



# Air Weapons and Licensing (Scotland) Act 2015

2015 asp 10

## PART 2 **S**

### ALCOHOL LICENSING

#### *Miscellaneous*

VALID FROM 15/05/2017

#### 54 **Meaning of “alcohol”: inclusion of angostura bitters **S****

In section 2 of the 2005 Act (meaning of “alcohol”), in subsection (1)(b), paragraph (iv) is repealed.

VALID FROM 30/09/2016

#### 55 **Overprovision **S****

- (1) The 2005 Act is amended as follows.
- (2) In section 7 (duty to assess overprovision)—
  - (a) in subsection (2), after “Act” insert “ and in doing so the Board may determine that the whole of the Board's area is a locality ”,
  - (b) in subsection (3)—
    - (i) the word “must” is repealed,
    - (ii) at the beginning of paragraph (a) insert “ must ”,
    - (iii) the word “and” immediately following that paragraph is repealed,
    - (iv) after that paragraph insert—

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“(aa) may have regard to such other matters as the Board thinks fit including, in particular, the licensed hours of licensed premises in the locality, and”,

(v) at the beginning of paragraph (b) insert “ must ”.

- (3) In section 23(5)(e) (refusal of premises licence on grounds of overprovision)—
- (a) for the words from “that,” where first occurring to “situated,” substitute “ that ”,
  - (b) for “that description,” substitute “ the same or similar description as the subject premises, ”.
- (4) In section 30(5)(d) (refusal to vary premises licence on grounds of overprovision)—
- (a) for the words from “that,” where first occurring to “situated,” substitute “ that ”,
  - (b) for “that description,” substitute “ the same or similar description as the subject premises (taking account of the variation), ”.

VALID FROM 01/12/2015

## 56 Duties of Licensing Boards to produce annual reports **S**

- (1) The 2005 Act is amended as follows.
- (2) After section 9 insert—

### “9A Annual functions report

- (1) Each Licensing Board must prepare and publish a report not later than 3 months after the end of each financial year.
- (2) A report under this section must include—
  - (a) a statement explaining how the Board has had regard to—
    - (i) the licensing objectives, and
    - (ii) their licensing policy statement and any supplementary licensing policy statement (including the Board's statement under section 7(1) (duty to assess overprovision)),
 in the exercise of their functions under this Act during the financial year,
  - (b) a summary of the decisions made by (or on behalf of) the Board during the financial year, and
  - (c) information about the number of licences held under this Act in the Board's area (including information about the number of occasional licences issued during the year).
- (3) A report under this section may include such other information about the exercise of the Licensing Board's functions under this Act as the Board consider appropriate.
- (4) At the request of a Licensing Board the relevant council must provide the Board with such information as the Board may reasonably require for the purpose of preparing a report under this section.

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- (5) In discharging their duties under subsection (1) and section 9B(1) (annual financial report), a Licensing Board may, if they consider it appropriate, prepare and publish a combined report containing the information required under this section and under section 9B (which combined report must be published not later than 3 months after the end of the financial year in question).
- (6) The Scottish Ministers may by regulations make further provision about reports under this section including, in particular, provision about—
  - (a) the form and required content of reports,
  - (b) the publication of reports.
- (7) In this section, “financial year” means a yearly period ending on 31 March.

### **9B Annual financial report**

- (1) Each Licensing Board must prepare and publish a report not later than 3 months after the end of each financial year.
- (2) A report under this section must include—
  - (a) a statement of—
    - (i) the amount of relevant income received by the Licensing Board during the financial year, and
    - (ii) the amount of relevant expenditure incurred in respect of the Board's area during the year, and
  - (b) an explanation of how the amounts in the statement were calculated.
- (3) For the purposes of subsection (2)—

“relevant income”, in relation to a Licensing Board, means income received by the Board in connection with the exercise of the Board's functions under or by virtue of—

  - (a) this Act, or
  - (b) section 14(1) of the Alcohol etc. (Scotland) Act 2010 (social responsibility levy) in so far as relating to holders of premises licences or occasional licences, and

“relevant expenditure”, in relation to a Licensing Board, means any expenditure—

  - (a) which is attributable to the exercise of the Board's functions under or by virtue of—
    - (i) this Act, or
    - (ii) section 14(1) of the Alcohol etc. (Scotland) Act 2010 (social responsibility levy) in so far as relating to holders of premises licences or occasional licences, and
  - (b) which is incurred by—
    - (i) the Board,
    - (ii) the relevant council, or
    - (iii) the Licensing Standards Officer (or Officers) for the Board's area.

