

CORONAVIRUS (SCOTLAND) ACT 2020

EXPLANATORY NOTES

DETAIL ABOUT PROVISIONS

Schedule 5 – Alcohol licensing

Licensing Boards etc.

204. Paragraph 4 modifies the operation of a number of provisions in the 2005 Act relating to Licensing Boards.
205. Paragraph 4(2) modifies section 9A of the 2005 Act to provide a new timescale for a Licensing Board to publish their annual functions report if they are unable (for a reason relating to coronavirus) to adhere to the timings provided in section 9A(1) of the 2005 Act. If a Board is unable to adhere to the timings in section 9A(1), a notice is required to be published to this effect along with an estimate as to when the annual functions report will be published. Paragraph 4(2) also provides that the functions report must be published not later than 9 months after the end of the financial year (meaning the year ending on 31 March). Similar modifications are made to section 9B of the 2005 Act by paragraph 4(3) of schedule 5 of the Act, relating to annual financial reports of Licensing Boards.
206. Section 135 of the 2005 Act allows a Licensing Board to relieve any applicant or other party to proceedings before the Board of certain procedural failings. This is where the failure is due to mistake, oversight or other excusable cause and the Board considers it appropriate in all the circumstances to relieve the failure. Section 135(3) defines what is meant by “procedural provision” for the purposes of that section. Section 135 is extended by paragraph 4(4) of schedule 5 of the Act to include procedural failings of Licensing Boards. This is only where the failure is due to an excusable cause and that excusable cause relates to coronavirus.
207. Schedule 1 of the 2005 Act makes further provision in relation to Licensing Boards. Paragraph 4(5) of schedule 5 of the Act provides that schedule 1 of the 2005 Act has effect as if various modifications were made.
208. New paragraph 10(1A) of schedule 1 provides that a Licensing Board may decide to delegate decision-making over any matter listed in paragraph 10(2) to a Committee of the Board consisting of no less than 3 members. Such a delegation can take place only if a Licensing Board considers it necessary for a reason relating to coronavirus.
209. New paragraphs 11(2A) to (2C) of schedule 1 provide for an increased length of time for new members of Licensing Boards to have undertaken necessary training where an extension to comply with training requirements is necessary as a result of the coronavirus outbreak. Consequential changes are made to the Licensing (Training) (Scotland) Regulations 2007 ([S.S.I. 2007/95](#)) by paragraph 4(7) and (8) of schedule 5 of the Act.
210. Where the period to undergo training and provide evidence of such has been extended, the disqualification from taking part in proceedings of the Licensing Board (in

*These notes relate to the Coronavirus (Scotland) Act
2020 (asp 7) which received Royal Assent on 6 April 2020*

paragraph 10(3) of schedule 1) is removed. However, that is subject to new paragraph 11(3A)(b) which provides that the member must not take part in proceedings of the Licensing Board until the clerk of the Board has briefed the member about the role of a member of the Board, about decision-making by public authorities and about the different licences governed by the 2005 Act.

211. Paragraph 12(1) of schedule 1 is modified so the quorum for a meeting of a Licensing Board is one-third of members rather than one-half. The proviso that the quorum is, in any case, not fewer than 3 members is maintained.
212. Paragraph 12(2) of schedule 1 is modified so that the Licensing Board does not have to meet in public if it cannot do so as a result of the coronavirus outbreak. A similar modification is made to paragraph 5(3) of schedule 2 relating to meetings of Local Licensing Forums.