SCHEDULE 6

(introduced by section 198)

FURTHER MODIFICATIONS OF 2005 ACT

1 The 2005 Act is amended in accordance with the following paragraphs.

Commencement Information
I1 Sch. 6 para. 1 in force at 13.12.2010 by S.S.I. 2010/413, art. 2, **Sch.**

2 In section 4 (the licensing objectives), subsection (2) is repealed.

Commencement Information
I2 Sch. 6 para. 2 in force at 1.11.2011 by S.S.I. 2011/354, art. 2, **Sch.** (with art. 5)

3 In section 21 (notification of premises licence applications), subsection (5) is repealed.

Commencement Information
I3 Sch. 6 para. 3 in force at 13.12.2010 by S.S.I. 2010/413, art. 2, **Sch.**

4 In section 22 (objections and representations), subsection (2) is repealed.

Commencement Information
I4 Sch. 6 para. 4 in force at 13.12.2010 by S.S.I. 2010/413, art. 2, **Sch.**

5 In section 23 (determination of premises licence application), for subsection (6) substitute—

"(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).".

Commencement Information
I5 Sch. 6 para. 5 in force at 13.12.2010 by S.S.I. 2010/413, art. 2, **Sch.** (with Sch.)

6 (1) Section 24 (applicant's duty to notify Licensing Board of convictions) is amended as follows.

(2) In subsection (8)(b), for "the crime prevention objective" substitute " any of the licensing objectives ".

(3) For subsection (10) substitute—

"(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.".

Commencement Information

I6 Sch. 6 para. 6 in force at 13.12.2010 by S.S.I. 2010/413, art. 2, **Sch.** (with Sch.)

7 (1) Section 33 (transfer of premises licence on application of licence holder) is amended as follows.

(2) For subsections (7) to (9) substitute—

"(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.

(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.

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

(3) In subsection (10)(a), for "the crime prevention objective" substitute " any of the licensing objectives ".

Commencement Information

I7 Sch. 6 para. 7 in force at 13.12.2010 by S.S.I. 2010/413, art. 2, **Sch.** (with Sch.)

8 In section 44 (procedure where Licensing Board receives notice of conviction), in subsection (5)(b), for "the crime prevention objective" substitute " any of the licensing objectives ".

Commencement Information

I8 Sch. 6 para. 8 in force at 13.12.2010 by S.S.I. 2010/413, art. 2, **Sch.** (with Sch.)

9 In section 57 (notification of occasional licence application to chief constable and Licensing Standards Officer), subsection (2) is repealed.

Commencement Information
I9 Sch. 6 para. 9 in force at 1.11.2011 by S.S.I. 2011/354, art. 2, **Sch.** (with Sch.)

10 (1) Section 59 (determination of occasional licence application) is amended as follows.

(2) In subsection (2), paragraph (a) is repealed.

(3) Subsection (7) is repealed.

Commencement Information
I10 Sch. 6 para. 10 in force at 1.11.2011 by S.S.I. 2011/354, art. 2, **Sch.** (with Sch.)

11 In section 69 (notification of extended hours application), in subsection (2), for "the crime prevention objective" substitute " any of the licensing objectives ".

Commencement Information
I11 Sch. 6 para. 11 in force at 13.12.2010 by S.S.I. 2010/413, art. 2, **Sch.** (with Sch.)

12 In section 73 (notification of personal licence application to chief constable), for subsection (4) substitute—

"(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.".

Commencement Information
I12 Sch. 6 para. 12 in force at 13.12.2010 by S.S.I. 2010/413, art. 2, **Sch.** (with Sch.)

13 (1) Section 74 (determination of personal licence application) is amended as follows.

(2) In subsection (5), for paragraph (b) substitute—

"(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,".

(3) After subsection (5) insert—

"(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.”.

(4) In subsection (6)—

(a) after “subsection (5)” insert “ or (5A) ”, and

(b) in paragraph (a), for “the crime prevention objective” substitute “ any of the licensing objectives ”.

Commencement Information

I13 Sch. 6 para. 13 in force at 13.12.2010 by S.S.I. 2010/413, art. 2, **Sch.** (with Sch.)

14 (1) Section 75 (applicant's duty to notify Licensing Board of convictions) is amended as follows.

(2) In subsection (7)(b), for “the crime prevention objective” substitute “ any of the licensing objectives ”.

(3) In subsection (9)—

(a) the word “and” immediately following paragraph (a) is repealed, and

(b) after paragraph (b) add “, and

(c) references in it to a recommendation under section 73(4) include references to a recommendation under subsection (7) of this section.”.

Commencement Information

I14 Sch. 6 para. 14 in force at 13.12.2010 by S.S.I. 2010/413, art. 2, **Sch.** (with Sch.)

15 (1) Section 83 (procedure where Licensing Board receives notice of conviction) is amended as follows.

(2) In subsection (5)(b), for “the crime prevention objective” substitute “ any of the licensing objectives ”.

(3) In subsection (8)(c), for “the crime prevention objective” substitute “ any of the licensing objectives ”.

Commencement Information

I15 Sch. 6 para. 15 in force at 13.12.2010 by S.S.I. 2010/413, art. 2, **Sch.** (with Sch.)

16 After section 84 insert—

“**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).".

Commencement Information

I16 Sch. 6 para. 16 in force at 13.12.2010 by S.S.I. 2010/413, art. 2, **Sch.**

17 In section 148 (index of defined expressions), in the table, the entry relating to "crime prevention objective" is repealed.

Commencement Information

I17 Sch. 6 para. 17 in force at 1.11.2011 by S.S.I. 2011/354, art. 2, **Sch.** (with art. 5)

18 In schedule 1 (Licensing Boards), in paragraph 10(4), the words from ", or no notice" to the end are repealed.

Commencement Information

I18 Sch. 6 para. 18 in force at 13.12.2010 by S.S.I. 2010/413, art. 2, **Sch.** (with Sch.)

Changes to legislation:
There are currently no known outstanding effects for the Criminal Justice and Licensing (Scotland) Act 2010, SCHEDULE 6.