

2007 No. 35

LICENSING (LIQUOR)

The Licensing (Closure Orders) (Scotland) Regulations 2007

Made - - - - - *31st January 2007*

Laid before the Scottish Parliament *2nd February 2007*

Coming into force - - - *1st September 2009*

The Scottish Ministers, in exercise of the powers conferred by sections 100, 134 and 146(2) of the Licensing (Scotland) Act 2005(a) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Licensing (Closure Orders) (Scotland) Regulations 2007 and shall come into force on 1st September 2009.

(2) In these Regulations, “the Act” means the Licensing (Scotland) Act 2005.

Closure orders

2.—(1) An application to a Licensing Board under paragraph (a) of section 97(1) of the Act is to be in the form set out in Parts A and B of Schedule 1.

(2) A closure order made under subsection (1) of section 97 of the Act is to be in the form set out in Part C of Schedule 1.

Emergency closure orders etc.

3.—(1) An emergency closure order made under subsection (2) of section 97 of the Act is to be in the form set out in Part 1 of Schedule 2.

(2) The notice to be given under subsection (3) of section 99 of the Act is to be in the form set out in Part 2 of Schedule 2.

(3) The notice to be given under subsection (2) of section 98 of the Act is to be in the form set out in Part 3 of Schedule 2.

Termination of closure orders

4.—(1) An application to a Licensing Board under paragraph (a) of section 98(3) of the Act is to be in the form set out in Parts A and B of Schedule 3.

(2) A Licensing Board is to give to the applicant notice of its decision on such an application and such notice is to be in the form set out in Part C of Schedule 3.

(a) 2005 asp 16.

Notice by senior police officer

5. As soon as practicable after a senior police officer has–

- (a) made an emergency closure order under section 97(2) of the Act;
- (b) terminated such an order under section 98(1) of the Act; or
- (c) extended such an order under section 99(1) of the Act,

that officer is to give notice of the order, termination or extension to the Licensing Board in the area of which the premises in question are situated.

St Andrew's House,
Edinburgh
31st January 2007

GEORGE LYON
Authorised to sign by the Scottish Ministers

SCHEDULE 1

Regulation 2

Licensing (Scotland) Act 2005, Section 97

APPLICATION TO LICENSING BOARD FOR CLOSURE ORDER

Name of Licensing Board to which this application is made:

.....

PART A

APPLICATION FOR CLOSURE ORDER UNDER SECTION 97 OF THE LICENSING (SCOTLAND) ACT 2005 IN RESPECT OF THE FOLLOWING LICENSED PREMISES:

GROUNDS FOR CLOSURE (attach supporting evidence):

PART B

The applicant asks the Licensing Board to –

- (a) assign the hearing for [day and time]; and
- (b) make a closure order in respect of the Premises.

.....

Senior Police Officer for [Police Force] (Applicant)

PART C

[Name of Licensing Board] having heard (*insert details of parties who attended the hearing*) and having considered the application [being satisfied that the conditions mentioned in section 97 of the Licensing (Scotland) Act 2005 are met] (*delete as appropriate*) and having regard to the matters mentioned in section 97 of the Licensing (Scotland) Act 2005 (“the Act”) –

- *1. makes an order under section 97 of the Act that the premises at (*insert details of premises*) are closed to all persons for a period of (*insert period*).
- *2. directs intimation of this Part to (*insert details of all known interested persons*).
- *3. refuses to make a closure order in respect of the premises at (*insert details of premises*).
- *4. postpones the determination of the application until (*insert date*) at (*insert time*) within (*insert location*).

*delete as appropriate

.....

Clerk to the Licensing Board (or other nominated person)

SCHEDULE 2

Regulation 3

EMERGENCY CLOSURE ORDER MADE UNDER SECTION 97 OF THE LICENSING (SCOTLAND) ACT 2005

Note: This Order is in 3 Parts

Attention is drawn to the attached Notes which form part of this Order

Name of Responsible Person to whom Closure Order has been issued

(PRINT)

(SIGNATURE)

Part 1 (Commencement of Order)

Police Force

Name and rank of senior police officer making the Order

Name and address of Premises to be closed

.....

.....

Grounds for closure

.....

.....

Order commences (Date) at hrs

Order ends (Date) at hrs

Part 2 (Extension of Order) (where applicable)

Police Force

Name and rank of senior police officer making the Order

Name and address of Premises to be closed

.....

.....

Grounds for extension of Order

.....

.....

Extension commences (Date) at hrs

Extension ends (Date) at hrs

Part 3 (Termination of Order)

Name and address of Premises

.....
.....

Name and rank of senior police officer making the Order

.....

