



# Licensing (Scotland) Act 2005

## 2005 asp 16

### PART 2

#### LICENSING BODIES AND OFFICERS

##### *Licensing Boards*

## 5 Licensing Boards

- (1) There is to continue to be a Licensing Board for—
  - (a) the area of each council whose area is not, at the time this section comes into force, divided into licensing divisions under section 46(1) of the Local Government etc. (Scotland) Act 1994 (c. 39) (“the 1994 Act”), and
  - (b) each licensing division of such an area which is so divided at that time.
- (2) A council whose area is not so divided at that time may subsequently make a determination that their area is to be divided into divisions for the purposes of this Act.
- (3) Where a council makes such a determination—
  - (a) there is to be a separate Licensing Board for each of the divisions,
  - (b) the Licensing Board for the council's area is dissolved on the date on which those separate Licensing Boards are elected in accordance with schedule 1, and
  - (c) anything done by the Licensing Board for the council's area before the Board is dissolved is, to the extent that it has effect at that time, to have effect after that time as if done by such of the separate Licensing Boards as the council may determine.
- (4) A council which has made a determination (whether under subsection (2) or section 46(1) of the 1994 Act) that their area is to be divided into divisions may revoke the determination.
- (5) Where a council revokes such a determination—
  - (a) there is to be a single Licensing Board for the whole of the council's area,

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- (b) each of the Licensing Boards for the divisions is dissolved on the date on which the single Licensing Board is elected in accordance with schedule 1, and
  - (c) anything done by the Licensing Boards for the divisions before they are dissolved is, to the extent that it has effect at that time, to have effect after that time as if done by the single Licensing Board.
- (6) Subsection (7) applies where a council—
- (a) makes a determination under subsection (2), or
  - (b) revokes such a determination or a determination made under section 46(1) of the 1994 Act.
- (7) The council must, no later than 7 days after the making of the determination or the revocation—
- (a) notify the Scottish Ministers of the determination or revocation, and
  - (b) publicise it in such manner as the council sees fit.
- (8) Schedule 1 makes further provision about the constitution of Licensing Boards, their procedure and other administrative matters relating to them.

#### Commencement Information

**II** S. 5 in force at 1.5.2007 by [S.S.I. 2007/129](#), [art. 3](#), [Sch.](#)

## 6 Statements of licensing policy

- (1) Every Licensing Board must, before the beginning of each [<sup>F1</sup>licensing policy period], publish a statement of their policy with respect to the exercise of their functions under this Act during that period (referred to in this Act as a “licensing policy statement”).
  - (2) A Licensing Board may, during a [<sup>F2</sup>licensing policy period], publish a supplementary statement of their policy with respect to the exercise of their functions during the remainder of that period (referred to in this Act as a “supplementary licensing policy statement”).
  - (3) In preparing a licensing policy statement or a supplementary licensing policy statement, a Licensing Board must—
    - (a) ensure that the policy stated in the statement seeks to promote the licensing objectives, and
    - (b) consult—
      - (i) the Local Licensing Forum for the Board's area,
      - (ii) if the membership of the Forum is not representative of the interests of all of the persons specified in paragraph 2(6) of schedule 2, such person or persons as appear to the Board to be representative of those interests of which the membership is not representative,<sup>F3</sup> ...
      - [<sup>F4</sup>(ia) the relevant health board, and]
      - (iii) such other persons as the Board thinks appropriate.
- [<sup>F5</sup>(3ZA) A Licensing Board may, in preparing a licensing policy statement, decide that the licensing policy period to which the statement relates is to begin on a date earlier than it otherwise would under subsection (7).

