



Air Weapons and Licensing (Scotland) Act 2015

2015 asp 10

PART 2

ALCOHOL LICENSING

Fit and proper person test

45 Ground for review of premises licence

- (1) The 2005 Act is amended as follows.
- (2) In section 36 (application for review of premises licence)—
 - (a) in subsection (3), before paragraph (a) insert—
 - “(za) that, having regard to the licensing objectives, the licence holder is not a fit and proper person to be the holder of a premises licence,”
 - (b) in subsection (5), before paragraph (a) insert—
 - “(za) where the ground is that specified in subsection (3)(za), a summary of the information on which the applicant’s view that the alleged ground applies is based,”
 - (c) after subsection (5) insert—
 - “(5A) A person making a premises licence review application may include in the application any information that the applicant considers may be relevant to consideration by the Licensing Board of the alleged ground for review including, in particular, information in relation to—
 - (a) the licence holder,
 - (b) where the licence holder is neither an individual nor a council, a connected person in relation to the licence holder, or
 - (c) any person who is an interested party in relation to the licensed premises.”
- (3) In section 37 (review of premises licence on Licensing Board’s initiative)—

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- (a) in subsection (4), before paragraph (a) insert—
 - “(za) where the ground is that specified in section 36(3)(za), a summary of the information on which the Board’s view that the alleged ground applies is based,”
- (b) after subsection (4) insert—
 - “(5) A Licensing Board making a premises licence review proposal may include in the proposal any information that the Board considers may be relevant to their consideration of the alleged ground for review including, in particular, information in relation to—
 - (a) the licence holder,
 - (b) where the licence holder is neither an individual nor a council, a connected person in relation to the licence holder, or
 - (c) any person who is an interested party in relation to the licensed premises.”
- (4) In section 39 (Licensing Board’s powers on review)—
 - (a) after subsection (1), insert—
 - “(1A) Subsection (1) is subject to subsection (2A).”
 - (b) after subsection (2), insert—
 - “(2A) Where, at a review hearing in relation to any premises licence, the Licensing Board are satisfied that the ground for review specified in section 36(3)(za) is established, the Board must revoke the licence.
 - (2B) Subject to section 39B, a revocation under subsection (2A) takes effect at the end of the period of 28 days beginning with the day on which the Board makes the decision.”
- (5) In section 39A (notification of determinations), in subsection (1)—
 - (a) the word “or” immediately following paragraph (a) is repealed,
 - (b) after paragraph (b), insert “, or
 - (c) decides to revoke a premises licence under section 39(2A).”
- (6) After section 39A insert—

“39B Recall of revocation of licence under section 39(2A)

- (1) This section applies where a Licensing Board decides to revoke a premises licence under section 39(2A).
- (2) The Board must recall the revocation if—
 - (a) a relevant application is made before the end of the period referred to in section 39(2B) (“the 28 day period”), and
 - (b) the Board grants the application.
- (3) The Board may extend the 28 day period pending determination of a relevant application.
- (4) In this section, “relevant application” means—
 - (a) an application under section 33(1) for the transfer of the premises licence, or

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- (b) a premises licence variation application seeking a variation of the licence that the Board considers would remove the ground on which the licence was revoked under section 39(2A).
- (5) This section does not affect the right to appeal against the decision to revoke the licence under section 39(2A).”
- (7) In Part 1 of schedule 5 (appeals to the sheriff principal), in the entry in the left-hand column relating to a decision under section 39(1), after “39(1)” insert “or (2A)”.