



Licensing (Scotland) Act 2005

2005 asp 16

PART 3

PREMISES LICENCES

Review of premises licence

38 Review hearing

- (1) Where a Licensing Board—
 - (a) makes a premises licence review proposal, or
 - (b) receives a premises licence review application,the Board must hold a hearing for the purposes of considering and determining the proposal or application unless, in the case of a premises licence review application, the Board has rejected the application under subsection 36(6).
- (2) A hearing under subsection (1) is referred to in this Act as a “review hearing”.
- (3) Where a review hearing is to be held, the Licensing Board must—
 - (a) in the case of a premises licence review application, give notice of the hearing to the applicant, and
 - (b) give notice of the hearing and a copy of the premises licence review proposal or application to—
 - (i) the licence holder, and
 - (ii) any Licensing Standards Officer for the area in which the premises concerned are situated, unless, in the case of a premises licence review application, the applicant is such an Officer.
- (4) Where a Licensing Standards Officer receives under subsection (3)(b)(ii) a copy of a premises licence review proposal or application—
 - (a) the Officer must, before the review hearing, prepare and submit to the Licensing Board a report on the proposal or application, and
 - (b) the Licensing Board must take the report into account at the hearing.
- (5) The Licensing Board may, for the purposes of the review hearing—

Changes to legislation: Licensing (Scotland) Act 2005, Section 38 is up to date with all changes known to be in force on or before 12 June 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) [View outstanding changes](#)

- (a) obtain further information from such persons, and in such manner, as the Board thinks fit, and
 - (b) take the information into account.
- (6) In particular, the Board may—
- (a) request—
 - (i) the attendance at the review hearing of any person for the purpose of providing information, and
 - (ii) the production at the review hearing by any person of any documents in that person's possession or under that person's control, and
 - (b) take into account any information relevant to any ground for review even though it is not relevant to any circumstances alleged in the review proposal or application under consideration.

Modifications etc. (not altering text)

- C1** S. 38(3)-(6) applied (with modifications) (1.1.2008) by [Licensing \(Transitional and Saving Provisions\) \(Scotland\) Order 2007 \(S.S.I. 2007/454\)](#), arts. 1, **17(9)**
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Commencement Information

- I1** S. 38 in force at 1.2.2008 by [S.S.I. 2007/472](#), art. 2, **Sch. 1**

Changes to legislation:

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Changes and effects yet to be applied to :

- specified provision(s) Appointed Day(s) by [S.S.I. 2006/239 art. 2](#) (This S.S.I. is revoked on 25.5.2006 by S.S.I. 2006/286, art. 6)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 33(1)(1A) substituted for s. 33(1)-(3) by [2015 asp 10 s. 49\(2\)\(a\)](#)
- s. 33(8)(za) inserted by [2015 asp 10 s. 49\(2\)\(c\)](#)
- s. 33(8A) inserted by [2015 asp 10 s. 49\(2\)\(d\)](#)
- s. 33A inserted by [2015 asp 10 s. 49\(4\)](#)
- s. 134ZA-134ZC inserted by [2015 asp 10 s. 61\(2\)](#)