

**2007 No. 513**

**LICENSING (LIQUOR)**

**The Licensing (Relevant Offences) (Scotland) Regulations 2007**

*Made* - - - - - *15th November 2007*

*Laid before the Scottish Parliament* *19th November 2007*

*Coming into force* - - - *1st February 2008*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 129(1), 146(2) and 147(1) of the Licensing (Scotland) Act 2005<sup>(a)</sup> and all other powers enabling them to do so.

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Licensing (Relevant Offences) (Scotland) Regulations 2007 and come into force on 1st February 2008.

(2) In these Regulations, “the Act” means the Licensing (Scotland) Act 2005.

**Relevant offences**

2. In the Act, “relevant offence” means—

- (a) any offence specified in the Schedule;
- (b) any offence which—
  - (i) was provided for in an enactment which is no longer in force; and
  - (ii) was similar in nature to an offence specified in the Schedule;
- (c) any offence in respect of aiding and abetting, inciting, counselling or procuring any offence referred to in paragraph (a) or (b); and
- (d) any other offence in respect of which a sentence of imprisonment was imposed.

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<sup>(a)</sup> 2005 asp 16; see the definition of “prescribed” in section 147(1).

### **Notification of relevant offences**

3. Where an offence is a “relevant offence” only by virtue of paragraph (d) of regulation 2 and the sentence of imprisonment is imposed on a date later than that of the conviction in question, sections 24(3), 43(3), 75(2) and 82(2) of the Act are to have effect as if they required notice to be given no later than one month after the date on which the sentence of imprisonment was imposed.

St Andrew’s House,  
Edinburgh  
15th November 2007

*KENNY MACASKILL*  
A member of the Scottish Executive

## SCHEDULE

Regulation 2

### RELEVANT OFFENCES

#### PART 1

##### VIOLENT AND SEXUAL OFFENCES

1. Any offence inferring personal violence.
2. Any offence which is a “sexual offence” within the meaning of subsection (10) of section 210A of the Criminal Procedure (Scotland) Act 1995 (c.46), as read with subsection (11) of that section.

#### PART 2

##### OTHER STATUTORY OFFENCES

3. An offence under the Pharmacy Act 1954 (c.61).
4. An offence under the Betting, Gaming and Lotteries Act 1963 (c.2).
5. An offence under the Firearms Act 1968 (c.27).
6. An offence under section 1 of the Trade Descriptions Act 1968 (c.29) (false trade description of goods) in circumstances where the goods in question are or include alcohol.
7. An offence under section 13 of the Theatres Act 1968 (c.54) (performance of play in unlicensed premises).
8. An offence under section 7(2) of the Gaming Act 1968 (c.65) (allowing child to take part in gaming on premises licensed for the sale of alcohol).
9. An offence under any of the following provisions of the Misuse of Drugs Act 1971 (c.38)–
  - (a) section 4(2) (production of a controlled drug);
  - (b) section 4(3) (supply of a controlled drug);
  - (c) section 5(2) (possession of a controlled drug);
  - (d) section 5(3) (possession of a controlled drug with intent to supply);
  - (e) section 8 (permitting activities to take place on premises);
  - (f) section 23(4) (offence in connection with powers to search and obtain evidence).
10. An offence under the Immigration Act 1971 (c.77).
11. An offence under the Poisons Act 1972 (c.66).
12. An offence under the Health and Safety at Work etc. Act 1974 (c.37).
13. An offence under the Lotteries and Amusements Act 1976 (c.32).
14. An offence under the Licensing (Scotland) Act 1976 (c.66).
15. An offence under either of the following provisions of the Customs and Excise Management Act 1979 (c.2)–
  - (a) section 170 (disregarding subsection (1)(a)) (fraudulent evasion of duty etc.);
  - (b) section 170B (taking preparatory steps for evasion of duty).

