where the relevant Licensing Board—

(a) receives a notice of conviction relating to a personal licence holder, or

(b) becomes aware that a personal licence holder was, during the application period, convicted of a relevant offence or a foreign offence.

(2) The Licensing Board must give notice of the conviction to the appropriate chief constable.

(3) The appropriate chief constable must, within 21 days of the date of receipt of a notice under subsection (2), respond to the notice by giving the Licensing Board one or other of the notices mentioned in subsection (4).

(4) Those notices are—

(a) a notice stating that the chief constable is unable to confirm the existence of the conviction or that the conviction does not relate to a relevant or a foreign offence, or

(b) a notice confirming the existence of the conviction and that it relates to a relevant or a foreign offence.

(5) Where the appropriate chief constable—

(a) proposes to give a notice under subsection (4)(b), and

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Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) considers that, having regard to the conviction specified in the notice, it is necessary for the purposes of **[**[F45]any of the licensing objectives**]** that the licence holder's personal licence should be revoked, suspended or endorsed,

the chief constable may include in the notice a recommendation to that effect.

(6) If the Licensing Board receives from the appropriate chief constable a notice under subsection (4)(a), the Licensing Board may not take any further action in relation to the conviction.

(7) If the Licensing Board receives from the appropriate chief constable a notice under subsection (4)(b), the Licensing Board must hold a hearing.

(8) At the hearing, the Licensing Board may—

(a) having regard to—

(i) the conviction, and

(ii) any recommendation contained in the chief constable's notice under subsection (5),

(b) after giving—

(i) the licence holder concerned, and

(ii) the appropriate chief constable,

an opportunity to be heard, and

(c) if satisfied that it is necessary to do so for the purposes of **[**[F46]any of the licensing objectives**]**,

make an order under subsection (9).

(9) That order is an order—

(a) revoking,

(b) suspending for such period, not exceeding 6 months, as the Board considers appropriate, or

(c) endorsing,

the personal licence held by the licence holder concerned.

(10) Where the Licensing Board makes an order under subsection (9), the Board must give—

(a) the licence holder concerned,

(b) the appropriate chief constable, and

(c) if different, the Licensing Board which issued the personal licence,

notice of the order and of the reasons for making it.

(11) In this section—

"the application period" means, in relation to a personal licence holder, the period—

(a) beginning with the date on which the application for the personal licence held by that licence holder was made, and

(b) ending with the date on which that application was granted,

"notice of conviction" means a notice under section 81(2) or 82(2), and

"relevant Licensing Board" means, in relation to a personal licence holder—

(a) if the personal licence holder is working as a premises manager at any licensed premises, the Licensing Board for the area in which those premises are situated,

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(b) in any other case, the Licensing Board which issued the personal licence held by the licence holder.

Textual Amendments

F45 Words in s. 83(5)(b) substituted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), s. 206(1), **sch. 6 para. 15(2)**; S.S.I. 2010/413, art. 2, sch.

F46 Words in s. 83(8)(c) substituted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), s. 206(1), **sch. 6 para. 15(3)**; S.S.I. 2010/413, art. 2, sch.

Commencement Information

I85 S. 83 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **sch. 1**

Conduct inconsistent with licensing objectives

84 Conduct inconsistent with the licensing objectives

(1) This section applies where, in the course of a review hearing in respect of any premises licence, a Licensing Board makes a finding such as is mentioned in subsection (2) in relation to any personal licence holder who is or was working in the licensed premises in respect of which the premises licence was issued ("the licensed premises concerned").

(2) That finding is a finding that the licence holder concerned, while working as mentioned in subsection (1), acted in a manner which was inconsistent with any of the licensing objectives.

(3) The Licensing Board making the finding must—

(a) if the licence holder concerned is, at the time of the finding, working in licensed premises (whether the licensed premises concerned or other licensed premises) in that Board's area, hold a hearing,

(b) in any other case, give notice to the relevant Licensing Board of their finding together with a recommendation as to whether the personal licence held by the licence holder concerned should be revoked, suspended or endorsed.

(4) In subsection (3)(b), "relevant Licensing Board" means—

(a) if the Licensing Board making the finding referred to in subsection (1) has reason to believe that the licence holder concerned is working at licensed premises situated in the area of another Licensing Board, that other Licensing Board,

(b) in any other case, the Licensing Board which issued the personal licence held by the licence holder concerned.

(5) Where a Licensing Board receives a notice and recommendation under subsection (3)(b), the Board must hold a hearing.

(6) At a hearing under subsection (3)(a) or (5), the Licensing Board may—

(a) after giving—

(i) the licence holder concerned, and

(ii) such other persons as they consider appropriate,

an opportunity to be heard, and

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) if satisfied that it is necessary to do so for the purposes of any of the licensing objectives,

make an order under subsection (7).

(7) That is an order—

(a) revoking,

(b) suspending for such period, not exceeding 6 months, as the Board considers appropriate, or

(c) endorsing,

the personal licence held by the licence holder concerned.

(8) Where the Licensing Board makes an order under subsection (7), the Board must give—

(a) the licence holder concerned,

(b) where the hearing was held in pursuance of a notice given under subsection (3)(b), the Licensing Board which gave the notice, and

(c) if different, the Licensing Board which issued the personal licence,

notice of the order and of the reasons for making it.

Commencement Information

I86 S. 84 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

[F47 84A Power of chief constable to report conduct inconsistent with the licensing objectives

(1) If a chief constable considers that any personal licence holder has acted in a manner which is inconsistent with any of the licensing objectives, the chief constable may report the matter to the relevant Licensing Board.

(2) Where a Licensing Board receives a report from a chief constable under subsection (1), the Board must hold a hearing.

(3) Subsections (6), (7) and (8)(a) 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).]

Textual Amendments

F47 S. 84A inserted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), s. 206(1), **Sch. 6 para. 16**; S.S.I. 2010/413, art. 2, sch.

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Endorsements

85 Expiry of endorsements

(1) In this section and section 86, "endorsement" means an endorsement made in a personal licence by virtue of an order under—

(a) section 83(9)(c), or

(b) section 84(7)(c).

(2) An endorsement expires at the end of the period of 5 years beginning with the date on which the endorsement was made.

(3) The holder of a personal licence containing an endorsement which has expired under subsection (2) may apply to the Licensing Board which issued the licence for removal of the endorsement.

(4) An application under subsection (3) must be accompanied by the personal licence to which it relates.

(5) Where a Licensing Board receives an application under subsection (3) in relation to any personal licence, the Board must amend the licence so as to remove the endorsement from it.

(6) For the purposes of this Act, any endorsement which has expired under subsection (2) is to be disregarded (whether or not the endorsement has been removed under subsection (5)).

Commencement Information

I87 S. 85 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

86 Suspension of licence after multiple endorsements

(1) Where 3 endorsements have been made in any personal licence, the Licensing Board which issued the licence must hold a hearing.

(2) At the hearing, the Licensing Board may—

(a) after giving—

(i) the holder of the licence, and

(ii) such other persons as the Board considers appropriate,

an opportunity to be heard, and

(b) if they consider it necessary to do so for the purposes of any of the licensing objectives,

make an order under subsection (3).

(3) That is an order—

(a) suspending the licence for such period, not exceeding 6 months, as the Board considers appropriate, or

(b) revoking the licence.

(4) Where the Licensing Board makes an order under subsection (3), the Board must give the licence holder notice of the order and of the reasons for making it.

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I88 S. 86 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

Licence holder's duty to undertake training

87 Licence holder's duty to undertake training

(1) The holder of a personal licence must, no later than 3 months after the expiry of—
  (a) the period of 5 years beginning with the date on which the licence holder's licence was issued, and
  (b) each subsequent period of 5 years during which the licence has effect,

produce to the Licensing Board which issued the licence evidence in the prescribed form of the licence holder's having complied, during that period, with such requirements as to the training of personal licence holders as may be prescribed.

(2) A Licensing Board must—
  (a) in relation to each personal licence issued by it, and
  (b) no later than 3 months before the expiry of each period mentioned in subsection (1),

give to the holder of the licence notice of the requirement imposed by that subsection.

(3) If a personal licence holder fails to comply with subsection (1), the Licensing Board which issued the licence held by the licence holder must revoke the licence.

(4) Regulations under subsection (1) prescribing training requirements may, in particular—
  (a) provide for accreditation by the Scottish Ministers of—
    (i) courses of training, and
    (ii) persons providing such courses,

  for the purposes of the regulations,
  (b) prescribe different requirements in relation to different descriptions of personal licence holder, and
  (c) require that any person providing training or any particular description of training in accordance with the regulations holds such qualification as may be prescribed in the regulations.

Commencement Information
I89 S. 87 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

Update of licence

88 Notification of change of name or address

(1) A personal licence holder must, no later than one month after any change in the licence holder's name or address, give the Licensing Board which issued the licence notice of the change.

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) A notice under subsection (1) must be accompanied by the personal licence or, if that is not practicable, by a statement of the reasons for the failure to produce the licence.

(3) A personal licence holder who fails, without reasonable excuse, to comply with subsection (1) commits an offence.

(4) A person guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Commencement Information

I90 S. 88 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

89 Licensing Board's duty to update licence

(1) In this section, the "issuing Licensing Board" means, in relation to a personal licence, the Licensing Board which issued the licence.

(2) Where the issuing Licensing Board grants a personal licence renewal application made in respect of any personal licence, the Board must make the necessary amendment to the expiry date specified in the licence.

(3) Where a personal licence is suspended by virtue of any provision in this Act, the issuing Licensing Board must amend the licence so as to specify in it—

(a) the date, and

(b) period,

of the suspension.

(4) Where the issuing Licensing Board receives a notice of conviction in relation to any personal licence holder, the Board must amend the personal licence held by the licence holder so as to specify in it—

(a) the date of the conviction, and

(b) the nature of the offence,

unless the Board has already done so by virtue of any previous such notice.

(5) Where the issuing Licensing Board—

(a) makes an order under section 83(9)(c) or 84(7)(c) in relation to any personal licence holder, or

(b) receives notice under section 83(10)(c) or 84(8)(c) of such an order made by another Licensing Board,

the Board must amend the personal licence held by the licence holder so as to include in it a statement that it is endorsed together with the details of the conviction or conduct giving rise to the making of the order.

(6) Where the issuing Licensing Board receives a notice under section 88(1) from a personal licence holder, the Board must amend the personal licence of the licence holder so that it specifies the licence holder's new name or address.

(7) Where the issuing Licensing Board receives evidence of training produced by a personal licence holder in accordance with section 87(1), the Board must amend the personal licence held by the licence holder so as to include in it the prescribed details of the training.

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(8) Where the issuing Licensing Board is not in possession of a personal licence and—
  (a) the licence has been revoked under any provision of this Act, or
  (b) the Board requires the licence for the purpose of complying with any duty under this section in relation to the licence,

the Board may require the holder of the licence to produce it to the Board within 14 days from the date on which the requirement is notified.

(9) A personal licence holder who fails, without reasonable excuse, to comply with a requirement made under subsection (8) commits an offence.

(10) A person guilty of an offence under subsection (9) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(11) In this section, "notice of conviction" means a notice under section 81(2) or 82(2).

Commencement Information
I91 S. 89 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

Miscellaneous

90 Power to specify which Licensing Board is to exercise functions under this Part

(1) The Scottish Ministers may by order provide for any function exercisable under this Part by a Licensing Board of a particular description to be exercisable instead by a Licensing Board of such other description as may be specified in the order.

(2) An order under subsection (1) may—
  (a) modify this Act, and
  (b) make different provision in relation to different functions.

Commencement Information
I92 S. 90 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

91 Power to prescribe licensing qualifications

(1) In this Act, "licensing qualification" means—
  (a) such qualification, or
  (b) a qualification of such description,

as may be prescribed.

(2) Regulations under subsection (1) may, in particular—
  (a) prescribe qualifications or descriptions of qualifications by reference to whether they are—
    (i) accredited, or
    (ii) awarded by a person who is accredited,

  for the purposes of this section by the Scottish Ministers in accordance with the regulations,

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) prescribe qualifications or descriptions of qualifications awarded outwith Scotland (as well as qualifications awarded within Scotland),

(c) prescribe different qualifications in relation to different licensed premises or licensed premises of different descriptions, and

(d) prescribe such qualifications as the appropriate licensing qualifications in relation to those descriptions of licensed premises for the purposes of paragraph 4(2) of schedule 3.

Commencement Information

I93 S. 91 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

92 Theft, loss etc. of personal licence

(1) This section applies where the Licensing Board which issued a personal licence receives from the holder of the licence an application for a replacement personal licence.

(2) If satisfied that—

(a) the personal licence held by the applicant has been lost, stolen, damaged or destroyed, and

(b) where it has been lost or stolen, the applicant has reported the loss or theft to the police,

the Licensing Board must issue to the applicant a replacement personal licence.

(3) A replacement personal licence is a copy of the personal licence held by the applicant—

(a) in the form in which it existed immediately before it was lost, stolen, damaged or destroyed, and

(b) certified by the Board to be a true copy.

[[F48](3A) A replacement personal licence is void if at the time it is issued the personal licence in respect of which it was issued is not lost, stolen, damaged or destroyed.

(3B) Where a replacement personal licence is issued in respect of a personal licence which has been lost or stolen, the replacement personal licence becomes void if the personal licence is subsequently found or recovered.

(3C) A person who holds a void replacement personal licence must surrender it to the Licensing Board.

(3D) A person who, without reasonable excuse, fails to comply with subsection (3C) commits an offence.

(3E) A person who passes off a void replacement personal licence as a valid licence, knowing that the licence is void, commits an offence.

(3F) A person guilty of an offence under subsection (3D) or (3E) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.**]**

(4) In this Act, references to a personal licence include references to a replacement personal licence issued under this section.

