



# Licensing (Scotland) Act 2005

## 2005 asp 16

### PART 3

#### PREMISES LICENCES

##### *Transfer of premises licence*

#### **33 Transfer on application of licence holder**

- (1) A premises licence holder may apply to the appropriate Licensing Board for the transfer of the licence to such person as is specified in the application (such person being referred to in this section as the “transferee”).
- (2) The transferee may not be an individual under the age of 18.
- (3) An application under subsection (1) must be accompanied by—
  - (a) the premises licence to which the application relates, or
  - (b) if that is not practicable, a statement of the reasons for failure to produce the licence.
- (4) Where a Licensing Board receives an application under subsection (1), the Board must give notice of it, together with a copy of the application, to the appropriate chief constable.
- (5) The appropriate chief constable must, within 21 days of the date of receipt of a notice under subsection (4), respond to the notice by giving the Licensing Board one or other of the notices mentioned in subsection (6).
- (6) Those notices are—
  - (a) a notice stating that neither—
    - (i) the transferee, nor
    - (ii) where the transferee is neither an individual nor a council, any connected person,has been convicted of any relevant offence or foreign offence, or
  - (b) a notice specifying any convictions of—
    - (i) the transferee, and

*Status: Point in time view as at 13/12/2010.*

*Changes to legislation: Licensing (Scotland) Act 2005, Cross Heading: Transfer of premises licence is up to date with all changes known to be in force on or before 18 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)*

- (ii) where the transferee is neither an individual nor a council, any connected person,  
for a relevant offence or a foreign offence.
- [<sup>F1</sup>(7) On giving a notice under subsection (6)(a) or (b), if the appropriate chief constable considers that it is necessary for the purposes of any of the licensing objectives that the application for the transfer of the licence to the transferee be refused, the chief constable may include in the notice a recommendation to that effect.]
- [<sup>F1</sup>(8) Where, in relation to an application under subsection (1)—  
(a) the Licensing Board receives a notice under subsection (6)(a), and  
(b) the notice does not include a recommendation under subsection (7),  
the Board must grant the application.]
- [<sup>F1</sup>(9) In any other case, the Licensing Board must hold a hearing for the purpose of considering and determining the application.]
- (10) Where a hearing is held under subsection (9), the Licensing Board must, having regard to the chief constable's notice—  
(a) if satisfied that it is necessary to do so for the purposes of [<sup>F2</sup>any of the licensing objectives], refuse the application, or  
(b) if not so satisfied, grant the application.

#### Textual Amendments

- F1** S. 33(7)-(9) substituted (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), s. 206(1), [Sch. 6 para. 7\(2\)](#); S.S.I. 2010/413, art. 2, sch.
- F2** Words in s. 33(10)(a) substituted (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), s. 206(1), [Sch. 6 para. 7\(3\)](#); S.S.I. 2010/413, art. 2, Sch.

#### Commencement Information

- I1** S. 33 in force at 1.2.2008 by [S.S.I. 2007/472](#), art. 2, [sch. 1](#)

### 34 Transfer on application of person other than licence holder

- (1) A person other than—  
(a) the holder of a premises licence, or  
(b) an individual under the age of 18,  
(being a person of a prescribed description) may, within 28 days of the occurrence of any of the events specified in subsection (3), apply to the appropriate Licensing Board for the transfer to that person of the licence.
- (2) An application under subsection (1) must be accompanied by—  
(a) the premises licence to which the application relates, or  
(b) if that is not practicable, a statement of the reasons for failure to produce the licence.
- (3) The events referred to in subsection (1) are—  
(a) the premises licence holder, being an individual—  
(i) dies, or

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- (ii) becomes incapable within the meaning of section 1(6) of the Adults with Incapacity (Scotland) Act 2000 (asp 4),
  - (b) the premises licence holder, being an individual, a partnership or a company, becomes insolvent,
  - (c) the premises licence holder, being a person other than an individual, a partnership or a company, is dissolved, and
  - (d) the business carried on in the licensed premises to which the licence relates is transferred (whether by sale or otherwise) to another person.
- (4) Subsections (4) to (10) of section 33 apply for the purposes of an application under subsection (1) of this section as they apply for the purposes of an application under subsection (1) of that section, but as if references in them to the transferee were references to the applicant in relation to the application under subsection (1) of this section.
- (5) Subsections (7) and (8) of section 28 apply for the purposes of subsection (3)(b) of this section as they apply for the purposes of subsection (5)(d) of that section.

#### Commencement Information

**I2** S. 34 in force at 1.2.2008 by [S.S.I. 2007/472](#), art. 2, [Sch. 1](#)

### 35 Variation on transfer

- (1) A person making an application to a Licensing Board under section 33(1) or 34(1) for transfer of a premises licence may also make an application to the Board for a variation of the licence.
- (2) Sections 29 and 30 apply in relation to an application under subsection (1) for a variation as they apply to a premises licence variation application.
- (3) Where—
- (a) an application is made under subsection (1), and
  - (b) the applicant intimates to the Licensing Board that the application under section 33(1) or 34(1) for transfer of the premises licence is contingent on the grant of the application under subsection (1),
- the Licensing Board must determine the application under subsection (1) before determining the application for the transfer of the licence.
- (4) In such a case, if the Licensing Board refuses the application under subsection (1), the application for the transfer of the licence falls.
- (5) In any other case where an application under subsection (1) is made—
- (a) the Licensing Board must first determine the application for transfer of the licence before determining the application under subsection (1), and
  - (b) if the application for the transfer of the licence is refused, the application under subsection (1) falls.

#### Commencement Information

**I3** S. 35 in force at 1.2.2008 by [S.S.I. 2007/472](#), art. 2, [Sch. 1](#)

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