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- (4) At the request of a Licensing Board the relevant council must provide the Board with such information as the Board may reasonably require for the purpose of preparing a report under this section.
- (5) The Scottish Ministers may by regulations make further provision about reports under this section including provision—
- (a) about the form and content of reports including, in particular—
    - (i) how a statement required under subsection (2) is to be set out, and
    - (ii) what constitutes relevant income and relevant expenditure for the purposes of subsection (2), and
  - (b) the publication of reports.
- (6) Regulations under subsection (5)(a) may modify subsection (3).
- (7) In this section, “financial year” means a yearly period ending on 31 March.”.
- (3) In section 146 (orders and regulations: affirmative procedure),
- (a) in subsection (4)(c), after “applies,” insert “ regulations under section 9B(5) or ”,
  - (b) in subsection (5), before paragraph (a) insert—
    - “(za) regulations under section 9B(5) containing provisions which add to, replace or omit any part of the text of subsection (3) of that section.”.

VALID FROM 15/05/2017

**57 Licensing Standards Officers: general function in relation to personal licences S**

In section 14(1) of the 2005 Act (general functions of Licensing Standards Officers), after paragraph (b) insert—

- “(ba) providing information to Licensing Boards about any conduct of holders of, or persons applying for, personal licences in the area, which is inconsistent with the licensing objectives.”.

VALID FROM 15/05/2017

**58 Powers of Licensing Standards Officers S**

- (1) The 2005 Act is amended as follows.
- (2) After section 84A insert—

**“84B Power of Licensing Standards Officers to report conduct inconsistent with the licensing objectives**

- (1) If a Licensing Standards Officer considers that any personal licence holder who is or was working in licensed premises in the Officer's area has acted

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in a manner which is inconsistent with any of the licensing objectives, the Officer may report the matter to the relevant Licensing Board.

- (2) Where a Licensing Board receives a report from a Licensing Standards Officer under subsection (1), the Board may hold a hearing.
- (3) Subsections (6), (6A), (7), (7A) and (8) of section 84 and subsection (1)(b) of section 85 apply in relation to a hearing under subsection (2) of this section as they apply in relation to a hearing under subsection (3)(a) or (5) of section 84.
- (4) In subsection (1), “relevant Licensing Board” has the meaning given in section 83(11).”.

VALID FROM 29/06/2018

## 59 Interested parties **S**

- (1) The 2005 Act is amended as follows.
- (2) In section 40A (connected persons and interested parties: licence holder's duty to notify changes)—
  - (a) in subsection (1)—
    - (i) the word “or” immediately following paragraph (a) is repealed,
    - (ii) paragraph (b) is repealed,
  - (b) in subsection (2), the words “or an interested party” are repealed,
  - (c) the section title becomes “ **Connected persons: licence holder's duty to notify changes** ”.
- (3) The italic cross heading preceding section 40A becomes “ Connected persons ”.
- (4) In section 48(1)(c) (notification of change of name or address)—
  - (a) the word “or” immediately following sub-paragraph (i) is repealed,
  - (b) sub-paragraph (ii) is repealed.
- (5) In section 147(5) (interpretation), in the opening words, the words “nor the premises manager” are repealed.

## 60 Personal licences: grant, duration and renewal **S**

- (1) The 2005 Act is amended as follows.
- (2) In section 74 (determination of personal licence application), in subsection (3)(c), after “revoked” insert “ under any provision of this Act other than section 87(3) ”.
- (3) In section 77 (period of effect of personal licence), in subsection (8), for “3” substitute “9”.
- (4) In section 78 (renewal of personal licence)—
  - (a) in subsection (2)—
    - (i) for “2” substitute “9”,
    - (ii) for “3” substitute “12”,

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- (b) in subsection (5), after “74” insert “ (other than subsection (3)(ba)) ”.
- (5) In section 84A (power of chief constable to report conduct inconsistent with the licensing objectives), in subsection (3), for “(8)(a)” substitute “ (8) ”.