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F48 S. 92(3A)-(3F) inserted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 192(4)**, 206(1); S.S.I. 2010/413, art. 2, Sch.

Commencement Information

I94 S. 92 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

93 Licence holder's duty to produce licence

(1) This section applies where the holder of a personal licence is working at any licensed premises.

(2) A constable or Licensing Standards Officer may, at any time when the licence holder is on the licensed premises, require the licence holder to produce the licence for examination.

(3) A person who fails, without reasonable excuse, to comply with a requirement made under subsection (2) commits an offence.

(4) A person guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Commencement Information

I95 S. 93 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

PART 7

CONTROL OF ORDER

Exclusion of violent offenders

94 Exclusion orders

(1) This section applies where a person is convicted of a violent offence committed on, or in the immediate vicinity of, any licensed premises in respect of which a premises licence has effect (referred to in this section and section 96 as "the licensed premises concerned").

(2) The court by or before which the person is convicted of the offence may, in addition to any sentence imposed or other disposal in respect of the offence, make an order prohibiting the person from entering—

(a) the licensed premises concerned, and

(b) such other licensed premises (if any) as the court may specify in the order,

except with the appropriate consent.

(3) The holder of the premises licence in respect of the licensed premises concerned may, by summary application to the sheriff of the appropriate sheriffdom made no later than

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6 weeks after the date of the conviction, seek an order prohibiting the person convicted from entering the licensed premises concerned except with the appropriate consent.

(4) On such an application, the sheriff, if satisfied that—

(a) there is a substantial risk that the person convicted will commit a further violent offence on, or in the immediate vicinity of, the licensed premises concerned, and

(b) an order has not been made under subsection (2) in relation to the person in respect of the same conviction,

may grant the order sought.

(5) For the purposes of an application under subsection (3), where the sheriff is satisfied that the person to whom the application relates has been convicted as mentioned in subsection (1), it is to be presumed, unless the contrary is proved, that the risk referred to in subsection (4)(a) exists.

(6) An order under subsection (2) or (4) is referred to in this Act as an "exclusion order".

(7) An exclusion order has effect, subject to section 95(3), for such period, being not less than 3 months and not more than 2 years, as is specified in the order.

(8) In this section—

"the appropriate consent" means, in relation to any licensed premises, the express consent of—

(a) the premises licence holder in respect of the premises, or

(b) a person authorised by the premises licence holder to give consent for the purposes of this section,

"the appropriate sheriffdom" means the sheriffdom in which the licensed premises concerned are situated,

"violent offence" means any offence involving violence or the threat of violence.

Modifications etc. (not altering text)

C11 Ss. 94-96 modified (1.1.2008) by Licensing (Transitional and Saving Provisions) (Scotland) Order 2007 (S.S.I. 2007/454), arts. 1, **26(2)**(3)

Commencement Information

I96 S. 94 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

95 Breach of exclusion order

(1) A person who enters licensed premises in breach of an exclusion order commits an offence.

(2) A person guilty of an offence under subsection (1) is liable on summary conviction to—

(a) a fine not exceeding level 4 on the standard scale,

(b) imprisonment for a term not exceeding one month, or

(c) both.

Status: *Point in time view as at 13/12/2010.*
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(3) The court by or before which a person is convicted of an offence under subsection (1) of breaching an exclusion order made under section 94(2) may, if it thinks fit, terminate the exclusion order or vary it so as to delete any licensed premises specified in it.

(4) Where, in relation to any licensed premises, an authorised person reasonably suspects a person of having entered the premises in breach of an exclusion order, the authorised person may—
  (a) remove the person from the premises, and
  (b) if necessary for that purpose, use reasonable force.

(5) A constable must, if—
  (a) asked by an authorised person to assist in exercising a power conferred by subsection (4), and
  (b) the constable reasonably suspects the person to be removed of having entered the premises in breach of an exclusion order,

provide the assistance asked for.

(6 In this section, "authorised person" means, in relation to licensed premises, any of the following persons, namely—
  (a) the premises licence holder,
  (b) the premises manager, and
  (c) any other person who—
    (i) works on the premises, and
    (ii) is authorised by the premises licence holder or the premises manager for the purposes of this section.

Modifications etc. (not altering text)

C11 Ss. 94-96 modified (1.1.2008) by Licensing (Transitional and Saving Provisions) (Scotland) Order 2007 (S.S.I. 2007/454), arts. 1, **26(2)**(3)

C12 S. 95(6) modified (1.1.2008) by Licensing (Transitional and Saving Provisions) (Scotland) Order 2007 (S.S.I. 2007/454), arts. 1, **26(4)**

Commencement Information

I97 S. 95 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

96 Exclusion orders: supplementary provision

(1) References in section 94 to a person's being convicted of an offence are, in the case mentioned in subsection (2), to be read as references to the court's being satisfied that the person committed the offence.

(2) That case is the case where—
  (a) the person is charged with the offence before a court of summary jurisdiction, and
  (b) the court, without proceeding to conviction, discharges the person absolutely under section 246(3) of the Criminal Procedure (Scotland) Act 1995 (c. 46).

(3) Where—
  (a) a court or the sheriff makes an exclusion order, or

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(b) a court makes an order terminating or varying an exclusion order,

the clerk of the court or, as the case may be, the sheriff clerk must send a copy of the order to the premises licence holder in respect of the licensed premises concerned.

Modifications etc. (not altering text)

C11 Ss. 94-96 modified (1.1.2008) by Licensing (Transitional and Saving Provisions) (Scotland) Order 2007 (S.S.I. 2007/454), arts. 1, **26(2)**(3)

Commencement Information

I98 S. 96 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

Closure of premises

97 Closure orders

(1) A Licensing Board may—

(a) on the application of a senior police officer relating to any licensed premises situated within the Board's area, and

(b) if satisfied that, by reason of the likelihood of disorder on, or in the vicinity of the premises, closure of the premises is necessary in the interests of public safety,

make a closure order in relation to the premises.

(2) A **[**[F49]constable of or above the rank of inspector may, if the constable**]** reasonably believes that—

(a) there is, or is likely imminently to be, disorder on, or in the vicinity of, any licensed premises,

(b) closure of the premises is necessary in the interests of public safety, and

(c) the risk to public safety is such that it is necessary to do so immediately and without making an application under subsection (1),

make a closure order in relation to the premises.

(3) A closure order is an order requiring the licensed premises to which it relates to be closed for such period, beginning with the coming into force of the order, as may be specified in the order.

(4) A closure order made [F50]... under subsection (2) is referred to as an "emergency closure order".

(5) The period of closure specified in an emergency closure order must not exceed 24 hours.

(6) A closure order comes into force in relation to any licensed premises to which it relates when a constable gives notice of it to a responsible person.

(7) Any responsible person who allows any licensed premises to be open in breach of a closure order commits an offence.

(8) A person guilty of an offence under subsection (7) is liable on summary conviction to—

(a) a fine not exceeding £20,000,

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(b) imprisonment for a term not exceeding 3 months, or
(c) both.

Textual Amendments

F49 Words in s. 97(2) substituted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 193(2)(a)**, 206(1); S.S.I. 2010/413, art. 2, Sch.

F50 Words in s. 97(4) repealed (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 193(2)(b)**, 206(1); S.S.I. 2010/413, art. 2, Sch.

Commencement Information

I99 S. 97 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

98 Termination of closure orders

(1) A **[**[F51]constable of or above the rank of inspector**]** must terminate a closure order (whether or not an emergency closure order) relating to any licensed premises if **[**[F52]the constable**]** is satisfied that it is no longer necessary in the interests of public safety for the premises to be closed.

(2) Where a **[**[F53]constable**]** terminates a closure order relating to any licensed premises, **[**[F54]the constable**]** must ensure that notice of the termination is given by a constable to—

(a) a responsible person, and
(b) in the case of a closure order made by a Licensing Board, the Board.

(3) A Licensing Board may—

(a) on the application of the holder of the premises licence or, as the case may be, occasional licence in respect of any licensed premises to which a closure order made by the Board relates, and
(b) if satisfied that it is no longer necessary in the interests of public safety for the premises to be closed,

terminate the closure order.

Textual Amendments

F51 Words in s. 98(1) substituted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 193(3)(a)(i)**, 206(1); S.S.I. 2010/413, art. 2, Sch.

F52 Words in s. 98(1) substituted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 193(3)(a)(ii)**, 206(1); S.S.I. 2010/413, art. 2, Sch.

F53 Word in s. 98(2) substituted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 193(3)(b)(i)**, 206(1); S.S.I. 2010/413, art. 2, Sch.

F54 Words in s. 98(2) substituted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 193(3)(b)(ii)**, 206(1); S.S.I. 2010/413, art. 2, Sch.

Commencement Information

I100 S. 98 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

Status: *Point in time view as at 13/12/2010.*
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99 Extension of emergency closure order

(1) Where an emergency closure order is in effect in respect of any licensed premises, a **[**[F55]constable of or above the rank of inspector**]** may—

(a) before the expiry of the period during which the order has effect (referred to in this section as the "original closure period"), and

(b) if the **[**[F56]constable**]** reasonably believes that the conditions mentioned in subsection (2) are met in relation to the premises,

extend the original closure period for a further period not exceeding 24 hours.

(2) The conditions referred to in subsection (1)(b) are—

(a) that there continues to be, or is likely to continue to be, disorder on, or in the vicinity of, the premises,

(b) that extending the original closure period is necessary in the interests of public safety, and

(c) the risk to public safety continues to be such that it is necessary to extend the original closure period immediately and without making an application under section 97(1).

(3) An extension under subsection (1) has no effect in relation to any licensed premises unless a constable has, before expiry of the original closure period, given notice of the extension to a responsible person.

Textual Amendments

F55 Words in s. 99(1) substituted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 193(4)(a)**, 206(1); S.S.I. 2010/413, art. 2, Sch.

F56 Word in s. 99(1)(b) substituted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 193(4)(b)**, 206(1); S.S.I. 2010/413, art. 2, Sch.

Commencement Information

I101 S. 99 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

100 Regulations as to closure orders

The Scottish Ministers may by regulations make further provision as to the procedure to be followed in connection with the making of closure orders and extensions to closure orders including, in particular, provision—

(a) as to the form and manner in which—

(i) any application under section 97(1)(a) or 98(3)(a) is to be made,

(ii) any notice under section 97(6), 98(2) or 99(3) is to be given,

(b) as to the form of closure orders,

(c) for the holding of hearings by Licensing Boards before making closure orders or extensions to them.

Commencement Information

I102 S. 100 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

Status: *Point in time view as at 13/12/2010.*
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101 Interpretation of sections 97 to 100

In sections 97 to 100 "responsible person" means—

(a) in the case of premises in respect of which a premises licence has effect—

(i) the premises licence holder, or

(ii) the premises manager,

(b) in the case of premises in respect of which an occasional licence has effect, the person who holds the occasional licence, and

(c) in either case, any person working at the premises in a capacity (whether paid or unpaid) which authorises the person to close the premises.

Commencement Information

I103 S. 101 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

PART 8

OFFENCES

Offences relating to children and young people

102 Sale of alcohol to a child or young person

(1) A person who sells alcohol to a child or a young person commits an offence.

(2) It is a defence for a person charged with an offence under subsection (1) (referred to in this section as "the accused") to show that—

(a) the accused believed the child or young person to be aged 18 or over, and

(b) either—

(i) the accused had taken reasonable steps to establish the child's or young person's age, or

(ii) no reasonable person could have suspected from the child's or young person's appearance that the child or young person was aged under 18.

(3) For the purposes of subsection (2)(b)(i), the accused is to be treated as having taken reasonable steps to establish the child's or young person's age if and only if—

(a) the accused was shown any of the documents mentioned in subsection (4), and

(b) that document would have convinced a reasonable person.

(4) The documents referred to in subsection (3)(a) are any document bearing to be—

(a) a passport,

(b) a European Union photocard driving licence, or

(c) such other document, or a document of such other description, as may be prescribed.

(5) A person guilty of 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

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(c) both.

Commencement Information
I104 S. 102 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

103 Allowing the sale of alcohol to a child or young person

(1) Any responsible person who [F57]... allows alcohol to be sold to a child or a young person on any relevant premises commits an offence.

(2) A person guilty of 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.

Textual Amendments
F57 Word in s. 103(1) repealed (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 195(2)(b)**, 206(1); S.S.I. 2010/413, art. 2, Sch.

Commencement Information
I105 S. 103 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

104 Sale of liqueur confectionery to a child

(1) A person who sells liqueur confectionery to a child commits an offence.

(2) It is a defence for a person charged with an offence under subsection (1) (referred to in this section as "the accused") to show that—
- (a) the accused believed the child to be aged 16 or over, and
- (b) either—
  - (i) the accused had taken reasonable steps to establish the child's age, or
  - (ii) no reasonable person could have suspected from the child's appearance that the child was aged under 16.

(3) For the purposes of subsection (2)(b)(i), the accused is to be treated as having taken reasonable steps to establish the child's age if and only if—
- (a) the accused was shown evidence of the child's age, and
- (b) that evidence would have convinced a reasonable person.

(4) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Commencement Information
I106 S. 104 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

Status: *Point in time view as at 13/12/2010.*
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105 Purchase of alcohol by or for a child or young person

(1) A child or young person who buys or attempts to buy alcohol (whether for himself or herself or another person) commits an offence.

(2) It is not an offence under subsection (1) for a child or young person to buy or attempt to buy alcohol if the child or young person is authorised to do so by the chief constable for the purpose of determining whether an offence is being committed under section 102.

(3) A chief constable may authorise a child or young person to buy or attempt to buy alcohol as mentioned in subsection (2) only if satisfied that all reasonable steps have been or will be taken to avoid any risk to the welfare of the child or young person.

(4) A person other than a child or young person who knowingly buys or attempts to buy alcohol—

(a) on behalf of a child or young person, or

(b) for consumption on relevant premises by a child or young person,

commits an offence.