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- (3ZB) Where a Licensing Board make a decision under subsection (3ZA) they must, when publishing the licensing policy statement under subsection (6), publicise the date on which they have decided the licensing policy period is to begin.]
- [<sup>F6</sup>(3A) A Licensing Board may not, in a licensing policy statement or supplementary licensing policy statement, indicate an intention to introduce (by means of the imposition of conditions on the granting of premises licences or the variation of conditions in premises licences) a prohibition on the sale of alcohol for consumption off licensed premises to persons aged 18 or over but under 21 which applies to—
- (a) all premises in its area which are licensed to sell alcohol for consumption off the premises, or
  - (b) premises licensed as mentioned in paragraph (a)—
    - (i) in a particular part of its area, or
    - (ii) of a particular description.]
- (4) In exercising their functions under this Act during each [<sup>F7</sup>licensing policy period], a Licensing Board must have regard to the licensing policy statement, and any supplementary licensing policy statement, published by the Board in relation to that period.
- (5) At the request of a Licensing Board—
- (a) the [<sup>F8</sup>chief constable], <sup>F9</sup>...
  - [<sup>F10</sup>(aa) the relevant health board, or]
  - (b) the relevant council,
- must provide to the Board such statistical or other information as the Board may reasonably require for the purpose of preparing a licensing policy statement or supplementary licensing policy statement.
- (6) On publishing a licensing policy statement or a supplementary licensing policy statement, a Licensing Board must—
- (a) make copies of the statement available for public inspection free of charge, and
  - (b) publicise—
    - (i) the fact that the statement has been published, and
    - (ii) the arrangements for making copies available for public inspection in pursuance of paragraph (a).
- [<sup>F11</sup>(7) Subject to subsection (3ZA), in this section, “licensing policy period” means the period between each relevant date.
- (8) For the purposes of subsection (7), “relevant date” means the date occurring 18 months after an ordinary election of councillors for local government areas takes place under section 5 of the Local Government etc. (Scotland) Act 1994.]

#### Textual Amendments

- F1** Words in s. 6(1) substituted (30.9.2016) by [Air Weapons and Licensing \(Scotland\) Act 2015 \(asp 10\)](#), [ss. 42\(a\)](#), 88(2); S.S.I. 2016/132, [art. 2\(a\)](#) (with [art. 3](#))
- F2** Words in s. 6(2) substituted (30.9.2016) by [Air Weapons and Licensing \(Scotland\) Act 2015 \(asp 10\)](#), [ss. 42\(b\)](#), 88(2); S.S.I. 2016/132, [art. 2\(a\)](#) (with [art. 3](#))
- F3** Word in s. 6(3)(b) omitted (1.10.2011) by virtue of [Alcohol etc. \(Scotland\) Act 2010 \(asp 18\)](#), [ss. 11\(2\)](#) [\(a\)\(i\)](#), 18(1) (with s. 16); S.S.I. 2011/149, [art. 2](#), Sch.

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- F4** S. 6(3)(b)(ia) inserted (1.10.2011) by Alcohol etc. (Scotland) Act 2010 (asp 18), **ss. 11(2)(a)(ii)**, 18(1) (with s. 16); S.S.I. 2011/149, art. 2, Sch.
- F5** S. 6(3ZA)(3ZB) inserted (30.9.2016) by Air Weapons and Licensing (Scotland) Act 2015 (asp 10), **ss. 42(c)**, 88(2); S.S.I. 2016/132, art. 2(a) (with art. 3)
- F6** S. 6(3A) inserted (1.10.2011) by Alcohol etc. (Scotland) Act 2010 (asp 18), **ss. 9**, 18(1) (with s. 16); S.S.I. 2011/149, art. 2, Sch.
- F7** Words in s. 6(4) substituted (30.9.2016) by Air Weapons and Licensing (Scotland) Act 2015 (asp 10), **ss. 42(d)**, 88(2); S.S.I. 2016/132, art. 2(a) (with art. 3)
- F8** Words in s. 6(5)(a) substituted (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), sch. 7 para. 29(2)(3); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F9** Word in s. 6(5) omitted (1.10.2011) by virtue of Alcohol etc. (Scotland) Act 2010 (asp 18), **ss. 11(2)(b)(i)**, 18(1) (with s. 16); S.S.I. 2011/149, art. 2, Sch.
- F10** S. 6(5)(aa) inserted (1.10.2011) by Alcohol etc. (Scotland) Act 2010 (asp 18), **ss. 11(2)(b)(ii)**, 18(1) (with s. 16); S.S.I. 2011/149, art. 2, Sch.
- F11** S. 6(7)(8) substituted for s. 6(7) (30.9.2016) by Air Weapons and Licensing (Scotland) Act 2015 (asp 10), **ss. 42(d)**, 88(2); S.S.I. 2016/132, art. 2(a) (with art. 3)

#### Commencement Information

- I2** S. 6 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, Sch.

