



Licensing (Scotland) Act 2005

2005 asp 16

PART 6

PERSONAL LICENCES

Grant and renewal of personal licence

74 Determination of personal licence application

- (1) A personal licence application received by a Licensing Board is to be determined by the Board in accordance with this section.
- (2) If—
- (a) all of the conditions specified in subsection (3) are met in relation to the applicant, ^{F1}...
 - (b) the Board has received from the [^{F2}chief constable] a notice under section 73(3)(a),
 - [^{F3}(c) the notice does not include a recommendation under section 73(4),
 - (d) the applicant has signed the application, and
 - (e) subsection (8) does not apply.]
- the Board must grant the application.
- (3) The conditions referred to in subsection (2)(a) are that—
- (a) the applicant is aged 18 or over,
 - (b) the applicant possesses a licensing qualification, ^{F4}...
 - [^{F5}(ba) the applicant does not already hold a personal licence, and]
 - (c) no personal licence previously held by the applicant has been revoked [^{F6}under any provision of this Act other than section 87(3)] within the period of 5 years ending with the day on which the application was received.
- (4) If any of those conditions is not met in relation to the applicant, the Licensing Board must refuse the application.
- (5) If—
- (a) all of those conditions are met in relation to the applicant, and

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[^{F7}(b) the notice received from the [^{F8}chief constable] under subsection (3)(a) or (b) of section 73 includes a recommendation under subsection (4) of that section,] the Licensing Board must hold a hearing for the purpose of considering and determining the application.

[^{F9}(5A) If—

- (a) all of those conditions are met in relation to the applicant,
- (b) the Board has received from the [^{F10}chief constable] a notice under subsection (3)(b) of section 73, and
- (c) the notice does not include a recommendation under subsection (4) of that section,

the Board may hold a hearing for the purpose of considering and determining the application.

(5B) If the Board decides not to hold a hearing under subsection (5A), the Board must grant the application.]

(6) At a hearing under subsection (5) [^{F11}or (5A)], the Licensing Board must, after having regard to the chief constable's notice—

- (a) if satisfied that it is necessary to do so for the purposes of [^{F12}any of the licensing objectives], refuse the application, or
- (b) if not so satisfied, grant the application.

[^{F13}(7) Subsection (8) applies if—

- (a) all of the conditions specified in subsection (3) are met in relation to the applicant,
- (b) the Board has received from the [^{F14}chief constable] a notice under section 73(3)(a), and
- (c) the applicant has held a personal licence which—
 - (i) expired within the period of 3 years ending on the day on which the application was received, or
 - (ii) was surrendered by the applicant by notice under section 77(6) received within that period.

(8) The Licensing Board may—

- (a) hold a hearing for the purposes of considering and determining the application, and
- (b) after having regard to the circumstances in which the personal licence previously held expired or, as the case may be, was surrendered—
 - (i) refuse the application, or
 - (ii) grant the application.]

Textual Amendments

- F1** Word in s. 74(2) repealed (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), ss. **192(2)(a)(i)**, 206(1); S.S.I. 2010/413, art. 2, sch.
- F2** Words in s. 74(2)(b) 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** S. 74(2)(c)-(e) added (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), ss. **192(2)(a)(ii)**, 206(1); S.S.I. 2010/413, art. 2, sch.

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- F4** Word in s. 74(3) repealed (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 192(2)(b)(i)**, 206(1); S.S.I. 2010/413, art. 2, sch.
- F5** S. 74(3)(ba) inserted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 192(2)(b)(ii)**, 206(1); S.S.I. 2010/413, art. 2, sch.
- F6** Words in s. 74(3)(c) inserted (5.8.2015) by Air Weapons and Licensing (Scotland) Act 2015 (asp 10), **ss. 60(2)**, 88(1)
- F7** S. 74(5)(b) substituted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), s. 206(1), **sch. 6 para. 13(2)**; S.S.I. 2010/413, art. 2, sch.
- F8** Words in s. 74(5)(b) 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** S. 74(5A)(5B) inserted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), s. 206(1), **Sch. 6 para. 13(3)**; S.S.I. 2010/413, art. 2, sch.
- F10** Words in s. 74(5A)(b) 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)
- F11** Words in s. 74(6) inserted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), s. 206(1), **Sch. 6 para. 13(4)(a)**; S.S.I. 2010/413, art. 2, Sch.
- F12** Words in s. 74(6)(a) substituted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), s. 206(1), **Sch. 6 para. 13(4)(b)**; S.S.I. 2010/413, art. 2, Sch.
- F13** S. 74(7)(8) inserted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 192(2)(c)**, 206(1); S.S.I. 2010/413, art. 2, sch.
- F14** Words in s. 74(7)(b) 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)

Commencement Information

- I1** S. 74 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **sch. 1**

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