(5) Subsection (4)(b) does not apply to the buying of beer, wine, cider or perry for consumption by a young person along with a meal supplied on relevant premises.

(6) A child or young person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

(7) A person guilty of an offence under subsection (4) 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.

Commencement Information

I107 S. 105(1)-(3) (6) in force at 1.6.2006 by S.S.I. 2006/286, **art. 2(a)** (with arts. 3-5) (as amended (1.5.2007) by S.S.I. 2007/128, art. 6)

I108 S. 105(4)(5)(7) in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

106 Consumption of alcohol by a child or young person

(1) A child or young person who knowingly consumes alcohol on any relevant premises commits an offence.

(2) Any responsible person who [F58]... allows a child or young person to consume alcohol on any relevant premises commits an offence.

(3) Subsections (1) and (2) do not apply to the consumption of beer, wine, cider or perry by a young person along with a meal supplied on relevant premises.

(4) A child or young person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) A person guilty of an offence under subsection (2) is liable on summary conviction to—

(a) a fine not exceeding level 5 on the standard scale,

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(b) imprisonment for a term not exceeding 3 months, or
(c) both.

Textual Amendments

F58 Word in s. 106(2) repealed (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 195(2)(c)**, 206(1); S.S.I. 2010/413, art. 2, Sch.

Commencement Information

I109 S. 106 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

107 Unsupervised sale of alcohol by a child or young person

(1) Any responsible person who [F59]... allows alcohol to be sold, supplied or served by a child or young person on any relevant premises commits an offence.

(2) Subsection (1) does not apply to—
(a) any sale by a child or young person of alcohol for consumption off the premises, or
(b) any supply or service by a child or young person of alcohol for consumption on the premises along with a meal supplied on relevant premises,

if the condition in subsection (3) is satisfied.

(3) That condition is that the sale, supply or service is specifically authorised by—
(a) a responsible person, or
(b) any other person of or over 18 years of age who is authorised by a responsible person for the purposes of this section.

(4) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

Textual Amendments

F59 Word in s. 107(1) repealed (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 195(2)(d)**, 206(1); S.S.I. 2010/413, art. 2, Sch.

Commencement Information

I110 S. 107 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

108 Delivery of alcohol by or to a child or young person

(1) This section applies where alcohol is sold on any relevant premises for consumption off the premises.

(2) Any responsible person who allows the alcohol to be delivered by a child or young person commits an offence.

(3) Any responsible person who—
(a) delivers the alcohol, or
(b) allows it to be delivered,

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to a child or young person commits an offence.

(4) Subsections (2) and (3) do not apply to the delivery of the alcohol by or to a child or young person who works on the relevant premises or at the place where the delivery is made in a capacity (whether paid or unpaid) which involves the delivery of alcohol.

(5) It is a defence for a person charged with an offence under subsection (2) or (3)(a) (referred to in this subsection and subsection (6) as "the accused") to show that—
- (a) the accused believed the child or young person to be aged 18 or over, and
- (b) either—
  - (i) the accused had taken reasonable steps to establish the child's or young person's age, or
  - (ii) no reasonable person could have suspected from the child's or young person's appearance that the child or young person was aged under 18.

(6) For the purposes of subsection (5)(b)(i), the accused is to be treated as having taken reasonable steps to establish the child's or young person's age if and only if—
- (a) the accused was shown any of the documents mentioned in subsection (7), and
- (b) that document would have convinced a reasonable person.

(7) The documents referred to in subsection (6)(a) are any document bearing to be—
- (a) a passport,
- (b) a European Union photocard driving licence, or
- (c) such other document, or a document of such other description, as may be prescribed.

(8) It is a defence for a person charged with an offence under subsection (3)(b) ("the accused") to prove that the accused took all reasonable precautions and exercised due diligence not to commit the offence.

(9) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Commencement Information
I111 S. 108 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

109 Sending a child or young person to obtain alcohol

(1) Any person who knowingly sends a child or young person to obtain alcohol sold or to be sold on any relevant premises for consumption off the premises commits an offence.

(2) It is immaterial for the purposes of subsection (1) whether the child or young person is sent to obtain the alcohol from the relevant premises where it is sold or from some other place from which it is to be delivered.

(3) Subsection (1) does not apply where the child or young person works on the relevant premises or at the place where the alcohol is to be delivered in a capacity (whether paid or unpaid) which involves the delivery of alcohol.

(4) A person guilty of an offence under subsection (1) is liable on summary conviction to—
- (a) a fine not exceeding level 5 on the standard scale,

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(b) imprisonment for a term not exceeding 3 months, or
(c) both.

Commencement Information
I112 S. 109 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

110 Duty to display notice

(1) This section applies in relation to any relevant premises.

(2) The notice mentioned in subsection (3) must be displayed—
(a) at all times,
(b) at each place on the premises where sales of alcohol are made, and
(c) in a position where it is readily visible to any person seeking to buy alcohol.

(3) That is a notice in the prescribed form and of the prescribed dimensions containing the following statements, namely— " It is an offence for a person under the age of 18 to buy or attempt to buy alcohol on these premises. It is also an offence for any other person to buy or attempt to buy alcohol on these premises for a person under the age of 18. Where there is doubt as to whether a person attempting to buy alcohol on these premises is aged 18 or over, alcohol will not be sold to the person except on production of evidence showing the person to be 18 or over. ".

(4) If the requirement in subsection (2) is not met in relation to any premises, the person specified in subsection (5) commits an offence.

(5) That person is, in relation to any relevant premises—
(a) in the case of licensed premises—
(i) the premises licence holder, and
(ii) the premises manager,
(b) in the case of premises in respect of which an occasional licence has effect, the holder of the licence, and
(c) in the case of other relevant premises, the person having the management and control of the premises.

(6) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Commencement Information
I113 S. 110 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

Drunkenness and disorderly conduct

111 Drunk persons entering or in premises on which alcohol is sold

(1) A person who, while drunk, attempts to enter any relevant premises (other than premises on which the person resides) commits an offence.

(2) A person commits an offence if the person, while drunk—

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(a) is on any relevant premises, and
(b) is incapable of taking care of himself or herself.

(3) A constable may arrest without warrant any person committing an offence under this section.

(4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

Commencement Information
I114 S. 111 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

112 Obtaining of alcohol by or for a drunk person

(1) A person who, on any relevant premises, obtains or attempts to obtain alcohol for consumption on the premises by a person who is drunk commits an offence.

(2) A person who, on any relevant premises, helps a person who is drunk to obtain or consume alcohol on the premises commits an offence.

(3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Commencement Information
I115 S. 112 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

113 Sale of alcohol to a drunk person

(1) Any responsible person who, on any relevant premises, sells alcohol to a person who is drunk commits an offence.

(2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Commencement Information
I116 S. 113 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

114 Premises manager, staff etc. not to be drunk

(1) Any responsible person in relation to any relevant premises who is drunk while on the premises commits an offence.

(2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Commencement Information
I117 S. 114 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

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115 Disorderly conduct

(1) A person on relevant premises who, while drunk—
  (a) behaves in a disorderly manner, or
  (b) uses obscene or indecent language to the annoyance of any person,
commits an offence.

(2) Any responsible person in relation any relevant premises who allows—
  (a) a breach of the peace,
  (b) drunkenness, or
  (c) other disorderly conduct,
to take place on the premises commits an offence.

(3) It is a defence for a person charged with an offence under subsection (2) ("the accused") to prove—
  (a) that the accused, or an employee or agent of the accused, took all reasonable precautions and exercised due diligence not to commit the offence, or
  (b) that there were no lawful and reasonably practicable means by which the accused could prevent the conduct giving rise to the offence.

(4) A person guilty of an offence under subsection (1)(a) is liable on summary conviction to—
  (a) a fine not exceeding level 3 on the standard scale,
  (b) imprisonment for a term not exceeding 60 days, or
  (c) both.

(5) A person guilty of an offence under subsection (1)(b) or (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Commencement Information
I118 S. 115 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

116 Refusal to leave premises

(1) A person on any relevant premises who—
  (a) behaves in a disorderly manner, and
  (b) refuses or fails to leave the premises on being asked to do so by a responsible person or a constable,
commits an offence.

(2) A person on any relevant premises who, after the end of any period of licensed hours, refuses or fails to leave the premises on being asked to do so by a responsible person or a constable commits an offence.

(3) Where a person refuses or fails to leave any relevant premises as mentioned in subsection (1) or (2), an authorised person may—
  (a) remove the person from the premises, and
  (b) if necessary for that purpose, use reasonable force.

(4) A constable must, if—

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) asked by an authorised person to assist in exercising a power conferred by subsection (3), and

(b) the constable reasonably suspects the person to be removed of having refused or failed to leave as mentioned in subsection (1) or (2),

provide the assistance asked for.

(5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(6) In this section, "authorised person" means, in relation to any relevant premises, any of the following persons, namely—

(a) a responsible person, and

(b) any other person who—

(i) works on the premises, and

(ii) is authorised by a responsible person for the purposes of this section.

Commencement Information

I119 S. 116 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

Miscellaneous offences

117 Offences relating to sale of alcohol to trade

(1) A person who sells alcohol to trade otherwise than from **[**[F60]licensed premises or**]** premises which are used exclusively for the purpose of the selling of goods (whether solely alcohol or not) to trade commits an offence.

(2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Textual Amendments

F60 Words in s. 117(1) inserted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 188(3)**, 206(1); S.S.I. 2010/413, art. 2, Sch.

Commencement Information

I120 S. 117 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

118 Prohibition of unauthorised sale of alcohol on moving vehicles

(1) A person who [F61]... sells alcohol on or from a vehicle at a time when the vehicle is not parked (whether permanently or temporarily) commits an offence, unless the selling of alcohol on or from the vehicle at such a time is expressly authorised by a premises licence or occasional licence in respect of the vehicle.

(2) A person guilty of an offence under subsection (1) is liable on summary conviction to—

(a) a fine not exceeding £20,000,

(b) imprisonment for a term not exceeding 3 months, or

(c) both.

Textual Amendments

F61 Word in s. 118(1) repealed (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 195(2)(e)**, 206(1); S.S.I. 2010/413, art. 2, Sch.

Commencement Information

I121 S. 118 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

119 Delivery of alcohol from vehicles etc.

(1) A person who, pursuant to a sale of alcohol by that person, delivers the alcohol from a vehicle or receptacle without the information mentioned in subsection (2) having been entered, before the despatch of the alcohol, in—

(a) a day book kept on the premises from which the alcohol is despatched, and

(b) a delivery book or invoice carried by the person delivering the alcohol,

commits an offence.

(2) The information referred to in subsection (1) is—

(a) the quantity, description and price of the alcohol, and

(b) the name and address of the person to whom it is to be delivered.

(3) A person who carries in a vehicle or receptacle in use for the delivery of alcohol pursuant to a sale of the alcohol by that person any alcohol the quantity, description and price of which was not entered as mentioned in subsection (1) commits an offence.

(4) A person who, pursuant to a sale of alcohol, delivers the alcohol to an address not entered as mentioned in subsection (1) commits an offence.

(5) A person who refuses to allow a constable or a Licensing Standards Officer to examine—

(a) any vehicle or receptacle in use for the delivery of alcohol, or

(b) any—

(i) day book kept as mentioned in subsection (1)(a), or

(ii) delivery book or invoice carried as mentioned in subsection (1)(b),

commits an offence.

(6) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(7) In this section, “alcohol” does not include any alcohol being delivered to a trader for the purposes of that person's trade.

Commencement Information

I122 S. 119 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

120 Prohibition of late-night deliveries of alcohol

(1) This section applies where alcohol is sold on any relevant premises for consumption off the premises.

(2) A responsible person commits an offence if the person [F62]... delivers the alcohol to any premises (other than licensed premises) between the hours of midnight and 6am.

(3) A responsible person who [F62]... allows the alcohol to be so delivered commits an offence.

(4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Textual Amendments

F62 Word in s. 120(2)(3) repealed (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 195(2)(f)**, 206(1); S.S.I. 2010/413, art. 2, Sch.

Commencement Information

I123 S. 120 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

121 Keeping of smuggled goods

(1) Any responsible person who [F63]... keeps or allows to be kept on licensed premises any goods which—

(a) have been imported without any duty payable on their importation having been paid, or

(b) have otherwise been unlawfully imported,

commits an offence.

(2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) The court by or before which a person is convicted of an offence under subsection (1) may order the goods in question to be—

(a) forfeited, and

(b) destroyed or otherwise dealt with in such manner as the court may order.

Textual Amendments

F63 Word in s. 121(1) repealed (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 195(2)(g)**, 206(1); S.S.I. 2010/413, art. 2, Sch.

Commencement Information

I124 S. 121 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Interpretation of Part

122 Interpretation of Part 8

(1) This section has effect for the purpose of the interpretation of this Part.

(2) "Relevant premises" means—
- (a) any licensed premises,
- (b) any exempt premises on which alcohol is sold, and
- (c) any premises used for the selling of alcohol to trade.

(3) "Responsible person" means, in relation to relevant premises—
- (a) in the case of licensed premises in respect of which a premises licence has effect, the premises manager,
- (b) in the case of licensed premises in respect of which an occasional licence has effect, the holder of the licence,
- (c) in the case of other relevant premises, the person having management and control of the premises, and
- (d) in any of those cases, any person aged 18 or over who works on the premises in a capacity (whether paid or unpaid) which—
  - (i) authorises the person to sell alcohol, or
  - (ii) in relation to any offence under this Part of allowing something to be done, authorises the person to prevent the doing of the thing.