## 7 Duty to assess overprovision

- (1) Each licensing policy statement published by a Licensing Board must, in particular, include a statement as to the extent to which the Board considers there to be overprovision of—
- (a) licensed premises, or
  - (b) licensed premises of a particular description,
- in any locality within the Board's area.
- (2) It is for the Licensing Board to determine the “localities” within the Board's area for the purposes of this Act <sup>F12</sup>and in doing so the Board may determine that the whole of the Board's area is a locality].
- (3) In considering whether there is overprovision for the purposes of subsection (1) in any locality, the Board <sup>F13</sup>...—
- (a) <sup>F14</sup>[must] have regard to the number and capacity of licensed premises in the locality, <sup>F15</sup>...
  - <sup>F16</sup>(aa) may have regard to such other matters as the Board thinks fit including, in particular, the licensed hours of licensed premises in the locality, and]
  - (b) <sup>F17</sup>[must] consult the persons specified in subsection (4).
- (4) Those persons are—
- (a) the <sup>F18</sup>[chief constable],
  - <sup>F19</sup>(aa) the relevant health board,]
  - (b) such persons as appear to the Board to be representative of the interests of—
    - (i) holders of premises licences in respect of premises within the locality,
    - (ii) persons resident in the locality, and
  - (c) such other persons as the Board thinks fit.

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- (5) In this section, references to “licensed premises” do not include references to any premises in respect of which an occasional licence has effect.

#### Textual Amendments

- F12** Words in s. 7(2) inserted (30.9.2016) by [Air Weapons and Licensing \(Scotland\) Act 2015 \(asp 10\)](#), **ss. 55(2)(a)**, 88(2); S.S.I. 2016/132, art. 2(b) (with art. 4)
- F13** Word in s. 7(3) repealed (30.9.2016) by [Air Weapons and Licensing \(Scotland\) Act 2015 \(asp 10\)](#), **ss. 55(2)(b)(i)**, 88(2); S.S.I. 2016/132, art. 2(b) (with art. 4)
- F14** Word in s. 7(3)(a) inserted (30.9.2016) by [Air Weapons and Licensing \(Scotland\) Act 2015 \(asp 10\)](#), **ss. 55(2)(b)(ii)**, 88(2); S.S.I. 2016/132, art. 2(b) (with art. 4)
- F15** Word in s. 7(3) repealed (30.9.2016) by [Air Weapons and Licensing \(Scotland\) Act 2015 \(asp 10\)](#), **ss. 55(2)(b)(iii)**, 88(2); S.S.I. 2016/132, art. 2(b) (with art. 4)
- F16** S. 7(3)(aa) inserted (30.9.2016) by [Air Weapons and Licensing \(Scotland\) Act 2015 \(asp 10\)](#), **ss. 55(2)(b)(iv)**, 88(2); S.S.I. 2016/132, art. 2(b) (with art. 4)
- F17** Word in s. 7(3)(b) inserted (30.9.2016) by [Air Weapons and Licensing \(Scotland\) Act 2015 \(asp 10\)](#), **ss. 55(2)(b)(v)**, 88(2); S.S.I. 2016/132, art. 2(b) (with art. 4)
- F18** Words in s. 7(4)(a) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), sch. 7 para. 29(2)(3); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F19** S. 7(4)(aa) inserted (1.10.2011) by [Alcohol etc. \(Scotland\) Act 2010 \(asp 18\)](#), **ss. 11(3)**, 18(1) (with s. 16); S.S.I. 2011/149, art. 2, Sch.

