



# Licensing (Scotland) Act 1976 (repealed)

## 1976 CHAPTER 66

### PART I

#### LICENSING BOARDS

#### 1 Licensing boards.

- (1) For the administration of licensing with respect to alcoholic liquor on and after 1st July 1977, Scotland shall have licensing boards constituted in accordance with the provisions of this section.
- (2) There shall be a separate licensing board for—
  - (a) [<sup>F1</sup>the area of each council] which is not divided into licensing divisions under [<sup>F2</sup>section 46(1) of the Local Government etc. (Scotland) Act 1994], and
  - (b) each licensing division.
- <sup>F3</sup>(3) .....
- (4) Subject to [<sup>F4</sup>subsections (5), (5A), (9)] and (13) below, a licensing board shall consist of not less than one-quarter of the total number of members of the <sup>F5</sup> . . . council <sup>F6</sup> . . .
- (5) Where [<sup>F7</sup>the area of a council] is divided into licensing divisions, [<sup>F8</sup>—
  - (a) subject to subsection (5A) below, the licensing board for a licensing division shall consist of such number of members as is not less than one quarter of the total number of members of the council returned for the wards within the area of the division; and
  - (b) unless the Secretary of State otherwise directs, not less than one-third of the members of the licensing board for a licensing division shall be councillors for a ward <sup>F9</sup> . . . within the area of the licensing division.

[<sup>F10</sup>(5A) In no case shall a licensing board consist of less than five members of the council.]

[<sup>F11</sup>(6) On 1st April 1996, the members of a licensing board shall be—

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- (a) for an area or, as the case may be, a licensing division of an area which was, immediately before that date, an islands area, the members in office immediately before that date; and
  - (b) for any other area or, as the case may be licensing division of such area, the members elected by the council for the area in pursuance of section 46 of the Local Government etc. (Scotland) Act 1994.
- (7) Subsequent elections of the members of a licensing board for any area or, as the case may be, a licensing division of such area shall be held—
- (a) except in so far as paragraph (b) below otherwise provides, at the first meeting of the council held after each ordinary election of that council which takes place after 1st April 1996; and
  - (b) where a determination under [F12]section 46 of the Local Government etc. (Scotland) Act 1994] is made, either—
    - (i) at the meeting at which the determination is made; or
    - (ii) at the first meeting of the council held after such meeting as is mentioned in sub-paragraph (i) above.]
- (8) The term of office of members of a licensing board shall begin [F13]on 1st April 1996] and shall end on the day of the next election of members of the licensing board, but any member of a board shall be eligible for re-election.
- (9) A member of a licensing board who has ceased to be a member of the [F14]council] by whom he was appointed by reason of an ordinary election to [F15]that council] shall continue to be a member of the board until the first meeting of the council after the election.
- (10) Any casual vacancy arising in a licensing board from death, resignation, disqualification or other cause may be filled by the election of a duly qualified person at the first meeting of the appointing council following upon the vacancy, and members so elected shall hold office until the date of the next meeting for election to the board.
- (11) If a licensing board is not elected at the time at which it ought to be elected, or an insufficient number of members is elected for a board, the Secretary of State may by order provide for the holding of [F16]an] election or elections for supplying such fault or deficiency in election at such times and in such manner as he may think expedient.
- (12) No election held in pursuance of this Act shall be deemed to be vitiated in consequence of any technical defect in the proceedings which has not been prejudicial to the interests of any party concerned in such election.
- (13) For the purposes of any proceedings at the quarterly meeting in March in the final year of office of members of a licensing board which are not finally disposed of before the expiry in that year of the term of office of the members, the members of the licensing board in office at the date of the said meeting shall, notwithstanding such expiry, be deemed to constitute the licensing board.