Modifications etc. (not altering text)

C13 S. 122(2) modified (1.2.2008) by Licensing (Vessels etc.) (Scotland) Regulations 2007 (S.S.I. 2007/545), regs. 1(1), **3**

Commencement Information

I125 S. 122 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

PART 9

MISCELLANEOUS AND GENERAL

Excluded and exempt premises

123 Excluded premises

(1) No premises licence or occasional licence has effect to authorise the sale of alcohol on excluded premises.

(2) For the purposes of this Act, "excluded premises" means—
- (a) premises on land—
  - (i) acquired or appropriated by a special roads authority, and
  - (ii) for the time being used,

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for the provision of facilities to be used in connection with the use of a special road provided for the use of traffic of class 1 (with or without other classes), and

(b) subject to subsection (5), premises used as a garage or which form part of premises which are so used.

(3) For the purposes of subsection (2)(a)—

(a) "special road" and "special roads authority" have the same meanings as in the Roads (Scotland) Act 1984 (c. 54), and

(b) "class 1" means class 1 in Schedule 3 to that Act, as varied from time to time by an order under section 8 of that Act, but, if that Schedule is amended by such an order so as to add to it a further class of traffic, the order may adapt the reference in this section to traffic of class 1 so as to take account of the additional class.

(4) For the purposes of subsection (2)(b), premises are used as a garage if they are used for one or more of the following—

(a) the sale by retail of petrol or derv,

(b) the sale of motor vehicles, or

(c) the maintenance of motor vehicles.

(5) Despite subsection (2)(b), premises used for the sale by retail of petrol or derv or which form part of premises so used are not excluded premises if persons resident in the locality in which the premises are situated are, or are likely to become, reliant to a significant extent on the premises as the principal source of—

(a) petrol or derv, or

(b) groceries (where the premises are, or are to be, used also for the sale by retail of groceries).

(6) The Scottish Ministers may by order amend the definition of "excluded premises" in subsection (2) so as to include or exclude premises of such description as may be specified in the order.

Commencement Information

I126 S. 123 in force at 5.9.2008 by S.S.I. 2008/292, **art. 2**

124 Exempt premises

(1) Each of the following are exempt premises for the purposes of this Act—

(a) an examination station at an airport designated for the purposes of this section in an order made by the Scottish Ministers,

(b) an approved wharf at a port or hoverport so designated,

(c) an aircraft, a hovercraft or a railway vehicle while engaged on a journey,

(d) a vessel while engaged on—

(i) an international journey, or

(ii) a journey (other than an international journey) forming part of a ferry service, and

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(e) premises which are occupied (whether indefinitely or temporarily) for the purposes of the armed forces of the Crown, except while being used for other purposes.

(2) The Scottish Ministers may make an order under subsection (1) designating an airport, port or hoverport for the purposes of this section only if it appears to them to be one at which there is a substantial amount of international passenger traffic.

(3) For the purpose of subsection (1), the period during which an aircraft, hovercraft, railway vehicle or vessel is engaged in a journey includes—

(a) any period ending with its departure when preparations are being made for the journey, and

(b) any period after its arrival at its destination when it continues to be occupied by those (or any of those) who made the journey (or any part of it).

(4) In this section—

"approved wharf" has the meaning given in section 20A of the Customs and Excise Management Act 1979 (c. 2),

"examination station" has the meaning given in section 22A of that Act,

"ferry service" means a service the principal purpose of which is the transport of passengers or goods over water,

"international journey" means a journey with—

(a) a point of departure,

(b) a destination, or

(c) at least one port of call,

outside the United Kingdom, and includes any part of such a journey.

Commencement Information

I127 S. 124 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

Special provision for certain clubs

125 Special provisions for certain clubs

(1) The provisions of this Act mentioned in subsection (2) do not apply in relation to premises which are used wholly or mainly for the purposes of any club of such description as may be prescribed.

(2) Those provisions are—

(a) section 7 (assessments of overprovision),

(b) section 20(4)(g) (requirement for operating plan to contain information as to the premises manager),

(c) section 23(5)(e) (ground of refusal of premises licence application relating to overprovision),

(d) section 26(2)(a)(ii) (requirement for name and address of premises manager to be specified in premises licence),

(e) section 30(5)(d) (ground of refusal of premises licence variation application relating to overprovision),

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(f) in schedule 3—
  (i) paragraph 4 (requirement for there to be a premises manager for licensed premises), and
  (ii) paragraph 5 (requirement for sales of alcohol under premises licence to be authorised by a personal licence holder), and

(g) in schedule 4, paragraph 4 (requirement for sales of alcohol under certain occasional licences to be authorised by a personal licence holder).

(3) Different descriptions of clubs may be prescribed under subsection (1) in relation to different provisions specified in subsection (2).

(4) The Scottish Ministers may by regulations provide for this Act to apply in relation to—
  (a) clubs of such descriptions as may be prescribed in the regulations, or
  (b) premises used wholly or mainly for the purposes of such clubs,

subject to such further modifications as may be so prescribed.

(5) Regulations under subsection (1) or (4) may prescribe a description of club by reference to—
  (a) requirements as to the constitution of the club, including, in particular, requirements as to—
    (i) membership of the club, and
    (ii) the rules of the club, and
  (b) such other factors as the Scottish Ministers consider appropriate.

Commencement Information
I128 S. 125 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

Vessels, vehicles and moveable structures

126 Vessels, vehicles and moveable structures

(1) A vessel which is not permanently moored or berthed is to be treated for the purposes of this Act as premises situated in the place where it is usually moored or berthed.

(2) Where a vehicle or moveable structure which is not permanently situated in any place is, or is to be, used for the sale of alcohol while parked at or set in any place—
  (a) it is to be treated for the purposes of this Act as premises situated at that place, and
  (b) each such place at which it is, or is to be, so used is to be treated as separate premises.

(3) The following provisions of Part 3 (which relate to the provision of certificates as to planning, building standards and food hygiene and to notifications of applications) do not apply in relation to premises (other than exempt premises) consisting of a vessel, namely—
  (a) section 20(2)(b)(iii),
  (b) section 21(1)(a) and (e),
  (c) section 29(4) (so far as it applies section 21(1)(a) and (e)),
  (d) section 45(10)(a),

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(e) section 46(2)(d), and
(f) section 50.

(4) This Act applies in relation to premises consisting of a vehicle or other moveable structure which is, or is to be, used for the sale of alcohol while not parked or permanently situated in any place (referred to in this section as "moving premises") subject to the modifications in subsections (5) to (9).

(5) Section 18 does not apply and instead, in Part 3 and this section, "appropriate Licensing Board" means in relation to moving premises or a premises licence or occasional licence issued in respect of such premises—
(a) the Licensing Board in whose area the premises are used or to be used for the sale of alcohol, or
(b) where the premises are used or to be used in the area of more than one Licensing Board—
(i) the Board in whose area they are used or to be used to the greater or greatest extent, or
(ii) if neither or none of those Boards falls within sub-paragraph (i), such of those Boards as is, in the application for a premises licence or, as the case may be, occasional licence in respect of the premises, nominated as the appropriate Licensing Board in respect of the premises.

(6) The following provisions of Part 3 do not apply in relation to moving premises, namely—
(a) section 20(2)(b)(iii),
(b) section 21(1)(a), (b), and (e),
(c) section 29(4) (so far as it applies section 21(1)(a), (b) and (e)),
(d) section 45(10)(a),
(e) section 46(2)(d), and
(f) section 50.

(7) Section 21(1) applies in relation to moving premises as if for paragraph (c) there were substituted—
"(c) the relevant council,".

(8) References to the locality in which premises are situated are, in relation to moving premises, to be taken as references to the area of the appropriate Licensing Board.

(9) For the purposes of Part 4, moving premises are to be treated as premises situated within the area of the appropriate Licensing Board.

(10) The Scottish Ministers may by regulations provide for this Act to apply in relation to vessels, vehicles and moveable structures subject to such further modifications as they consider necessary or expedient.

Commencement Information
I129 S. 126 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

127 Power to prohibit sale of alcohol on trains

(1) A sheriff may—

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) on the application of a senior police officer, and
(b) if satisfied that it is necessary to do so to prevent disorder,

make an order under subsection (2).

(2) That is an order prohibiting, during such period as may be specified in the order, the sale of alcohol on any railway vehicle—
(a) at such station or stations within the sheriff's sheriffdom as may be so specified, or
(b) whilst travelling between such stations as may be so specified, at least one of which is in that sheriffdom.

(3) An order under subsection (2) has no effect in relation to any railway vehicle unless a copy of it has been given by a senior police officer to the train operator (or each train operator) responsible for the vehicle.

(4) A person who [F64]...—
(a) sells or attempts to sell alcohol in breach of an order under subsection (2), or
(b) allows the sale of alcohol in breach of such an order,

commits an offence.

(5) A person guilty of an offence under subsection (4) is liable on summary conviction to—
(a) a fine not exceeding £20,000,
(b) imprisonment for a term not exceeding 3 months, or
(c) both.

(6) In this section—
"station" has the meaning given in section 83 of the Railways Act 1993, and
"train operator" means a person authorised by a licence under section 8 of that Act to operate railway assets (within the meaning of section 6 of that Act).

Textual Amendments

F64 Word in s. 127(4) repealed (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 195(2)(h)**, 206(1); S.S.I. 2010/413, art. 2, Sch.

Commencement Information

I130 S. 127 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

128 Power to prohibit sale of alcohol on ferries

(1) This section applies to any vessel which is exempt premises by virtue of section 124(1)(d)(ii) (vessels engaged in ferry services).

(2) A sheriff may—
(a) on the application of a senior police officer, and
(b) if satisfied that it is necessary to do so to prevent disorder,

make an order under subsection (3).

(3) That is an order prohibiting, during such period as may be specified, the sale of alcohol on any vessel to which this section applies while engaged on—

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) any journey to or from a specified place within the sheriff's sheriffdom, or
(b) a specified journey to or from such a place.

(4) An order under subsection (3) has no effect in relation to any vessel unless a copy of it has been given by a senior police officer to the operator of the vessel.

(5) A person who [F65]...—
(a) sells or attempts to sell alcohol in breach of an order under subsection (3), or
(b) allows the sale of alcohol in breach of such an order,
commits an offence.

(6) A person guilty of an offence under subsection (5) is liable on summary conviction to—
(a) a fine not exceeding £20,000,
(b) imprisonment for a term not exceeding 3 months, or
(c) both.

(7) Subsection (3) of section 124, so far as applying to a vessel, applies for the purposes of subsection (3) of this section as it applies for the purpose of subsection (1) of that section.

(8) In this section, "specified" means, in relation to an order under subsection (3), specified in the order.

Textual Amendments

F65 Word in s. 128(5) repealed (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 195(2)(i)**, 206(1); S.S.I. 2010/413, art. 2, Sch.

Commencement Information

I131 S. 128 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

Relevant and foreign offences

129 Relevant offences and foreign offences

(1) In this Act, "relevant offence" means—
(a) such offence, or
(b) an offence of such description,
as may be prescribed.

(2) In this Act, "foreign offence" means any offence—
(a) under the law of any place other than Scotland, and
(b) which is similar in nature to any relevant offence.

(3) Regulations under subsection (1) may provide, in relation to any offence or description of offence prescribed in them, that a person is to be treated, for the purposes of such provisions of this Act as may be specified in the regulations, as having been convicted of the offence only if the person—
(a) accumulates such number of separate convictions for the offence, or
(b) is convicted of committing the offence on such number of separate occasions,

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as may be so specified.

(4) For the purposes of this Act, a conviction for a relevant offence or a foreign offence is to be disregarded if it is spent for the purposes of the Rehabilitation of Offenders Act 1974 (c. 53).

Commencement Information
I132 S. 129 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

130 Effect of appeal against conviction for relevant or foreign offence

(1) The fact that any conviction of any person for a relevant offence or foreign offence is subject to appeal does not affect the taking of any action by a Licensing Board which the Board is entitled or required to take in connection with the conviction by virtue of any provision of this Act.

(2) The Licensing Board may, however, postpone the taking of the action for such period as the Board considers appropriate pending the appeal.

(3) Where the conviction is overturned on appeal—
- (a) any action taken by the Licensing Board in reliance on the conviction is to be treated as having no effect, and
- (b) accordingly, the Licensing Board must take such steps as are necessary to return any applicant or licence holder adversely affected by the action to the position the applicant or licence holder would have been in had the action not been taken.

(4) A conviction is subject to appeal for the purposes of subsection (1) if—
- (a) the period during which an appeal may be taken against the conviction has not yet expired, or
- (b) an appeal is taken against the conviction and the appeal has not yet been determined.

Commencement Information
I133 S. 130 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

Appeals

131 Appeals

(1) A decision of a Licensing Board specified in the left-hand column of schedule 5 may be appealed by the person specified in the right-hand column of that schedule.

(2) An appeal under this section is to be made [F66]... to—
- (a) where the decision appealed is specified in Part 1 of schedule 5, the sheriff principal, or
- (b) where the decision appealed is specified in Part 2 of that schedule, the sheriff,

of the appropriate sheriffdom.

Status: *Point in time view as at 13/12/2010.*
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(3) The grounds on which a Licensing Board's decision may be appealed under this section are—

(a) that, in reaching the decision, the Licensing Board—

(i) erred in law,

(ii) based their decision on an incorrect material fact,

(iii) acted contrary to natural justice, or

(iv) exercised their discretion in an unreasonable manner, or

(b) where the decision is to take any of the steps mentioned in subsection (4), that the step taken is disproportionate in all the circumstances.

(4) Those steps are—

(a) at a review hearing in respect of a premise licence—

(i) issuing a written warning to the licence holder,

(ii) revoking or suspending the licence, or

(iii) making a variation of the licence, or

(b) making an order revoking, suspending or endorsing a personal licence.

(5) Where the sheriff principal or, as the case may be, sheriff upholds an appeal against a Licensing Board's decision under this section, the sheriff principal or sheriff may—

(a) remit the case back to the Licensing Board for reconsideration of the decision,

(b) reverse the decision, or

(c) make, in substitution for the decision, such other decision as the sheriff principal or sheriff considers appropriate, being a decision of such nature as the Licensing Board could have made.