#### Commencement Information

- I3** S. 7(1)(3)-(5) in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**
- I4** S. 7(2) in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

## 8 Applicants attempting to influence Board members

- (1) If a person making an application under this Act to a Licensing Board attempts, at any time before the application is determined by the Board, to influence a member of the Board to support the application, the person commits an offence.
- (2) If, in relation to any application made to, but not yet determined by, a Licensing Board under this Act, proceedings for an offence under subsection (1) are brought against the applicant—
- the Board must not determine the application until after the proceedings are concluded, and
  - if the applicant is convicted of the offence, the Board may refuse to consider the application.
- (3) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### Commencement Information

- I5** S. 8 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

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## 9 Licensing Board's duty to keep a public register

- (1) Each Licensing Board must keep a register (referred to in this Act as a “licensing register”) containing information relating to—
  - (a) premises licences, personal licences and occasional licences issued by the Board,
  - (b) the Board's decisions in relation to applications made to the Board under this Act, and
  - (c) other decisions of the Board relating to the licences mentioned in paragraph (a).
- (2) The Scottish Ministers may by regulations make provision as to—
  - (a) matters, in addition to those specified in paragraphs (a) to (c) of subsection (1), in relation to which licensing registers are to contain information,
  - (b) the information which such registers are to contain, and
  - (c) the form and manner in which the registers are to be kept.
- (3) A Licensing Board must make the licensing register kept by the Board available for public inspection at all reasonable times.

### Commencement Information

**I6** S. 9 in force at 1.2.2008 by [S.S.I. 2007/472](#), art. 2, [Sch. 1](#)

## [<sup>F20</sup>9A Annual functions report

- (1) Each Licensing Board must prepare and publish a report not later than 3 months after the end of each financial year.

[ If, for a reason relating to coronavirus, a Licensing Board is unable to comply with <sup>F21</sup>(1A) subsection (1), the Board must—

- (a) not later than 3 months after the end of the financial year, publish on its website (or, if it does not have one, on the website of the council for the Board's area)—
    - (i) the fact that the Board is unable to comply with subsection (1) and the reason for that, and
    - (ii) the Board's estimate as to when it will publish the report, and
  - (b) prepare and publish the report not later than 9 months after the end of the financial year.]
- (2) A report under this section must include—
    - (a) a statement explaining how the Board has had regard to—
      - (i) the licensing objectives, and
      - (ii) their licensing policy statement and any supplementary licensing policy statement (including the Board's statement under section 7(1) (duty to assess overprovision)),
 in the exercise of their functions under this Act during the financial year,
    - (b) a summary of the decisions made by (or on behalf of) the Board during the financial year, and
    - (c) information about the number of licences held under this Act in the Board's area (including information about the number of occasional licences issued during the year).

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- (3) A report under this section may include such other information about the exercise of the Licensing Board's functions under this Act as the Board consider appropriate.
- (4) At the request of a Licensing Board the relevant council must provide the Board with such information as the Board may reasonably require for the purpose of preparing a report under this section.
- (5) In discharging their duties under subsection (1) and section 9B(1) (annual financial report), a Licensing Board may, if they consider it appropriate, prepare and publish a combined report containing the information required under this section and under section 9B (which combined report must be published not later than 3 months after the end of the financial year in question).
- (6) The Scottish Ministers may by regulations make further provision about reports under this section including, in particular, provision about—
  - (a) the form and required content of reports,
  - (b) the publication of reports.
- (7) In this section, “ financial year ” means a yearly period ending on 31 March.

