

2008 No. 194

LICENSING (LIQUOR)

The Licensing (Transitional Provisions) (Scotland) Order 2008

Made - - - - *21st May 2008*

Laid before the Scottish Parliament *22nd May 2008*

Coming into force - - *18th June 2008*

The Scottish Ministers make the following Order in exercise of the powers conferred by section 145 of the Licensing (Scotland) Act 2005(a) and all other powers enabling them to do so.

Citation and commencement

1. This Order may be cited as the Licensing (Transitional Provisions) (Scotland) Order 2008 and comes into force on 18th June 2008.

Modification of the Licensing (Scotland) Act 1976

2. Where an application for provisional grant of a licence is made under section 26(1) of the Licensing (Scotland) Act 1976(b) on or after the date of the coming into force of this Order, the applicant shall not be required to submit with that application the certificates specified in section 23(3)(b) and (4) of that Act, but shall do so when making a request to have the grant declared final in accordance with section 26(4) of that Act.

KENNY MACASKILL

A member of the Scottish Executive

St Andrew's House,
Edinburgh
21st May 2008

(a) 2005 asp 16.
(b) 1976 c.66.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision relating to the granting of provisional licences under section 26 of the Licensing (Scotland) Act 1976 (“the 1976 Act”). This provision will be transitional in nature as it will cease to apply on 1st September 2009 on the full commencement of the Licensing (Scotland) Act 2005 and the full repeal of the 1976 Act in terms of article 3 of the Licensing (Scotland) Act 2005 (Commencement No. 4) Order 2007 (S.S.I. 2007/472).

Section 26(1) of the 1976 Act permits a licensing board to make a provisional grant of a licence in advance of the premises being completed. Section 23 of the 1976 Act requires the applicant to produce to the board certificates from the local authority concerning the suitability of the premises in relation to planning, building control and food hygiene. Section 26(2), read with section 23(6), of the 1976 Act enabled the applicant to apply for provisional grant of a licence without having to produce the necessary local authority certificates at the time the application is made. However article 16(1) of the Licensing (Transitional and Saving Provisions) (Scotland) Order 2007 (S.S.I. 2007/454) provides that no application under section 26(2) of the 1976 Act could be made after the beginning of the transitional period (1st February 2008).

This Order provides that where an application for provisional grant of a licence is made in terms of section 26(1) of the 1976 Act there will be no requirement to submit a building control or food hygiene certificate with the application. However these certificates will require to be submitted when the applicant requests the licensing board to declare the grant of the licence final in terms of section 26(4) of the 1976 Act.

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