(6) In this section, "the appropriate sheriffdom" means the sheriffdom in which the principal office of the Licensing Board whose decision is being appealed is situated.

Textual Amendments

F66 Words in s. 131(2) repealed (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 194**, 206(1); S.S.I. 2010/413, art. 2, Sch.

Modifications etc. (not altering text)

C14 S. 131 modified (1.1.2008) by Licensing (Transitional and Saving Provisions) (Scotland) Order 2007 (S.S.I. 2007/454), arts. 1, **17(10)**

Commencement Information

I134 S. 131 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

132 Appeals: supplementary provision

(1) A Licensing Board whose decision is appealed under section 131 may be a party to the appeal.

(2) In considering the appeal, the sheriff principal or, as the case may be, sheriff may hear evidence.

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) On determining the appeal, the sheriff principal or sheriff may make such ancillary order (including an order as to the expenses of the appeal) as the sheriff principal or sheriff thinks fit.

(4) A sheriff principal may authorise, whether generally or specifically, any other sheriff of the sheriff principal's sheriffdom to consider and determine an appeal made to the sheriff principal under section 131(2)(a).

(5) In this section and section 131, references to a sheriff principal include references to any sheriff authorised under subsection (4).

(6) Any party to an appeal under section 131 may appeal to the Court of Session on a point of law against the sheriff principal's or sheriff's decision on the appeal.

(7) A decision of a Licensing Board which is appealed under section 131 continues to have effect despite the appeal, subject to subsection (8).

(8) Where an appeal is taken against a decision of a Licensing Board to suspend or revoke a premises licence, the sheriff principal may—
   (a) on the application of the appellant, and
   (b) if satisfied on the balance of convenience that it is appropriate to do so,

   recall the suspension or revocation pending determination of the appeal.

(9) Further provision as to the procedure in any appeal under section 131, including in particular provision as to the times by which such an appeal is to be made or determined, may be prescribed by Act of Sederunt.

Modifications etc. (not altering text)

C15 S. 132 modified (1.1.2008) by Licensing (Transitional and Saving Provisions) (Scotland) Order 2007 (S.S.I. 2007/454), arts. 1, **17(10)**

Commencement Information

I135 S. 132 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

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.

Commencement Information
I136 S. 133 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

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
(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.

Commencement Information
I137 S. 134 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **sch.**

[F67 134A Offence of knowingly making a false statement in an application

(1) A person who knowingly makes a false statement in an application under this Act commits an offence.

(2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.]

Textual Amendments
F67 S. 134A inserted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 196**, 206(1); S.S.I. 2010/413, art. 2, Sch.

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.

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(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.

Commencement Information
I138 S. 135 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

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.

(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.

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I139 S. 136 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

Miscellaneous

137 Inspection of premises before grant of licence etc.

(1) In this section, "relevant proposal or application" means—
- (a) a premises licence application,
- (b) a premises licence variation application,
- (c) a premises licence review proposal or application,
- (d) an application under section 47(2) for a temporary premises licence,
- (e) an occasional licence application, or
- (f) an extended hours application.

(2) Any of the persons specified in subsection (3) may, at any reasonable time before the determination of a relevant proposal or application, enter the premises to which the proposal or application relates for the purposes of assessing—
- (a) in the case of an application such as is mentioned in paragraph (a), (b), (d), (e) or (f) of subsection (1), the likely effect of the grant of the application on the licensing objectives, or
- (b) in the case of a proposal or application such as is mentioned in paragraph (c) of that subsection, the effect which the selling of alcohol in accordance with the premises licence is having on those objectives.

(3) The persons referred to in subsection (2) are—
- (a) a constable, and
- (b) a Licensing Standards Officer for the council area in which the premises are situated.

(4) A person exercising the power conferred by subsection (2) may if necessary use reasonable force.

(5) A person who intentionally obstructs a person exercising the power conferred by subsection (2) commits an offence.

(6) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Commencement Information
I140 S. 137 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

138 Police powers of entry

(1) A constable may at any time enter and inspect any licensed premises.

(2) A constable may—
- (a) if the condition in subsection (3) is satisfied, and

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(b) subject to subsection (4),

at any time enter and inspect any premises (other than licensed premises) on which food or drink is sold for consumption on the premises.

(3) The condition referred to in subsection (2)(a) is that the constable has reasonable grounds for believing that alcohol is being sold on the premises in breach of section 1(1).

(4) A constable below the rank of inspector may exercise the power conferred by subsection (2) only—

(a) if the constable has obtained written authority to do so from a justice of the peace or a constable of or above the rank of inspector,

(b) within the period of 8 days beginning with the date on which such authority is obtained, and

(c) at such time or times as is specified in the authority.

(5) A person who intentionally obstructs a constable exercising a power conferred by this section commits an offence.

(6) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Commencement Information

I141 S. 138 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

139 Remote sales of alcohol

(1) This section applies where, in connection with any sale of alcohol, the premises from which the alcohol is despatched for delivery in pursuance of the sale is not the same as those where the order for the alcohol is taken.

(2) Where the premises from which the alcohol is despatched are in Scotland, the sale of the alcohol is, for the purposes of this Act, to be treated as taking place on those premises.

(3) The Scottish Ministers may by regulations make such provision as they consider appropriate for the purpose of regulating the taking of orders in Scotland for sales of alcohol in circumstances where—

(a) the premises from which the alcohol is despatched for delivery in pursuance of the sales are not in Scotland, but

(b) the place to which the alcohol is delivered is in Scotland.

(4) Regulations under subsection (3) may, in particular—

(a) modify any provision of this Act,

(b) apply any such provision with modifications, or

(c) disapply any such provision.

Commencement Information

I142 S. 139 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

140 Presumption as to liquid contents of containers

(1) This section applies for the purpose of any trial in proceedings for an alleged offence under any provision of this Act.

(2) Where—
- (a) liquid is found in a container (whether open or sealed), and
- (b) there is on the container a description of the liquid contents of the container,

the liquid found is to be presumed to be liquid of that description.

(3) Where an open container is found which—
- (a) contains—
  - (i) no liquid, or
  - (ii) an amount of liquid insufficient to allow analysis of it,
- (b) was sealed at the time it was sold or supplied, and
- (c) has on it a description of the liquid contents of the container,

the container is to be presumed to have contained, at the time it was sold or supplied, liquid of that description.

(4) At the trial, any party to the proceedings may rebut the presumption mentioned in subsection (2) or (3) by proving that, at the time of its sale or supply, the liquid in the container was not of the description on the container.

(5) However, a party may lead evidence for the purpose of rebutting the presumption only if the party has, not less than 7 days before the date of the trial, given notice of the intention to do so to the other parties.

Commencement Information
I143 S. 140 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

141 Offences by bodies corporate etc.

(1) Where—
- (a) an offence under this Act has been committed by—
  - (i) a body corporate,
  - (ii) a Scottish partnership, or
  - (iii) an unincorporated association other than a Scottish partnership, and
- (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of—
  - (i) a relevant person, or
  - (ii) a person purporting to act in the capacity of a relevant person,

that person, as well as the body corporate, partnership or, as the case may be, unincorporated association, is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) In subsection (1), "relevant person" means—
- (a) in relation to a body corporate other than a council, a director, manager, secretary, member or other similar officer of the body,
- (b) in relation to a council, an officer or member of the council,

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(c) in relation to a Scottish partnership, a partner, and

(d) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.

Commencement Information

I144 S. 141 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

[F68 141A Defence of due diligence for certain offences

(1) It is a defence for a person charged with an offence to which this section applies to prove that the person—

(a) did not know that the offence was being committed, and

(b) exercised all due diligence to prevent the offence being committed.

(2) This section applies to an offence under any of the following provisions of this Act—

section 1(3)(b),
section 103(1),
section 106(2),
section 107(1),
section 118(1),
section 120(2) or (3),
section 121(1),
section 127(4),
section 128(5).

Textual Amendments

F68 Ss. 141A, 141B inserted (13.12.2010 for specified purposes, 1.11.2011 in so far as not already in force) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 195(3)**, 206(1); S.S.I. 2010/413, art. 2, Sch.; S.S.I. 2011/354, art. 2, Sch.

141B Vicarious liability of premises licence holders and interested parties

(1) Subsection (2) applies where, on or in relation to any licensed premises, a person commits an offence to which this section applies while acting as the employee or agent of—

(a) the holder of the premises licence, or

(b) an interested party.

(2) The holder of the premises licence or, as the case may be, the interested party is also guilty of the offence and liable to be proceeded against and punished accordingly.

(3) It is a defence for a holder of a premises licence or an interested party charged with an offence to which this section applies by virtue of subsection (2) to prove that the holder of the licence or, as the case may be, the interested party—

(a) did not know that the offence was being committed by the employee or agent, and

(b) exercised all due diligence to prevent the offence being committed.

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) Proceedings may be taken against the holder of the premises licence or the interested party in respect of the offence whether or not proceedings are also taken against the employee or agent who committed the offence.

(5) This section applies to an offence under any of the following provisions of this Act—

section 1(3),
section 15(5),
section 63(1),
section 97(7),
section 102(1),
section 103(1),
section 106(2),
section 107(1),
section 108(2) or (3),
section 113(1),
section 114,
section 115(2),
section 118(1),
section 119(1),
section 120(2),
section 121(1),
section 138(5).**]**

Textual Amendments

F68 Ss. 141A, 141B inserted (13.12.2010 for specified purposes, 1.11.2011 in so far as not already in force) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 195(3)**, 206(1); S.S.I. 2010/413, art. 2, Sch.; S.S.I. 2011/354, art. 2, Sch.

General

142 Guidance

(1) The Scottish Ministers may issue guidance to Licensing Boards as to the exercise of their functions under this Act.

(2) The Scottish Ministers may modify any guidance issued by them under subsection (1).

(3) Each Licensing Board must, in the exercise of their functions under this Act, have regard to any guidance issued to them under subsection (1).

(4) Where a Licensing Board decides not to follow any guidance issued under subsection (1), the Board must give the Scottish Ministers notice of the decision together with a statement of the reasons for it.

(5) The first guidance to Licensing Boards under subsection (1) is not to be issued by the Scottish Ministers unless a draft of the guidance has been laid before, and approved by resolution of, the Scottish Parliament.

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(6) The Scottish Ministers must lay any subsequent guidance issued by them under subsection (1) before the Parliament.

Commencement Information
I145 S. 142 in force at 19.3.2007 by S.S.I. 2007/129, **art. 2**

143 Crown application

(1) This Act binds the Crown.

(2) No contravention by the Crown of any provision made by virtue of this Act makes the Crown criminally liable; but the Court of Session may, on the application of any public body or office-holder having responsibility for enforcing that provision, declare unlawful any act or omission of the Crown which constitutes such a contravention.

(3) However, any provision made by virtue of this Act applies to persons in the public service of the Crown as it applies to other persons.

Commencement Information
I146 S. 143 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

144 Modification of enactments

Schedule 6, which modifies enactments, has effect.

Commencement Information
I147 S. 144 in force at 1.5.2007 for specified purposes by S.S.I. 2007/129, art. 3, **Sch.**

145 Ancillary provision

The Scottish Ministers may by order make such incidental, supplemental, consequential, transitional, transitory or saving provision as they consider necessary or expedient for the purposes of or in consequence of this Act.

146 Orders and regulations

(1) Any power of the Scottish Ministers to make orders or regulations under this Act is exercisable by statutory instrument.

(2) Any such power includes power to make—
  (a) such incidental, supplemental, consequential, transitional, transitory or saving provision as the Scottish Ministers think necessary or expedient,
  (b) different provision for different purposes.

(3) An order under section 145 may modify any enactment (including this Act), instrument or document.

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) A statutory instrument containing an order or regulations under this Act except—

(a) an order under section 65(4), 123(6) or 150(2),

(b) regulations under section 27(2) or 139(3), and

(c) where subsection (5) applies, an order under section 145,

is subject to annulment in pursuance of a resolution of the Scottish Parliament.

(5) No—

(a) order under section 65(4) or 123(6),

(b) regulations under section 27(2) or 139(3), or

(c) order under section 145 containing provisions which add to, replace or omit any part of the text of an Act,

is to be made unless a draft of the statutory instrument containing the order or regulations has been laid before, and approved by resolution of, the Parliament.

147 Interpretation

(1) In this Act—

"alcoholic drink" means a drink consisting of or containing alcohol,

"applicant", in relation to any application under this Act, means the person making the application,

"appropriate chief constable" means, in relation to a Licensing Board, the chief constable for the police area in which the area of the Board is situated,

"area" means—

(a) in relation to a council, the local government area for which the council is constituted,

(b) in relation to a Licensing Board or Local Licensing Forum, the council area or, as the case may be, licensing division for which the Board or Forum is established,

"capacity", in relation to licensed premises, means—

(a) in relation to licensed premises (or any part of such premises) on which alcohol is sold for consumption on the premises (or, as the case may be, that part), the maximum number of customers which can be accommodated in the premises (or, as the case may be, that part) at any one time, and

(b) in relation to licensed premises (or any part of such premises) on which alcohol is sold for consumption off the premises (or, as the case may be, that part), the amount of space in the premises (or, as the case may be, that part) given over to the display of alcohol for sale,

"child" means a person under the age of 16,

"community council" has the same meaning as in Part IV of the Local Government (Scotland) Act 1973 (c. 65),

"council" means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39),

"licensed premises" means premises in respect of which a premises licence or occasional licence has effect,

"liqueur confectionery" means confectionery which—

(a) contains alcohol in a proportion not greater than 0.2 litres of alcohol (of a strength not exceeding 57%) per kilogramme of the confectionery, and

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(b) either consists of separate pieces weighing not more than 50 grammes or is designed to be broken into such pieces for the purposes of consumption,

"premises" means any place and includes a vehicle, vessel or moveable structure,

"prescribed" means prescribed by regulations made by the Scottish Ministers,

"railway vehicle" means a railway vehicle within the meaning of section 83 of the Railways Act 1993 (c. 43) that is used in the provision of a railway service within the meaning of section 82 of that Act (excluding the wider meaning of "railway" given by section 81(2) of that Act),

"relevant council" means, in relation to a Licensing Board or Local Licensing Forum, the council—

(a) for whose area the Board or Forum is established, or

(b) in the case of a Board or Forum established for a licensing division, for the area of which the division forms part,

"sell", in relation to alcohol, includes barter and expose to or offer for sale, and related expressions such as "sale" are to be construed accordingly,

"senior police officer" means a constable of or above the rank of superintendent,

"strength", in relation to alcohol, is to be determined in accordance with section 2 of the Alcoholic Liquor Duties Act 1979 (c. 4),

"subject premises" means, in relation to any application under this Act, the premises to which the application relates,

"vehicle" means a vehicle intended or adapted for use on roads,

"vessel" includes a ship, boat, raft or other apparatus constructed or adapted for floating on water,

"young person" means a person aged 16 or 17.