#### Textual Amendments

- F20** Ss. 9A, 9B inserted (1.12.2015 for specified purposes, 15.5.2017 for the insertion of s. 9B in so far as not already in force, 20.12.2017 in so far as not already in force) by [Air Weapons and Licensing \(Scotland\) Act 2015 \(asp 10\)](#), **ss. 56(2)**, 88(2); S.S.I. 2015/382, art. 2, sch.; S.S.I. 2017/119, art. 2, sch.; S.S.I. 2017/424, art. 2(a)
- F21** S. 9A(1A) inserted (temp.) (7.4.2020) by virtue of [Coronavirus \(Scotland\) Act 2020 \(asp 7\)](#), s. 17(1), **sch. 5 para. 4(2)** (with **ss. 11-13**) (which affecting provision expires (1.10.2022) by virtue of [Coronavirus \(Scotland\) Act 2020 \(asp 7\)](#), s. 12(1) (with saving in S.S.I. 2022/261, regs. 1, 10))

## 9B Annual financial report

- (1) Each Licensing Board must prepare and publish a report not later than 3 months after the end of each financial year.

[ If, for a reason relating to coronavirus, a Licensing Board is unable to comply with <sup>F22</sup>(1A) subsection (1), the Board must—

  - (a) not later than 3 months after the end of the financial year, publish on its website (or, if it does not have one, on the website of the council for the Board's area)—
    - (i) the fact that the Board is unable to comply with subsection (1) and the reason for that, and
    - (ii) the Board's estimate as to when it will publish the report, and
  - (b) prepare and publish the report not later than 9 months after the end of the financial year.]
- (2) A report under this section must include—
  - (a) a statement of—
    - (i) the amount of relevant income received by the Licensing Board during the financial year, and
    - (ii) the amount of relevant expenditure incurred in respect of the Board's area during the year, and



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- (b) an explanation of how the amounts in the statement were calculated.
- (3) For the purposes of subsection (2)—
- “relevant income”, in relation to a Licensing Board, means income received by the Board in connection with the exercise of the Board's functions under or by virtue of—
- (a) this Act, or
  - (b) section 14(1) of the Alcohol etc. (Scotland) Act 2010 (social responsibility levy) in so far as relating to holders of premises licences or occasional licences, and
- “relevant expenditure”, in relation to a Licensing Board, means any expenditure—
- (a) which is attributable to the exercise of the Board's functions under or by virtue of—
    - (i) this Act, or
    - (ii) section 14(1) of the Alcohol etc. (Scotland) Act 2010 (social responsibility levy) in so far as relating to holders of premises licences or occasional licences, and
  - (b) which is incurred by—
    - (i) the Board,
    - (ii) the relevant council, or
    - (iii) the Licensing Standards Officer (or Officers) for the Board's area.
- (4) At the request of a Licensing Board the relevant council must provide the Board with such information as the Board may reasonably require for the purpose of preparing a report under this section.
- (5) The Scottish Ministers may by regulations make further provision about reports under this section including provision—
- (a) about the form and content of reports including, in particular—
    - (i) how a statement required under subsection (2) is to be set out, and
    - (ii) what constitutes relevant income and relevant expenditure for the purposes of subsection (2), and
  - (b) the publication of reports.
- (6) Regulations under subsection (5)(a) may modify subsection (3).
- (7) In this section, “financial year” means a yearly period ending on 31 March. ]

#### Textual Amendments

- F20** Ss. 9A, 9B inserted (1.12.2015 for specified purposes, 15.5.2017 for the insertion of s. 9B in so far as not already in force, 20.12.2017 in so far as not already in force) by [Air Weapons and Licensing \(Scotland\) Act 2015 \(asp 10\)](#), **ss. 56(2)**, 88(2); S.S.I. 2015/382, art. 2, sch.; S.S.I. 2017/119, art. 2, sch.; S.S.I. 2017/424, art. 2(a)
- F22** S. 9B(1A) inserted (temp.) (7.4.2020) by virtue of [Coronavirus \(Scotland\) Act 2020 \(asp 7\)](#), s. 17(1), **sch. 5 para. 4(3)** (with **ss. 11-13**) (which affecting provision expires (1.10.2022) by virtue of [Coronavirus \(Scotland\) Act 2020 \(asp 7\)](#), **s. 12(1)** (with saving in S.S.I. 2022/261, regs. 1, 10))



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