- 16.** An offence under the Alcoholic Liquor Duties Act 1979 (c.4).
- 17.** An offence under either of the following provisions of the Tobacco Products Duty Act 1979 (c.7)–
- (a) section 8G (possession and sale of unmarked tobacco);
  - (b) section 8H (use of premises for sale of unmarked tobacco).
- 18.** An offence under Part II of the Forgery and Counterfeiting Act 1981 (c.45).
- 19.** An offence under any of the following provisions of the Civic Government (Scotland) Act 1982 (c.45)–
- (a) section 7 (offences), so far as relating to public entertainment licences under section 41;
  - (b) section 21(1), (4), (5) or (6) (offences in relation to taxis and private hire cars);
  - (c) section 27D (provision of information to holder of knife dealer’s licence);
  - (d) section 27F (powers of constables and authorised officers);
  - (e) section 27G (power to inspect documents);
  - (f) section 50 (drunkenness);
  - (g) section 57 (being in or on buildings etc. with intent to commit theft);
  - (h) Part V (public processions).
- 20.** An offence under the Cinemas Act 1985 (c.13).
- 21.** An offence under Part I of the Food and Environment Protection Act 1985 (c.48).
- 22.** An offence under either of the following provisions of Schedule 2B to the Gas Act 1986 (c.44)–
- (a) paragraph 10 (injury to gas fittings and interference with meters);
  - (b) paragraph 11 (restoration of supply without consent).
- 23.** An offence under the Company Directors Disqualification Act 1986 (c.46).
- 24.** An offence under the Public Order Act 1986 (c.64).
- 25.** An offence under the Crossbows Act 1987 (c.32).
- 26.** An offence under the Firearms (Amendment) Act 1988 (c.45).
- 27.** An offence under any of the following provisions of the Copyright, Designs and Patents Act 1988 (c.48)–
- (a) section 107(1)(d)(iii) (public exhibition in the course of a business of article infringing copyright);
  - (b) section 107(3) (infringement of copyright by public performance of work etc.);
  - (c) section 198(2) (broadcast etc. of recording of performance made without sufficient consent);
  - (d) section 297(1) (fraudulent reception of transmission);
  - (e) section 297A(1) (supply of unauthorised decoder).
- 28.** An offence under any of the following provisions of the Road Traffic Act 1988 (c.52)–
- (a) section 3A (causing death by careless driving while under the influence of drink or drugs);
  - (b) section 4 (driving etc. a vehicle when under the influence of drink or drugs);
  - (c) section 5 (driving etc. a vehicle with alcohol concentration above prescribed limit);
  - (d) section 178 (taking motor vehicle without authority, etc.).
- 29.** An offence under either of the following provisions of the Electricity Act 1989 (c.29)–

- (a) paragraph 3 of Schedule 6 (restoration of supply without consent);
- (b) paragraph 8 of Schedule 6 (provision as to power of entry);
- (c) paragraph 11 of Schedule 7 (interference with meters).

**30.** An offence under either of the following provisions of the Food Safety Act 1990 (c.16) in circumstances where the food in question is or includes alcohol–

- (a) section 14 (selling food or drink not of the nature, substance or quality demanded);
- (b) section 15 (falsely describing or presenting food or drink).

**31.** An offence under the National Lottery Etc. Act 1993 (c.39).

**32.** An offence under section 92(1) or (2) of the Trade Marks Act 1994 (c.26) (unauthorised use of trade mark, etc. in relation to goods) in circumstances where the goods in question are or include alcohol.

**33.** An offence under any of the following provisions of the Criminal Law (Consolidation) (Scotland) Act 1995 (c.39)–

- (a) section 19 (alcohol on vehicles);
- (b) section 20 (sporting events: control);
- (c) section 44 (false statements and declarations);
- (d) section 47 (prohibition of the carrying of offensive weapons);
- (e) section 49 (offence of having in public place article with blade or point);
- (f) section 49A (offence of having article with blade or point (or offensive weapon) on school premises).

**34.** An offence under section 3 of the Private Security Industry Act 2001 (c.12) (conduct prohibited without a licence).

**35.** An offence under the Proceeds of Crime Act 2002 (c.29).

**36.** An offence under the Building (Scotland) Act 2003 (asp 8).

**37.** An offence under the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8).

**38.** An offence under the Breastfeeding etc. (Scotland) Act 2005 (asp 1).

**39.** An offence under the Fire (Scotland) Act 2005 (asp 5).

**40.** An offence under either of the following provisions of the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13)–

- (a) section 1 (offence of permitting others to smoke in no-smoking premises);
- (b) section 2 (offence of smoking in no-smoking premises).

**41.** An offence under the Licensing (Scotland) Act 2005 (asp 16).

**42.** An offence under the Prevention of Terrorism Act 2005 (c.2).

**43.** An offence under section 46 of the Gambling Act 2005 (c.19) (invitation to gamble).

**44.** An offence under the Terrorism Act 2006 (c.11).

## PART 3

### OTHER COMMON LAW OFFENCES

**45.** The offences at common law of–

- (a) theft;

- (b) theft by housebreaking;
- (c) fraud;
- (d) uttering;
- (e) fraud and uttering;
- (f) extortion;
- (g) abduction;
- (h) reset; and
- (i) conspiracy to defraud.

**46.** The offences at common law of–

- (a) wilful fireraising;
- (b) culpable and reckless fireraising;
- (c) culpable and reckless conduct; and
- (d) bestiality.

**47.** The offences at common law of–

- (a) perjury;
- (b) subornation of perjury;
- (c) attempting to pervert the course of justice;
- (d) attempting to defeat the ends of justice;
- (e) prevarication on oath;
- (f) contempt of court; and
- (g) prison breaking.

**48.** The offences at common law of–

- (a) breach of the peace; and
- (b) mobbing and rioting.

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

Section 129(1) of the Licensing (Scotland) Act 2005 (“the Act”) provides power to prescribe by regulations what offences are to count as a “relevant offence” in that Act. That phrase is used in a number of places in the Act – for example, section 21(3) and (4) requires the appropriate chief constable to notify a Licensing Board whether a person applying for a premises licence has or has not been convicted of any relevant offence.

These Regulations specify those offences which are to be relevant offences for the purposes of the Act (regulation 2 and the Schedule). Regulation 3 makes supplemental provision about the timescales for giving notification of a relevant offence in certain cases where a sentence of imprisonment is imposed on a date later than the date of the conviction in question.

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