(2) In this Act, references to selling alcohol or other goods to trade are references to selling the alcohol or goods to a person for the purposes of the person's trade; and related expressions are to be construed accordingly.

(3) For the purposes of this Act, a person is, in relation to a partnership, a company, a club or other body (whether incorporated or unincorporated), a connected person if the person—

(a) in the case of a partnership, is a partner,

(b) in the case of a company—

(i) is a director, or

(ii) has control of the company,

(c) in the case of a club, is an office bearer of the club,

(d) in any other case, is concerned in the management or control of the body.

(4) For the purposes of subsection (3)(b)(ii) and this subsection, a person is taken to have control of a company if—

(a) any of the directors of the company, or of any other company having control of the company, is accustomed to act in accordance with the person's directions or instructions, or

(b) the person is entitled to exercise, or to control the exercise of, at least one third of the voting power at any general meeting of the company or of any other company having control of the company.

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148 Index of defined expressions

The expressions in the left-hand column of the table are defined or otherwise explained by the provisions of this Act specified in the right-hand column.

Expression	*Interpretation provision*
alcohol	section 2
alcoholic drink	section 147(1)
applicant	section 147(1)
appropriate chief constable	section 147(1)
area	section 147(1)
capacity (in relation to licensed premises)	section 147(1)
certified copy (of premises licence or summary)	section 55
child	section 147(1)
closure order	section 97(3)
community council	section 147(1)
connected person	section 147(3)
council	section 147(1)
crime prevention objective	section 4(2)
emergency closure order	section 97(4)
excluded premises	section 123(2)
exclusion order	section 94(6)
exempt premises	section 124
expiry date (of a personal licence)	section 77(7)
extended hours application	section 68(3)
foreign offence	section 129(2)
layout plan	section 20(2)(b)(ii)
licensed hours	section 62(1)
licensed premises	section 147(1)
licensing objectives	section 4(1)
licensing policy statement	section 6(1)
licensing qualification	section 91(1)
licensing register	section 9(1)
liqueur confectionery	section 147(1)
locality	section 7(2)
operating plan	section 20(4)

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occasional licence	section 56(1)
occasional licence application	section 56(4)
off-sales hours	section 62(2)(a)(ii)
on-sales hours	section 62(2)(a)(i)
personal licence	section 71
personal licence application	section 72(2)
personal licence renewal application	section 78(4)
premises	section 147(1)
premises licence	section 17
premises licence application	section 20(3)
premises licence review application	section 36(2)
premises licence review proposal	section 37(2)
premises licence variation application	section 29(3)
premises manager	section 19(1)
prescribed	section 147(1)
provisional premises licence	section 45(5)
provisional premises licence application	section 45(2)
railway vehicle	section 147(1)
relevant council	section 147(1)
relevant offence	section 129(1)
review hearing	section 38(2)
sell (and related expressions)	section 147(1)
selling to trade	section 147(2)
senior police officer	section 147(1)
strength (of alcohol)	section 147(1)
subject premises	section 147(1)
supplementary licensing policy statement	section 6(2)
temporary premises licence	section 47(4)
variation (of a premises licence)	section 29(5)
minor variation (of such a licence)	section 29(6)
vehicle	section 147(1)
vessel	section 147(1)
young person	section 147(1)

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

149 Repeals

The enactments mentioned in the first column in schedule 7 are repealed to the extent specified in the second column.

Commencement Information

I148 S. 149 in force at 1.6.2006 for specified purposes by S.S.I. 2006/286, **art. 2(b)** (with arts. 3-5) (as amended (1.5.2007) by S.S.I. 2007/128, art. 6)

I149 S. 149 in force at 1.5.2007 for specified purposes by S.S.I. 2007/129, art. 3, **Sch.**

I150 S. 149 in force at 1.2.2008 for specified purposes by S.S.I. 2007/472, art. 2, **Sch. 1**

I151 S. 149 in force at 1.9.2009 at 5.00 a.m. in so far as not already in force by S.S.I. 2007/472, **art. 3**

150 Short title and commencement

(1) This Act may be cited as the Licensing (Scotland) Act 2005.

(2) This Act (other than this section and sections 145 to 148) comes into force on such day as the Scottish Ministers may by order appoint.

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

SCHEDULE 1

(introduced by section 5(8))

LICENSING BOARDS

Membership

1 (1) A Licensing Board is to consist of such number (being not fewer than 5 and not more than 10) of members as may be determined by the relevant council.

(2) The members of a Licensing Board are to be elected by the relevant council from among their councillors.

(3) In the case of a Licensing Board for a licensing division, not less than one third of the total number of members of the Board must be councillors for wards within the division.

Commencement Information
I152 Sch. 1 para. 1 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

Election of members

2 (1) Each council must, at their first meeting after each ordinary election of the council, hold an election of members to—
(a) the Licensing Board for the council's area, or
(b) if that area is divided into licensing divisions, each of the Licensing Boards for those divisions.

(2) Where a council makes a determination under section 5(2) to divide their area into divisions, the council must—
(a) at the meeting at which that determination is made, or
(b) at the first meeting of the council after that meeting,
hold an election of members to the Licensing Board for each division.

(3) Where, under section 5(4), a council revokes a determination dividing their area into divisions, the council must—
(a) at the meeting at which the determination is revoked, or
(b) at the first meeting of the council after that meeting,
hold an election of members to the single Licensing Board for the council's area.

(4) Where there is a vacancy in the membership of a Licensing Board, the relevant council must, at their first meeting after the vacancy arises, hold an election to fill the vacancy.

Commencement Information
I153 Sch. 1 para. 2 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Disqualification from membership

3 (1) A councillor is disqualified from election as, and from being, a member of a Licensing Board if the councillor is—

(a) a premises licence holder,

(b) an employee of a premises licence holder and works as such in licensed premises,

(c) whether alone or in partnership with another person, engaged in the business of producing or selling alcohol,

(d) a director or other officer of a company so engaged, or

(e) an employee of any person so engaged and works as such in that business.

(2) A councillor who knowingly acts or purports to act as a member of a Licensing Board at a time when the councillor is disqualified from being such a member by virtue of sub-paragraph (1) commits an offence.

(3) A person guilty of an offence under sub-paragraph (2) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Commencement Information
I154 Sch. 1 para. 3 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

Tenure of office etc.

4 (1) A member of a Licensing Board—

(a) holds office as such, subject to the following provisions of this paragraph and to paragraph 11(4), during the period—

(i) beginning on the day after the member's election, and

(ii) ending on the day on which the next election of members of the Board is held in accordance with paragraph 2(1),

(b) is eligible for re-election as a member,

(c) may, at any time, resign by giving notice to the clerk of the Board, and

(d) ceases to hold office—

(i) on ceasing to be a councillor of the relevant council, or

(ii) on becoming disqualified from being a member of a Licensing Board.

(2) The clerk must give the relevant council a copy of any notice received under sub-paragraph (1)(c).

Commencement Information
I155 Sch. 1 para. 4 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

Removal of members from office

5 The relevant council may remove a member from office if the member is unfit by reason of mental or physical inability.

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I156 Sch. 1 para. 5 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

Convener

6 (1) A Licensing Board must, at their first meeting after each election of members of the Board held in accordance with paragraph 2(1), (2) or (3), elect one of their members as convener of the Board.

(2) Where there is a vacancy in the office of convener, the Board must, at their first meeting after the vacancy arises, elect one of their members to fill the vacancy.

(3) The convener of a Licensing Board—
- (a) holds office as such for the period—
  - (i) beginning on the day after the convener's election, and
  - (ii) ending with the day on which the next election of a convener is held in accordance with sub-paragraph (1),
- (b) is eligible for re-election as convener of the Board,
- (c) may, at any time, resign by giving notice to the clerk of the Board, and
- (d) ceases to hold office on ceasing to be a member of the Board.

(4) The clerk must give the relevant council a copy of any notice received under sub-paragraph (3)(c).

(5) If the convener is for any reason unable to chair any meeting of the Board, the Board must, at the meeting, elect another of their members to chair that meeting.

(6) If, at any meeting of the Board, there is an equality in the votes of members on any matter, the member chairing the meeting has a casting vote.

Commencement Information
I157 Sch. 1 para. 6 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

Removal of convener

7 (1) The convener of a Licensing Board may be removed from office by the Board.

(2) A decision of a Board to remove the convener is valid only if the number of members voting in favour of the decision exceeds one half of the total number of members of the Board.

Commencement Information
I158 Sch. 1 para. 7 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

Administrative support

8 (1) In relation to each Licensing Board, the relevant council must—

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) appoint, on such terms and conditions as they may determine, a clerk of the Board, and

(b) provide the Board and the clerk, or ensure they are provided, with such other staff, property and services as are required for their purposes.

(2) A clerk appointed under sub-paragraph (1)(a) must be an advocate or solicitor.

Commencement Information

I159 Sch. 1 para. 8 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

Committees

9 A Licensing Board may establish committees for or in connection with the exercise of any of their functions.

Commencement Information

I160 Sch. 1 para. 9 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

Delegation of functions

10 (1) A Licensing Board may authorise (whether generally or specifically)—

(a) any member of the Board,

(b) any committee established by the Board,

(c) the clerk of the Board, or

(d) any member of staff provided under paragraph 8(1)(b),

to exercise on behalf of the Board any of the Board's functions under this Act, other than the functions mentioned in sub-paragraph (2).

(2) Those functions are—

(a) determining the Board's policy for the purposes of a licensing policy statement or supplementary licensing policy statement,

(b) determining, for the purposes of any such statement, whether there is overprovision of licensed premises, or licensed premises of any particular description, in any locality,

(c) determining a premises licence application,

(d) determining a premises licence variation application where the variation sought is not a minor variation,

(e) determining an application for the transfer of a premises licence where the applicant has been convicted of a relevant offence or a foreign offence,

(f) determining—

(i) a personal licence application, or

(ii) a personal licence renewal application,

where the applicant has been convicted of a relevant offence or a foreign offence,

(g) conducting a hearing under this Act (including taking any of the steps mentioned in sub-paragraph (3) at, or as result of, the hearing),

(h) making a closure order,

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(i) refusing an application for confirmation of a provisional premises licence.

(3) The steps referred in sub-paragraph (2)(g) are—

(a) at a review hearing in respect of a premises licence—

(i) issuing a written warning to the licence holder,

(ii) revoking or suspending the licence, or

(iii) making a variation of the licence, or

(b) making an order revoking, suspending or endorsing a personal licence.

(4) A Licensing Board may, under sub-paragraph (1), delegate to the clerk of the Board the function of granting an occasional licence application only where there is no notice of objection or representations in relation to the application [F69]....

Textual Amendments

F69 Words in Sch. 1 para. 10(4) repealed (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), s. 206(1), **Sch. 6 para. 18**; S.S.I. 2010/413, art. 2, Sch.

Commencement Information

I161 Sch. 1 para. 10 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

Training of members

11 (1) Each member of a Licensing Board must, no later than one month after the expiry of each 3 month period, produce to the clerk of the Board evidence that the member has, during the period, complied with such requirements as to the training of members of Licensing Boards as may be prescribed.

(2) In sub-paragraph (1), "3 month period" means, in relation to a member of a Licensing Board—

(a) the period of 3 months beginning on the day on which the member is elected, and

(b) if the member is re-elected, the period of 3 months beginning with the day on which the member is re-elected.

(3) A member of a Licensing Board must not take part in any proceedings of the Board until the member has produced the evidence required by sub-paragraph (1).

(4) If a member of a Licensing Board fails to comply with sub-paragraph (1), the member ceases to hold office as a member of the Board.

(5) Regulations under sub-paragraph (1) prescribing training requirements may, in particular—

(a) provide for accreditation by the Scottish Ministers of—

(i) courses of training, and

(ii) persons providing such courses,

for the purposes of the regulations,

(b) prescribe different requirements in relation to different descriptions of members, and

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(c) require that any person providing training or any particular description of training in accordance with the regulations holds such qualification as may be prescribed in the regulations.

Modifications etc. (not altering text)

C16 Sch. 1 para. 11(3) restricted (1.5.2007) by Licensing (Appointed Day and Transitional Provisions) (Scotland) Order 2007 (S.S.I. 2007/128), arts. 1, **4**

Commencement Information

I162 Sch. 1 para. 11 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

Proceedings

12 (1) The quorum for a meeting of a Licensing Board is one half of the number of members (but in any case not fewer than 3).

(2) Subject to sub-paragraph (3), meetings of a Licensing Board must be held in public.

(3) The members of a Licensing Board may, before the Board decides any matter, conduct their deliberations on the matter in private.

