



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 [^{F1}chief constable].
- (5) The [^{F2}chief constable] must, within 21 days of the date of receipt of a notice under subsection (4), [^{F3}or within such longer period as the chief constable considers reasonable in the circumstances because of a reason relating to coronavirus,] respond to the notice by giving the Licensing Board one or other of the notices mentioned in subsection (6).
- [^{F4}(5A) Where the chief constable is not going to respond to a notice within the 21 day period referred to in subsection (5), the chief constable must inform the Licensing Board of—
 - (a) that fact, and
 - (b) the time period within which the chief constable expects to respond.]
- (6) Those notices are—
 - (a) a notice stating that neither—
 - (i) the transferee, nor

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- (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
- (ii) where the transferee is neither an individual nor a council, any connected person,
for a relevant offence or a foreign offence.
- [^{F5}(7) On giving a notice under subsection (6)(a) or (b), if the [^{F6}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.]
- [^{F7}(7A) On giving a notice under subsection (6)(a) or (b), the chief constable may also provide to the Licensing Board any information in relation to—
- (a) the transferee,
- (b) where the transferee is neither an individual nor a council, a connected person, or
- (c) any person who would be an interested party in relation to the licensed premises if the application for the transfer of the licence to the transferee were to be granted,
- that the chief constable considers may be relevant to consideration by the Board of the application.]
- [^{F5}(8) Where, in relation to an application under subsection (1)—
- (a) the Licensing Board receives a notice under subsection (6)(a), ^{F8} ...
- (b) the notice does not include a recommendation under subsection (7)[^{F9}, and
- (c) no information has been provided under subsection (7A),]
- the Board must grant the application.]
- [^{F5}(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 [^{F10}and any information provided under subsection (7A)] —
- (a) if satisfied that [^{F11}a ground for refusal applies], refuse the application, or
- (b) if not so satisfied, grant the application.
- [^{F12}(11) The grounds for refusal are—
- (a) that, having regard to the licensing objectives, the transferee is not a fit and proper person to be the holder of a premises licence,
- (b) that it is otherwise necessary to refuse the application for the purposes of any of the licensing objectives.]

Textual Amendments

- F1** Words in s. 33(4) 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)

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- F2** Words in s. 33(5) 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)
- F3** Words in s. 33(5) inserted (temp.) (7.4.2020) by virtue of [Coronavirus \(Scotland\) Act 2020 \(asp 7\)](#), s. 17(1), **sch. 5 para. 6(5)(a)** (with ss. 11-13) (which affecting provision expires (1.10.2022) by virtue of [Coronavirus \(Scotland\) Act 2020 \(asp 7\)](#), s. **12(1)**)
- F4** S. 33(5A) inserted (temp.) (7.4.2020) by virtue of [Coronavirus \(Scotland\) Act 2020 \(asp 7\)](#), s. 17(1), **sch. 5 para. 6(5)(b)** (with ss. 11-13) (which affecting provision expires (1.10.2022) by virtue of [Coronavirus \(Scotland\) Act 2020 \(asp 7\)](#), s. **12(1)**)
- F5** 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.
- F6** Words in s. 33(7) 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)
- F7** S. 33(7A) inserted (15.5.2017) by [Air Weapons and Licensing \(Scotland\) Act 2015 \(asp 10\)](#), **ss. 44(2)(a)**, 88(2); S.S.I. 2017/119, art. 2, sch. (with arts. 3, 4)
- F8** Word in s. 33(8) repealed (15.5.2017) by [Air Weapons and Licensing \(Scotland\) Act 2015 \(asp 10\)](#), **ss. 44(2)(b)(i)**, 88(2); S.S.I. 2017/119, art. 2, sch. (with arts. 3, 4)
- F9** S. 33(8)(c) and word inserted (15.5.2017) by [Air Weapons and Licensing \(Scotland\) Act 2015 \(asp 10\)](#), **ss. 44(2)(b)(ii)**, 88(2); S.S.I. 2017/119, art. 2, sch. (with arts. 3, 4)
- F10** Words in s. 33(10) inserted (15.5.2017) by [Air Weapons and Licensing \(Scotland\) Act 2015 \(asp 10\)](#), **ss. 44(2)(c)(i)**, 88(2); S.S.I. 2017/119, art. 2, sch. (with arts. 3, 4)
- F11** Words in s. 33(10)(a) substituted (15.5.2017) by [Air Weapons and Licensing \(Scotland\) Act 2015 \(asp 10\)](#), **ss. 44(2)(c)(ii)**, 88(2); S.S.I. 2017/119, art. 2, sch. (with arts. 3, 4)
- F12** S. 33(11) inserted (15.5.2017) by [Air Weapons and Licensing \(Scotland\) Act 2015 \(asp 10\)](#), **ss. 44(2)(d)**, 88(2); S.S.I. 2017/119, art. 2, sch. (with arts. 3, 4)

Commencement Information

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

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