Order ends at hrs

Name of Responsible Person to whom Termination of Order has been issued

(PRINT)

.....

(SIGNATURE)

.....

LICENSING (SCOTLAND) ACT 2005 – CLOSURE ORDERS

Notes for emergency closure order (to be read as part of the attached Order)

A senior police officer has decided to make this closure order under the terms of section 97 of the Licensing (Scotland) Act 2005, requiring the relevant premises specified in the order to be closed for the period of time specified in the order.

The reasons for which emergency closure orders can be made are that a senior police officer has reason to believe that–

- There is, or is likely imminently to be, disorder on, or in the vicinity of, any licensed premises;
- Closure of the premises is necessary in the interests of public safety; and
- The risk to public safety is such that it is necessary to make the order immediately and without making an application to the Licensing Board.

The specific reason(s) for the emergency closure order issued in this case are specified in the order.

Your attention is drawn to section 97(7) of the Act. This makes it an offence for any responsible person to allow the relevant premises to be open in contravention of this closure order or any extension of it, and any responsible person found guilty of such an offence shall be liable to a fine not exceeding £20,000 or to imprisonment for a term not exceeding three months or to both.

Closure orders issued by the police under section 97 have a maximum duration of 24 hours. However, section 99 of the Act allows the police to extend such closure orders for a further period not exceeding 24 hours. The reasons for which these extensions can be made are that–

- There continues to be, or is likely to continue to be, disorder on, or in the vicinity of, the premises;
- Extending the original closure period is necessary in the interests of public safety; and
- 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 to the Licensing Board.

Review hearing

The police will notify Licensing Boards of emergency closure orders (and any extensions of such orders). It is expected that the Licensing Board will review the premises licence in respect of the premises after it is notified of such a closure order by the police. Ministers expect that this would happen as a matter of course. The Board is empowered, if necessary to promote the licensing objectives, to modify the conditions of the premises licence, remove the designated premises manager from the licence, suspend the licence for a period not exceeding three months or revoke the licence. Its consideration is not confined solely to the incident which gave rise to the service of the closure order. It may examine any issues which are relevant to the promotion of the licensing objectives.

Appeals

The Act does not allow for any appeals procedure against the imposition of a closure order.

Termination of closure orders

Where the senior police officer is satisfied that it is no longer necessary in the interests of public safety for the closure order to be in place, then that officer must terminate the order. In terminating an order the police must give notice to–

- A responsible person

The Act defines “responsible person” as being–

- in the case of licensed premises in respect of which a premises licence has effect, the premises licence holder or premises manager;
- in the case of licensed premises in respect of which an occasional licence has effect, the holder of the licence;
- in either of these cases, any person who works on the premises in a capacity (whether paid or unpaid) which authorises the person to close the premises.

SCHEDULE 3

Regulation 4

<p>Licensing (Scotland) Act 2005, Section 98 REQUEST TO END CLOSURE ORDER</p>
<p>Name of Licensing Board to which this request is made:</p>
<p>PART A</p>
<p>DETAILS OF LICENSED PREMISES IN RESPECT OF WHICH THIS REQUEST IS MADE:</p>
<p> GROUNDS FOR REQUEST (attach supporting evidence):</p>
<p>PART B</p>
<p>The applicant asks the Licensing Board to –</p> <ul style="list-style-type: none">(a) assign the hearing for [day and time]; and(b) lift the closure order in respect of the Premises.
.....
<p>Name of Premises Licence Holder/Occasional Licence Holder (Applicant) or [X.Y.] Solicitor for Applicant <i>(add designation and business address)</i></p>

[Name of Licensing Board] having considered this application assigns [date and time] as a hearing, this date having been previously intimated to known interested persons.

.....

Clerk to the Licensing Board (or other nominated person)

PART C

[Name of Licensing Board] having heard (*insert details of parties who attended the hearing*) and having considered the application:

*1. CONFIRMS the order under section 97 of the Act that the premises at (*insert details of premises*) are closed to all persons for a period of (*insert period*).

* DIRECTS that the above Closure Order be lifted.

* POSTPONES the determination of the application until (*insert date*) at (*insert time*) within (*insert location*).

*delete as appropriate

.....

Clerk to the Licensing Board (or other nominated person)

EXPLANATORY NOTE

(This note is not part of the Regulations)

Sections 97 to 101 of the Licensing (Scotland) Act 2005 make provision as to the circumstances in which closure orders may be made in respect of licensed premises in consequence of actual or likely disorder or in the interests of public safety. Those sections provide as to when a closure order may be made by a Licensing Board or a senior police officer. These Regulations set out the forms to be used when applying for or making such orders and make provision as to connected matters.

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