(4) The Scottish Ministers may by regulations make further provision about the proceedings of Licensing Boards including, in particular, provision as to—

(a) the times by which applications to a Board under this Act, and other business to be considered by a Board, are to be determined or considered,

(b) the publicising of meetings of a Board, and

(c) public access to any agenda and record of, and other information concerning, a meeting of a Board.

(5) Subject to—

(a) the other provisions of this paragraph, and

(b) any regulations made under sub-paragraph (4),

the arrangements for meetings of a Licensing Board, and other matters relating to proceedings of the Board, are to be such as the Board may by rules provide.

(6) A Licensing Board must ensure that any rules made by them under sub-paragraph (5) are published.

Commencement Information

I163 Sch. 1 para. 12 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

Validity of proceedings

13 The proceedings of a Licensing Board are not affected by—

(a) any vacancy in the membership of the Board,

(b) any defect in the election of any member of the Board, or

(c) the disqualification of any councillor from being a member of the Board.

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I164 Sch. 1 para. 13 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

Transitional and transitory provision

14 (1) Until the end of the day of the first election of members of a Licensing Board in accordance with paragraph 2(1), the members of the Board are to continue to be those who were, immediately before the coming into force of section 5, the members of the Board established under section 1 of the Licensing (Scotland) Act 1976 (c. 66) for the same area or, as the case may be, division.

(2) Paragraph 4(1)(a) does not apply to a person who is a member of a Licensing Board by virtue of sub-paragraph (1) of this paragraph.

(3) In the application of paragraph 11 to such a person—

(a) sub-paragraph (1) has effect as if for "each 3 month period" there were substituted " such period as the Scottish Ministers may direct ", and

(b) sub-paragraph (2) is treated as if it were omitted.

Commencement Information
I165 Sch. 1 para. 14 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

SCHEDULE 2

(introduced by section 10(4))

LOCAL LICENSING FORUMS

Introductory

1 In this schedule, "Forum" means a Local Licensing Forum established under section 10.

Commencement Information
I166 Sch. 2 para. 1 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

Membership

2 (1) A Forum is to consist of such number (being not fewer than 5 and not more than 20) of members as the relevant council may determine.

(2) The Scottish Ministers may by order substitute another number for the minimum or maximum number of members for the time being specified in sub-paragraph (1).

(3) At least one of the members must be a Licensing Standards Officer for the council's area.

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) The other members are to be individuals appointed by the relevant council on such terms and conditions as the relevant council may determine.

(5) In appointing members of a Forum, the relevant council must seek to ensure so far as possible that the membership of the Forum is representative of the interests of persons or descriptions of persons who have an interest which is relevant to the Forum's general functions.

(6) Those persons include—

(a) holders of premises licences and personal licences,

(b) the chief constable for the police area in which the Forum's area is situated,

(c) persons having functions relating to health, education or social work,

(d) young people,

(e) persons resident within the Forum's area.

Modifications etc. (not altering text)

C17 Sch. 2 para. 2(3) excluded (temp.) (1.5.2007) by Licensing (Appointed Day and Transitional Provisions) (Scotland) Order 2007 (S.S.I. 2007/128), arts. 1, **5(1)**

Commencement Information

I167 Sch. 2 para. 2 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

Convener

3 (1) At their first meeting in each calendar year, a Forum must elect one of the members of the Forum to be the convener of the Forum.

(2) The convener holds office, on such terms and conditions as the relevant council may determine, until the next election under sub-paragraph (1).

(3) Meetings of the Forum are to be chaired by the convener.

(4) If the office of convener is vacant or the convener is for any reason unable to act, a meeting of the Forum may be chaired by any other member present.

Commencement Information

I168 Sch. 2 para. 3 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

Administrative support

4 A council must provide each Forum established by them, or ensure each such Forum is provided, with such staff, property and services as the council considers are required for the Forum's purposes.

Commencement Information

I169 Sch. 2 para. 4 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Meetings and proceedings

5 (1) Each Forum must, in each calendar year, hold at least 4 meetings.

(2) The quorum for a meeting of a Forum is one half of the number of members (but in any case not fewer than 3).

(3) Meetings of a Forum must be held in public.

(4) Otherwise, the arrangements for meetings of a Forum and other matters relating to proceedings of the Forum, are to be such as the Forum may determine.

(5) The proceedings of a Forum are not affected by—

(a) any vacancy in the membership of the Forum, or

(b) any defect in the appointment of a member of the Forum.

Modifications etc. (not altering text)

C18 Sch. 2 para. 5(1) excluded (1.5.2007) by Licensing (Appointed Day and Transitional Provisions) (Scotland) Order 2007 (S.S.I. 2007/128), arts. 1, **5(2)**

Commencement Information

I170 Sch. 2 para. 5 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

SCHEDULE 3

(introduced by section 27(1))

PREMISES LICENCES: MANDATORY CONDITIONS

Interpretation

1 In this schedule, "the premises" means, in relation to any premises licence, the premises specified in the licence.

Commencement Information

I171 Sch. 3 para. 1 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

Compliance with the operating plan

2 (1) Alcohol is to be sold on the premises only in accordance with the operating plan contained in the licence.

(2) Nothing in sub-paragraph (1) is to be read as preventing or restricting the doing of anything referred to in section 63(2).

Commencement Information

I172 Sch. 3 para. 2 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

3 Any other activity to be carried on in the premises is to be carried on only in accordance with the operating plan contained in the licence.

Commencement Information
I173 Sch. 3 para. 3 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

The premises manager

4 (1) Alcohol is not to be sold on the premises at any time when—
(a) there is no premises manager in respect of the premises,
(b) the premises manager does not hold a personal licence,
(c) the personal licence held by the premises manager is suspended, or
(d) the licensing qualification held by the premises manager is not the appropriate licensing qualification in relation to the premises.

(2) In sub-paragraph (1), "appropriate licensing qualification" in relation to any licensed premises means any licensing qualification prescribed as such in relation to licensed premises of that description in regulations under section 91(2)(d).

(3) Nothing in sub-paragraph (1) or paragraph 5 is to be read as requiring the premises manager to be present on the premises at the time any sale of alcohol is made.

Commencement Information
I174 Sch. 3 para. 4 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

Authorisation of sales of alcohol

5 Every sale of alcohol made on the premises must be authorised (whether generally or specifically) by—
(a) the premises manager, or
(b) another person who holds a personal licence.

Commencement Information
I175 Sch. 3 para. 5 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

Training of staff

6 (1) No person (other than a person who holds a personal licence) is to work in the premises in the capacity mentioned in sub-paragraph (2) unless that person has complied with such requirements as to the training of staff as may be prescribed for the purposes of this paragraph.

(2) That is a capacity (whether paid or unpaid) which involves the person—
(a) making sales of alcohol, or
(b) where alcohol is sold on the premises for consumption on the premises, serving such alcohol to any person.

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[[F70](2A) At any time when a person (other than a person who holds a personal licence) is working in the premises in a capacity mentioned in sub paragraph (2), there must be kept on the premises a training record which relates to that person and is in the form set out in the Schedule to the Licensing (Mandatory Conditions No. 2) (Scotland) Regulations 2007.

(2B) A record kept on the premises under sub paragraph (2A) must be produced to a Licensing Standards Officer on request.**]**

(3) Regulations under sub-paragraph (1) prescribing training requirements may, in particular—

(a) provide for the accreditation by the Scottish Ministers of—

(i) courses of training, and

(ii) persons providing such courses,

for the purposes of the regulations,

(b) prescribe different training requirements in relation to different descriptions of persons,

(c) require that any person providing training or any particular description of training in accordance with the regulations hold a personal licence or such other qualification as may be prescribed in the regulations, and

(d) require training to be undergone again at such intervals as may be prescribed in the regulations.

Textual Amendments

F70 Sch. 3 paras. 6(2A)(2B) inserted (1.2.2008) by Licensing (Mandatory Conditions No.2) (Scotland) Regulations 2007 (S.S.I. 2007/546), regs. 1(1), **2**

Commencement Information

I176 Sch. 3 para. 6 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

Pricing of alcohol

7 Where the price at which any alcohol sold on the premises is varied—

(a) the variation (referred to in this paragraph as "the earlier price variation") may be brought into effect only at the beginning of a period of licensed hours, and

(b) no further variation of the price at which that or any other alcohol is sold on the premises may be brought into effect before the expiry of the period of 72 hours beginning with the coming into effect of the earlier price variation.

Commencement Information

I177 Sch. 3 para. 7 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

Irresponsible drinks promotions

8 (1) An irresponsible drinks promotion must not be carried on in or in connection with the premises.

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) Subject to sub-paragraph (3), a drinks promotion is irresponsible if it—

(a) relates specifically to an alcoholic drink likely to appeal largely to persons under the age of 18,

(b) involves the supply of an alcoholic drink free of charge or at a reduced price on the purchase of one or more drinks (whether or not alcoholic drinks),

(c) involves the supply free of charge or at a reduced price of one or more extra measures of an alcoholic drink on the purchase of one or more measures of the drink,

(d) involves the supply of unlimited amounts of alcohol for a fixed charge (including any charge for entry to the premises),

(e) encourages, or seeks to encourage, a person to buy or consume a larger measure of alcohol than the person had otherwise intended to buy or consume,

(f) is based on the strength of any alcohol,

(g) rewards or encourages, or seeks to reward or encourage, drinking alcohol quickly, or

(h) offers alcohol as a reward or prize, unless the alcohol is in a sealed container and consumed off the premises.

(3) Paragraphs (b) to (d) of sub-paragraph (2) apply only to a drinks promotion carried on in relation to alcohol sold for consumption on the premises.

(4) The Scottish Ministers may by regulations modify sub-paragraph (2) or (3) so as to—

(a) add further descriptions of drinks promotions,

(b) modify any of the descriptions of drinks promotions for the time being listed in it, or

(c) extend or restrict the application of any of those descriptions of drinks promotions.

(5) In this paragraph, "drinks promotion" means, in relation to any premises, any activity which promotes, or seeks to promote, the buying or consumption of any alcohol on the premises.

Commencement Information

I178 Sch. 3 para. 8 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

Provision of non-alcoholic drinks

9 (1) The conditions specified in this paragraph apply only to the extent that the premises licence authorises the sale of alcohol for consumption on the premises.

(2) Tap water fit for drinking must be provided free of charge on request.

(3) Other non-alcoholic drinks must be available for purchase at a reasonable price.

Commencement Information

I179 Sch. 3 para. 9 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Payment of annual or recurring fees

10 (1) The condition specified in sub-paragraph (2) applies only in relation to a premises licence in respect of which an annual or other recurring fee is to be paid by virtue of regulations under section 136(1).

(2) The fee must be paid as required by the regulations.

Commencement Information

I180 Sch. 3 para. 10 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

[F71 Notices – admission of persons under 18

Textual Amendments

F71 Sch. 3 paras. 11, 12 and cross-headings inserted (1.2.2008) by Licensing (Mandatory Conditions) (Scotland) Regulations 2007 (S.S.I. 2007/457), regs. 1, **2**

11 (1) The condition specified in this paragraph applies only in the case of premises on which alcohol is sold for consumption on the premises.

(2) There is to be displayed so that it is reasonably visible to customers entering the premises a sign of at least A4 size which–

(a) states that persons under the age of 18 are not permitted on the premises; or

(b) states that such persons are permitted on the premises or on such parts of the premises as are specified on the sign.**]**

[F71 Baby changing facilities

12 (1) The condition specified in this paragraph applies only in the case of premises–

(a) which are not–

(i) a vehicle;

(ii) a vessel;

(iii) a moveable structure; or

(iv) used wholly or mainly for the purposes referred to in section 125(1);

(b) on which alcohol is sold for consumption on the premises; and

(c) to which children under the age of 5 are to be admitted.

(2) There are to be on the premises facilities for baby changing which are to be accessible to persons of either gender.**]**

[F72 Display of alcohol for consumption off the premises

Textual Amendments

F72 Sch. 3 para. 13 and cross-heading inserted (1.2.2008) by Licensing (Mandatory Conditions No.2) (Scotland) Regulations 2007 (S.S.I. 2007/546), regs. 1(1), **3**

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

13 (1) **[**[F73]Subject to sub-paragraph (3), alcohol**]** which is for sale only for consumption off the premises may be displayed only in one or both of the following–

(a) a single area of the premises agreed between the Licensing Board and the holder of the licence; or

(b) a single area of the premises which is inaccessible to the public.

(2) In an area agreed in terms of sub-paragraph (1)(a), a product other than alcohol may be displayed only if it is–

(a) a non-alcoholic drink; or

(b) packaged with, and may be purchased only along with, alcohol.

[This paragraph does not apply in respect of premises—

[F74](3) (a) whose main function is to provide a visitor attraction, and

(b) where—

(i) the premises form part of a larger site which is used principally for the production of alcoholic drinks, or

(ii) the visitor attraction is used principally to provide information about and promote the history and attributes of a particular alcoholic drink or a particular category of alcoholic drink.**]]**

Textual Amendments

F73 Words in Sch. 3 para. 13(1) substituted (24.6.2009) by The Licensing (Mandatory Conditions) (Scotland) Regulations 2009 (S.S.I. 2009/270), regs. 1, **2(2)**

F74 Sch. 3 para. 13(3) inserted (24.6.2009) by The Licensing (Mandatory Conditions) (Scotland) Regulations 2009 (S.S.I. 2009/270), regs. 1, **2(3)**

SCHEDULE 4

(introduced by section 60(1))

OCCASIONAL LICENCES: MANDATORY CONDITIONS

Interpretation

1 In this schedule, "the premises" means, in relation to any occasional licence, the premises specified in the licence.

Commencement Information

I181 Sch. 4 para. 1 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

Compliance with licence

2 (1) Alcohol may be sold on the premises only in accordance with the terms of the licence.