PROSPECTIVE

## 61 Processing and deemed grant of applications **S**

- (1) The 2005 Act is amended as follows.
- (2) After section 134 insert—

### “134ZA Duty to acknowledge applications

- (1) This section applies where a Licensing Board receive a relevant application.
- (2) In a case where the Licensing Board are satisfied that the application meets the prescribed requirements they must, unless subsection (3) applies, give an acknowledgement to the applicant—
- (a) confirming that they are satisfied that the application meets the prescribed requirements,
  - (b) listing any documents received in support of the application and the date or dates on which the documents were received by them, and
  - (c) informing the applicant about the period for determining the application under section 134ZB.
- (3) This subsection applies where the Licensing Board consider it appropriate to determine the application on its merits without first giving an acknowledgement to the applicant.
- (4) In a case where the Licensing Board are not satisfied that the application meets the prescribed requirements, they must give a notice to the applicant—
- (a) indicating that they are treating the application as incomplete and not having been made, and
  - (b) stating their reasons for treating the application in that way.
- (5) Subsection (4) does not prevent an applicant from submitting further information in support of the application if that is otherwise competent.
- (6) A Licensing Board must give an acknowledgement under subsection (2) or give a notice under subsection (4) as soon as is practicable.
- (7) For the purposes of this section, “prescribed requirements”, in relation to a relevant application, means the requirements (as to form, content, etc.) which are imposed by or under this Act or any other enactment in respect of the type of relevant application in question.
- (8) In this section, a “relevant application” is—
- (a) a premises licence application,
  - (b) a premises licence variation application,
  - (c) an application under section 33(1) to transfer a premises licence,

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- (d) an application under section 35(1) for variation of a premises licence on transfer,
- (e) a provisional premises licence application,
- (f) an application under section 46 for confirmation of a provisional premises licence,
- (g) an application under section 47(2) for a temporary premises licence,
- (h) an occasional licence application,
- (i) an extended hours application,
- (j) a personal licence application,
- (k) a personal licence renewal application.

### **134ZB Period for determination of applications**

- (1) A Licensing Board must determine every relevant application which meets the prescribed requirements (including an application mentioned in subsection (2)) before the end of the period of 9 months beginning with (the later of)—
  - (a) the date on which the Licensing Board received the application, or
  - (b) where the application did not initially meet the prescribed requirements, the date on which the application met the prescribed requirements.
- (2) Where a Licensing Board consider it appropriate to determine a relevant application without first giving an acknowledgement under section 134ZA(2), they must determine the application as soon as is practicable.
- (3) A sheriff of the appropriate sheriffdom may, on an application by a Licensing Board in relation to a relevant application, extend the period for determining the application under subsection (1).
- (4) The sheriff may extend the period only if—
  - (a) it appears to the sheriff that there is a good reason to do so, and
  - (b) no previous extension has been granted in relation to the relevant application.
- (5) The applicant in relation to a relevant application is entitled to be a party to proceedings on an application to a sheriff under subsection (3).
- (6) In this section—
  - “prescribed requirements” has the same meaning as in section 134ZA,
  - “relevant application” has the same meaning as in section 134ZA.

### **134ZC Deemed grant of applications**

- (1) Subsection (2) applies where a Licensing Board have failed to determine a relevant application before the expiry of the determination period.
- (2) Where this subsection applies—
  - (a) the application is deemed to have been granted on the date on which the determination period expired, and

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- (b) the deemed grant of the application has the same effect, for the purposes of this Act, as if the application had been granted by the Licensing Board.
- (3) A Licensing Board may not impose any conditions (other than those which they must impose under this Act) in respect of an application which is deemed to have been granted under subsection (2).
- (4) Subsection (5) applies in relation to an application—
  - (a) that is deemed to have been granted under subsection (2), and
  - (b) in respect of which the Licensing Board must, on granting such an application, determine the period during which the thing applied for is to have effect.
- (5) The thing applied for is to have effect for the duration of the period stated in the application (subject to any limits imposed by this Act).
- (6) In this section—
  - “determination period” means, in relation to a relevant application, the period for determining the application under section 134ZB(1) including (if applicable) any extension to that period granted under subsection (3) of that section,
  - “prescribed requirements” has the same meaning as in section 134ZA,
  - “relevant application” has the same meaning as in section 134ZA.”

VALID FROM 15/05/2017

**62 Form etc. of communications under the 2005 Act S**

- (1) Section 134 of the 2005 Act (form etc. of applications, proposals and notices) is amended as follows.
- (2) In each of the following provisions, for “or notice” substitute “ , notice or other communication ”, namely—
  - (a) subsection (1)(a) and (d), and
  - (b) subsection (2).
- (3) The section title becomes “ **Form etc. of applications, proposals, notices and other communications** ”.



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