



Licensing (Scotland) Act 2005

2005 asp 16

PART 3

PREMISES LICENCES

Premises under construction or conversion

45 Provisional premises licence

- (1) A premises licence application may be made in relation to any premises despite the fact that, at the time the application is made, the premises are yet to be, or are in the course of being, constructed or converted for use as licensed premises.
- (2) A premises licence application in respect of any such premises is referred to in this Act as a “provisional premises licence application”.
- (3) A premises licence issued in respect of any such premises does not take effect unless and until it is confirmed by the Licensing Board which issued it in accordance with section 46.
- (4) If a premises licence issued in respect of any such premises is not confirmed before the end of the provisional period, then at the end of that period the licence is treated as revoked.
- (5) A premises licence—
 - (a) to which subsection (3) applies, and
 - (b) which has not been confirmed in accordance with section 46,is referred to in this Act as a “provisional premises licence”.
- (6) The provisional period, in relation to a provisional premises licence, is the period of ^[F1]4 years beginning with the date of issue of the licence.
- (7) ^[F2]Subject to subsection (7A),] on the application of the holder of a provisional premises licence made before the expiry of the provisional period, the Licensing Board which issued the licence may, if satisfied as to the matter mentioned in subsection (8), extend the provisional period by such period as the Board considers appropriate.

Status: Point in time view as at 07/04/2020. This version of this provision has been superseded.

Changes to legislation: Licensing (Scotland) Act 2005, Section 45 is up to date with all changes known to be in force on or before 09 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)

- [^{F3}(7A) On the first application of the holder of a provisional premises licence made before the expiry of the provisional period, the Licensing Board which issued the licence must extend the provisional period by 6 months if the Board—
- (a) is satisfied as to the matter mentioned in subsection (8), and
 - (b) is satisfied that the reason for the delay is a reason relating to coronavirus.]
- (8) That matter is that—
- (a) completion of the construction or conversion of the premises to which the licence relates has been delayed, and
 - (b) the delay has been caused by factors outwith the premises licence holder's control.
- (9) Where the provisional period in relation to any provisional premises licence has been extended under subsection (7) [^{F4}or (7A)], references in this section and section 46 to the provisional period are to that period as so extended.
- (10) Section 20 has effect in relation to a provisional premises licence application as if—
- (a) in subsection (2)(b), for sub-paragraph (iii) there were substituted—
“(iii) the certificate required by section 50(2),” and
 - (b) in subsection (4), paragraph (g) were omitted.
- (11) In this section, “construct” and “convert” have the same meanings as they have for the purposes of the Building (Scotland) Act 2003 (asp 8).

Textual Amendments

- F1** Figure in s. 45(6) substituted (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010](#) (asp 13), **ss. 185**, 206(1); S.S.I. 2010/413, art. 2, Sch. (with art. 8)
- F2** Words in s. 45(7) inserted (temp.) (7.4.2020) by virtue of [Coronavirus \(Scotland\) Act 2020](#) (asp 7), s. 17(1), **sch. 5 para. 2(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) (with saving in S.S.I. 2022/261, regs. 1, 7))
- F3** S. 45(7A) inserted (temp.) (7.4.2020) by virtue of [Coronavirus \(Scotland\) Act 2020](#) (asp 7), s. 17(1), **sch. 5 para. 2(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) (with saving in S.S.I. 2022/261, regs. 1, 7))
- F4** Words in s. 45(9) inserted (temp.) (7.4.2020) by virtue of [Coronavirus \(Scotland\) Act 2020](#) (asp 7), s. 17(1), **sch. 5 para. 2(5)(c)** (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, 7))

Commencement Information

- I1** S. 45 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

Status:

Point in time view as at 07/04/2020. This version of this provision has been superseded.

Changes to legislation:

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