(2) Nothing in sub-paragraph (1) is to be read as preventing or restricting the doing of anything referred to in section 63(2).

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I182 Sch. 4 para. 2 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

3 Any other activity to be carried on in the premises may be carried on only in accordance with the description of the activity contained in the licence.

Commencement Information
I183 Sch. 4 para. 3 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

Authorisation of sales of alcohol

4 (1) The condition specified in sub-paragraph (2) applies only to an occasional licence issued to the holder of a premises licence or personal licence.

(2) Every sale of alcohol made on the premises to which the licence relates must be authorised (whether generally or specifically) by the holder of a personal licence.

Commencement Information
I184 Sch. 4 para. 4 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

Voluntary organisations

5 (1) The condition specified in sub-paragraph (2) applies only to an occasional licence issued to a representative of a voluntary organisation.

(2) Alcohol may be sold on the premises only at an event taking place on the premises in connection with the voluntary organisation's activities.

Commencement Information
I185 Sch. 4 para. 5 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

Pricing of alcohol

6 Where the price at which any alcohol sold on the premises is varied—

(a) the variation (referred to in this paragraph as “the earlier price variation”) may be brought into effect only at the beginning of a period of licensed hours, and

(b) no further variation of the price at which that or any other alcohol is sold on the premises may be brought into effect before the expiry of the period of 72 hours beginning with the coming into effect of the earlier price variation.

Commencement Information
I186 Sch. 4 para. 6 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Irresponsible drinks promotions

7 (1) An irresponsible drinks promotion must not be carried on in or in connection with the premises.

(2) Subject to sub-paragraph (3), a drinks promotion is irresponsible if it—

(a) relates specifically to an alcoholic drink likely to appeal largely to persons under the age of 18,

(b) involves the supply of an alcoholic drink free of charge or at a reduced price on the purchase of one or more drinks (whether or not alcoholic drinks),

(c) involves the supply free of charge or at a reduced price of one or more extra measures of an alcoholic drink on the purchase of one or more measures of the drink,

(d) involves the supply of unlimited amounts of alcohol for a fixed charge (including any charge for entry to the premises),

(e) encourages, or seeks to encourage, a person to buy or consume a larger measure of alcohol than the person had otherwise intended to buy or consume,

(f) is based on the strength of any alcohol,

(g) rewards or encourages, or seeks to reward or encourage, drinking alcohol quickly, or

(h) offers alcohol as a reward or prize, unless the alcohol is in a sealed container and consumed off the premises.

(3) Paragraphs (b) to (d) of sub-paragraph (2) apply only to a drinks promotion carried on in relation to alcohol sold for consumption on the premises.

(4) The Scottish Ministers may by regulations modify sub-paragraph (2) or (3) so as to—

(a) add further descriptions of drinks promotions,

(b) modify any of the descriptions of drinks promotions for the time being listed in it, or

(c) extend or restrict the application of any of those descriptions of drinks promotions.

(5) In this paragraph, "drinks promotion" means, in relation to any premises, any activity which promotes, or seeks to promote, the buying or consumption of any alcohol on the premises.

Commencement Information

I187 Sch. 4 para. 7 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

Provision of non-alcoholic drinks

8 (1) The conditions specified in this paragraph apply only to the extent that the occasional licence authorises the sale of alcohol for consumption on the premises.

(2) Tap water fit for drinking must be provided free of charge on request.

(3) Other non-alcoholic drinks must be available for purchase at a reasonable price.

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I188 Sch. 4 para. 8 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

SCHEDULE 5

(introduced by section 131(1))

APPEALS

PART 1

APPEALS TO THE SHERIFF PRINCIPAL

Commencement Information
I189 Sch. 5 Pt. 1 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

Decision	*Persons who can appeal*
A decision to refuse a premises licence application	The applicant
A decision to refuse a premises licence variation application	The applicant
A decision to refuse an application under section 33(1) or 34(1) for transfer of a premises licence	The applicant
A decision to refuse an application under section 35(1) for a variation of a premises licence	The applicant
A decision under section 39(1) to issue a written warning to a premises licence holder, to make a variation of a premises licence, or to suspend or revoke such a licence	The premises licence holder or, where the decision is taken in connection with a premises licence review application, the applicant
A decision to refuse an application under section 40 to revoke a variation or suspension of a premises licence	The applicant
A decision to refuse an application under section 45(7) to extend the provisional period in relation to a provisional premises licence	The applicant
A decision to refuse an application under section 46(4) to confirm a provisional premises licence	The applicant

Status: *Point in time view as at 13/12/2010.*
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A decision to refuse an application under section 47(2) to issue a premises licence for temporary premises	The applicant
A decision to refuse an application under section 47(6) to extend the period for which a temporary premises licence has effect	The applicant
A decision to refuse an occasional licence application	The applicant
A decision to grant an occasional licence application	Any person who has given a notice of objection under section 58(1)
A decision to refuse an extended hours application	The applicant

PART 2

APPEALS TO THE SHERIFF

Commencement Information
I190 Sch. 5 Pt. 2 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

Decision	*Persons who can appeal*
A decision to refuse a personal licence application	The applicant
A decision to make an order under section 83(9), 84(7), or 86(3) revoking, suspending or endorsing a personal licence	The personal licence holder

SCHEDULE 6

(introduced by section 144)

MODIFICATION OF ENACTMENTS

Children and Young Persons Act 1963 (c. 37)

1 In section 37(2)(b)(ii) (restriction on persons under 16 taking part in public performances within licensed premises) of the Children and Young Persons Act 1963, for "1976) or in respect of which a club is registered under that Act" substitute " 2005 (asp 16)) ".

Commencement Information
I191 Sch. 6 para. 1 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Countryside (Scotland) Act 1967 (c. 86)

2 In section 78(1) (interpretation) of the Countryside (Scotland) Act 1967, in the definition of "refreshments", for "alcoholic liquor within the meaning of the Licensing (Scotland) Act 1976" substitute " alcohol within the meaning of section 2 of the Licensing (Scotland) Act 2005 (asp 16) ".

Commencement Information
I192 Sch. 6 para. 2 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

New Towns (Scotland) Act 1968 (c. 16)

3 (1) The New Towns (Scotland) Act 1968 is amended as follows.

(2) In section 18(2) (disposal of land by development corporations), in the proviso, for "alcoholic liquor" substitute " alcohol ".

(3) In section 47(1) (interpretation), for the definition of "alcoholic liquor", substitute the following definition—

""alcohol" has the meaning given by section 2 of the Licensing (Scotland) Act 2005 (asp 16);".

Commencement Information
I193 Sch. 6 para. 3 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

Water (Scotland) Act 1980 (c. 45)

4 In section 50(1)(b) (power to require supply by meter to certain premises) of the Water (Scotland) Act 1980, for "1976" substitute " 2005 (asp 16) ".

Commencement Information
I194 Sch. 6 para. 4 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

Local Government, Planning and Land Act 1980 (c. 65)

5 In section 146 (disposal of land by urban development corporation) of the Local Government, Planning and Land Act 1980, for subsection (6) substitute—

"(6) In this section, "alcohol" has the meaning given by section 2 of the Licensing (Scotland) Act 2005 (asp 16).".

Commencement Information
I195 Sch. 6 para. 5 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

Status: *Point in time view as at 13/12/2010.*
Changes to legislation: *Licensing (Scotland) Act 2005 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Civic Government (Scotland) Act 1982 (c. 45)

6 (1) The Civic Government (Scotland) Act 1982 is amended as follows.

(2) In section 41(2)(f) (exclusion of licensed premises from definition of place of public entertainment)—

(a) for "1976" substitute " 2005 (asp 16) ", and

(b) for "the permitted" substitute " licensed ".

(3) In section 42(4)(a) (late hours catering licence not required in respect of licensed premises), for "1976" substitute " 2005 (asp 16) ".

Commencement Information

I196 Sch. 6 para. 6 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

Criminal Law (Consolidation) (Scotland) Act 1995 (c. 39)

7 (1) The Criminal Law (Consolidation) (Scotland) Act 1995 is amended as follows.

(2) In section 22 (presumption as to contents of container), for "Section 127 of the Licensing (Scotland) Act 1976 (presumption as to contents of container)" substitute " Section 140 of the Licensing (Scotland) Act 2005 (asp 16) (presumption as to liquid contents of containers) ".

(3) In section 23 (interpretation of Part II), for the definition of "alcohol", substitute the following definition—

""alcohol" has the meaning given in section 2 of the Licensing (Scotland) Act 2005 (asp 16);".

Commencement Information

I197 Sch. 6 para. 7 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

Crime and Punishment (Scotland) Act 1997 (c. 48)

8 (1) Section 61 (confiscation of alcohol from persons under 18) of the Crime and Punishment (Scotland) Act 1997 is amended as follows.

(2) In subsection (1)—

(a) in paragraph (b), for "alcoholic liquor, within the meaning of the Licensing (Scotland) Act 1976" substitute " alcohol ", and

(b) for "that liquor" substitute " the alcohol ".

(3) In subsection (2), for—

(a) "alcoholic liquor", and

(b) "liquor" in each place where that word appears,

substitute " alcohol ".

(4) In subsection (6), for "1976" substitute " 2005 (asp 16) ".

(5) After subsection (6) insert—

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"(7) In this section, "alcohol" has the meaning given in section 2 of the Licensing (Scotland) Act 2005 (asp 16).".

Commencement Information

I198 Sch. 6 para. 8 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

Scottish Public Services Ombudsman Act 2002 (asp 11)

9 In paragraph 10 of Part 1 of schedule 2 (authorities not amendable by Order in Council) to the Scottish Public Services Ombudsman Act 2002, for "within the meaning of the Licensing (Scotland) Act 1976 (c. 66)" substitute " continued in existence by or established under section 5 of the Licensing (Scotland) Act 2005 (asp 16) ".

Commencement Information

I199 Sch. 6 para. 9 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

Freedom of Information (Scotland) Act 2002 (asp 13)

10 In paragraph 23 of Part 3 of schedule 1 (local government) to the Freedom of Information (Scotland) Act 2002, for "constituted in accordance with the provisions of section 1 of the Licensing (Scotland) Act 1976 (c. 66)" substitute " continued in existence by or established under section 5 of the Licensing (Scotland) Act 2005 (asp 16) ".

Commencement Information

I200 Sch. 6 para. 10 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

SCHEDULE 7

(introduced by section 149)

REPEALS

Commencement Information

I201 Sch. 7 in force at 1.6.2006 for specified purposes by S.S.I. 2006/286, **art. 2(b)** (with arts. 3-5) (as amended (1.5.2007) by S.S.I. 2007/128, art. 6)

I202 Sch. 7 in force at 1.5.2007 for specified purposes by S.S.I. 2007/129, art. 3, **Sch.**

I203 Sch. 7 in force at 1.2.2008 for specified purposes by S.S.I. 2007/472, art. 2, Schs. 1, **2**

I204 Sch. 7 in force at 1.9.2009 at 5.00 a.m. in so far as not already in force by S.S.I. 2007/472, **art. 3**

Enactment	***Extent of repeal***
The Revenue Act 1889 (c. 42)	Section 26

Status: *Point in time view as at 13/12/2010.*
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The Children and Young Persons (Scotland) Act 1937 (c. 37)	Section 16
The Methylated Spirits (Sale by Retail) (Scotland) Act 1937 (c. 48)	The whole Act
The Finance Act 1970 (c. 24)	Section 6
The Local Government (Scotland) Act 1973 (c. 65)	Paragraph 36 of Schedule 24 Paragraph 17 of Schedule 25
The Licensing (Scotland) Act 1976 (c. 66)	The whole Act
The Alcoholic Liquor Duties Act 1979 (c. 4)	Section 77(6)
The Licensed Premises (Exclusion of Certain Persons) Act 1980 (c. 32)	The whole Act
The Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55)	Section 21 Paragraphs 9 to 11 of Schedule 2
The Local Government, Planning and Land Act 1980 (c. 65)	In section 146(3), the words “or alcoholic liquor”
The Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23)	Paragraphs 4 and 5 of Schedule 2
The Roads (Scotland) Act 1984 (c. 54)	Paragraph 77 of Schedule 9
The Transport Act 1985 (c. 67)	Paragraph 18 of Schedule 7
The Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73)	Section 53
The Housing (Scotland) Act 1987 (c. 26)	Subsection (3) of section 5
The Food Safety Act 1990 (c. 16)	Paragraph 19 of Schedule 3
The Licensing (Low Alcohol Drinks) Act 1990 (c. 21)	The whole Act
The Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40)	Part III Schedule 5 In Schedule 8, Part I
The Finance Act 1991 (c. 31)	In paragraph 1(a) of Schedule 2, the words “or the Licensing (Scotland) Act 1976,”
The Licensing (Amendment) (Scotland) Act 1993 (c. 20)	The whole Act
The Local Government etc. (Scotland) Act 1994 (c. 39)	Section 46 Paragraphs 23 and 106 of Schedule 13
The Criminal Law (Consolidation) (Scotland) Act 1995 (c. 39)	In section 19(2), the words from “Notwithstanding” to “but”
The Criminal Procedure (Consequential Provisions) Act 1995 (c. 40)	Paragraph 29 of Schedule 4
The Licensing (Amendment) (Scotland) Act 1996 (c. 36)	The whole Act
The Access to Justice Act 1999 (c. 22)	Paragraph 94 of Schedule 13

Status: *Point in time view as at 13/12/2010.*
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The Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)	Paragraph 60 of Schedule 9
The Licensing Act 2003 (c. 17)	Paragraph 74 of Schedule 6
The Courts Act 2003 (c. 39)	The unnumbered paragraph (which amends the Licensed Premises (Exclusion of Certain Persons) Act 1980) immediately following paragraph 200 of Schedule 8

Status:
Point in time view as at 13/12/2010.

Changes to legislation:
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