

Status: Point in time view as at 01/04/2013.

Changes to legislation: Civic Government (Scotland) Act 1982, Cross Heading: Appeals is up to date with all changes known to be in force on or before 27 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)

SCHEDULES

SCHEDULE 1

LICENSING—FURTHER PROVISIONS AS TO THE GENERAL SYSTEM

Modifications etc. (not altering text)

C1 Sch. 1: power to apply conferred (18.11.1996) by 1996 c. 58, ss. 33(3), 48(6)

Appeals

- 18 (1) Subject to sub-paragraph (2) below, a person who may, under this Schedule, require a licensing authority to give him reasons for their decision may appeal to the sheriff against that decision.
- (2) A person shall be entitled to appeal under this paragraph only if he has followed all such procedures under this Schedule for stating his case to the licensing authority as have been made available to him.
- (3) A licensing authority may be a party to an appeal under this paragraph.
- (4) An appeal under this paragraph shall be made by way of summary application and shall be lodged with the sheriff clerk within 28 days from the date of the decision appealed against.
- (5) On good cause being shown, the sheriff may hear an appeal under this paragraph notwithstanding that it was not lodged within the time mentioned in sub-paragraph (4) above.
- (6) For the purposes of an appeal under this paragraph, the sheriff may, in the case of a decision of a licensing authority for which reasons have not been given by the authority under paragraph 17 above, require the authority to give reasons for that decision, and the authority shall comply with such a requirement.
- (7) The sheriff may uphold an appeal under this paragraph only if he considers that the licensing authority, in arriving at their decision—
- erred in law;
 - based their decision on any incorrect material fact;
 - acted contrary to natural justice; or
 - exercised their discretion in an unreasonable manner.
- (8) In considering an appeal under this paragraph, the sheriff may hear evidence by or on behalf of any party to the appeal.
- (9) On upholding an appeal under this paragraph, the sheriff may—
- remit the case with the reasons for his decision to the licensing authority for reconsideration of their decision; or
 - reverse or modify the decision of the authority,

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and on remitting a case under sub-sub-paragraph (a) above, the sheriff may—

- (i) specify a date by which the reconsideration by the authority must take place;
 - (ii) modify any procedural steps which otherwise would be required in relation to the matter by or under any enactment (including this Act).
- (10) In considering an appeal under this paragraph against suspension of a licence the sheriff may, pending his decision on the appeal, order the recall of any order by the licensing authority under paragraph 11(10) above that the suspension be immediate or of any order made by the authority under paragraph 12 above but he shall not do so unless he is satisfied that all steps which in the circumstances were reasonable have been taken with a view to securing that notice of the appeal and an opportunity of being heard with respect to it have been given to the authority.
- (11) The sheriff may include in his decision on an appeal under this paragraph such order as to the expenses of the appeal as he thinks proper.
- (12) Any party to an appeal to the sheriff under this paragraph may appeal on a point of law from the sheriff's decision to the Court of Session within 28 days from the date of that decision.

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