



Criminal Justice and Licensing (Scotland) Act 2010

2010 asp 13

PART 8

LICENSING UNDER CIVIC GOVERNMENT (SCOTLAND) ACT 1982

VALID FROM 28/03/2011

172 Conditions to which licences under 1982 Act are to be subject

- (1) The 1982 Act is amended as follows.
- (2) In section 3(4) (automatic grant or renewal of licence where application not determined within specified period), the word “unconditionally” is repealed.
- (3) After section 3 insert—

“3A Mandatory licence conditions

- (1) The Scottish Ministers may by order made by statutory instrument prescribe conditions to which licences granted by licensing authorities under this Act are to be subject.
- (2) Different conditions may be prescribed under subsection (1)—
 - (a) in respect of different licences, or different types of licence,
 - (b) otherwise for different purposes, circumstances or cases.
- (3) No order may be made under subsection (1) unless a draft of the statutory instrument containing the order has been laid before and approved by resolution of the Scottish Parliament.
- (4) Subsection (1) does not affect any other power of the Scottish Ministers under this Act or any other enactment to prescribe conditions—
 - (a) to which licences granted by licensing authorities under this Act are to be subject, or

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Changes to legislation: There are currently no known outstanding effects for the Criminal Justice and Licensing (Scotland) Act 2010, Section 172. (See end of Document for details)

(b) to be imposed by licensing authorities in granting or renewing licences under this Act.

(5) The following conditions are referred to in this Part and Part 2 of this Act as “mandatory conditions”—

- (a) conditions prescribed under subsection (1),
- (b) conditions prescribed under any power referred to in subsection (4), and
- (c) conditions imposed, or required to be imposed, by any provision of this Part or Part 2 of this Act.

(6) In this section and section 3B, references to licences granted by licensing authorities include references to—

- (a) licences renewed by licensing authorities, and
- (b) licences deemed by virtue of section 3(4) to be granted or renewed by licensing authorities.

3B Standard licence conditions

(1) A licensing authority may determine conditions to which licences granted by them under this Act are to be subject.

(2) Conditions determined under subsection (1) are referred to in this Part and Part 2 as “standard conditions”.

(3) Different conditions may be determined under subsection (1)—

- (a) in respect of different licences, or different types of licence,
- (b) otherwise for different purposes, circumstances or cases.

(4) A licensing authority must publish, in such manner as they think appropriate, any standard conditions determined by them.

(5) Standard conditions have no effect—

- (a) unless they are published, and
- (b) so far as they are inconsistent with any mandatory conditions.

(6) Subsection (1) is subject to paragraph 5(1A)(a) of Schedule 1 to this Act.”.

(4) In section 27C (conditions in respect of knife dealers' licences)—

- (a) in subsection (1)—
 - (i) in paragraph (b), after “prejudice to” insert “ section 3B and ”, and
 - (ii) in paragraph (c), after “that” insert “ section and ”, and
- (b) subsection (2) is repealed.

(5) In section 41(3) (power to attach conditions to public entertainment licences), after “prejudice to” insert “ section 3B of and ”.

(6) In Schedule 1 (further provisions as to the general licensing system), in paragraph 5—

- (a) in sub-paragraph (1)—
 - (i) in paragraph (a), the word “unconditionally” is repealed, and
 - (ii) paragraph (b) is repealed,
- (b) after that sub-paragraph insert—

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- “(1A) In granting or renewing a licence under sub-paragraph (1)(a), a licensing authority may (either or both)—
- (a) disapply or vary any standard conditions so far as applicable to the licence,
 - (b) impose conditions in addition to any mandatory or standard conditions to which the licence is subject.”,
 - (c) in sub-paragraph (2), for “(1)(b)” substitute “ (1A)(b) ”, and
 - (d) after that sub-paragraph insert—

“(2A) A variation made under sub-paragraph (1A)(a) or condition imposed under sub-paragraph (1A)(b) has no effect so far as it is inconsistent with any mandatory condition to which the licence is subject.”.

Commencement Information

II S. 172(1)-(3)(4)(a)(5)(6) in force at 28.3.2011 by [S.S.I. 2011/178](#), [art. 2](#), [Sch.](#) (with [Sch.](#))

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