#### Textual Amendments

- F1** Words in s. 1(2)(a) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 106(2)(a)(i)**; S.I. 1996/323, **art. 4(1)(c)**
- F2** Words in s. 1(2)(a) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 106(2)(a)(ii)**
- F3** S. 1(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), **Sch. 13 para. 106(2)(c)**, **Sch. 14**; S.I. 1996/323, **art. 4(1)(c)**

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- F4** Words in s. 1(4) substituted (21.10.1996) by 1996 c. 36, s. 2(2)(a); S.I. 1996/2670, art. 2
- F5** Words in s. 1(4) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 106(2)(c), Sch. 14; S.I. 1996/323, art. 4(1)(c)
- F6** Words in s. 1(4) repealed (21.10.1996) by 1996 c. 36, s. 2(2)(b); S.I. 1996/2670, art. 2
- F7** Words in s. 1(5) substituted (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 106(2)(d)(i); S.I. 1996/323, art. 4(1)(c)
- F8** Words in s. 1(5) substituted (21.10.1996) by 1996 c. 36, s. 2(3); S.I. 1996/2670, art. 2
- F9** Words in s. 1(5) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 106(2)(d)(ii), Sch. 14; S.I. 1996/323, art. 4(1)(c)
- F10** S. 1(5A) inserted (21.10.1996) by 1996 c. 36, s. 2(4); S.I. 1996/2670, art. 2
- F11** S. 1(6)(7) substituted (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 106(2)(e); S.I. 1996/323, art. 4(1)(c)
- F12** Words in s. 1(7)(b) substituted (1.4.1996) by S.I. 1996/739, art. 7(1), Sch. 1 Pt. 1 para. 4
- F13** Words in s. 1(8) substituted (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 106(2)(f); S.I. 1996/323, art. 4(1)(c)
- F14** Word in s. 1(9) substituted (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 106(2)(g)(i); S.I. 1996/323, art. 4(1)(c)
- F15** Words in s. 1(9) substituted (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 106(2)(g)(ii); S.I. 1996/323, art. 4(1)(c)
- F16** Word substituted by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23, SIF 81:2), Sch. 3 para. 37(c)

## 2 Disqualification of interested persons.

- (1) A person who is, or who is in partnership with any person as, a brewer, maltster, distiller, or dealer in or retailer of alcoholic liquor, shall not act as a member of a licensing board for any purpose under this Act.
- (2) A member of a licensing board who holds a disqualifying interest in a company shall not take part in any proceedings before the board in which that company is an applicant or an objector, and in this subsection “disqualifying interest” means a beneficial interest in shares or stock of a close company within the meaning of section 282 of the <sup>M1</sup>Income and Corporation Taxes Act 1970 which have a total nominal value exceeding £50 or which amount to more than one hundredth part of the nominal value of the issued share capital, or stock, as the case may be, of the company or any class of such capital or stock.
- (3) A person who is an employee of a holder of a licence under this Act and any other person engaged in a business which deals in alcoholic liquor, including directors, officers and employees of companies so engaged shall not act as a member of a licensing board for any purpose under this Act.
- (4) A member of a licensing board shall not act in the granting of a licence in respect of premises of which he is the proprietor, tenant or sub-tenant.
- (5) If any person knowingly and wilfully contravenes this section, he shall be guilty of an offence.
- (6) Anything done by any person in contravention of this section shall be void:  
Provided that the grant of a new licence under this Act shall not be liable to objection on the ground that the members of the licensing board, or any of them, were not qualified to grant a licence.
- (7) .....

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#### Textual Amendments

**F17** S. 2(7) repealed by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23, SIF 81:2\)](#), [Sch. 4](#)

#### Marginal Citations

**M1** [1970 c. 10\(63:1\)](#).

### 3 Expenses of members of licensing boards.

- (1) Sections 45 to 50 of the <sup>M2</sup>Local Government (Scotland) Act 1973 (which provide for payment of allowances to members of local authorities and other bodies) shall apply with any necessary modifications to members of licensing boards as if the licensing boards were local authorities.
- (2) Any amounts by way of allowance payable by virtue of subsection (1) above shall be payable by the council <sup>F18</sup>. . . whose area constitutes or includes the area of the licensing board.

#### Textual Amendments

**F18** Words in s. 3(2) repealed (1.4.1996) by [1994 c. 39, s. 180\(1\)\(2\)](#), [Sch. 13 para. 106\(3\)](#), [Sch. 14](#); [S.I. 1996/323, art. 4\(1\)\(c\)](#)

#### Marginal Citations

**M2** [1973 c. 65\(81:2\)](#).

### 4 Meetings of licensing boards.

- (1) For the purposes of the discharge of its functions under this Act, every licensing board
  - (a) shall hold a meeting in January, March, June and October of each year beginning on a date in each such month fixed by the licensing board at least eight weeks prior to the meeting;
  - (b) may hold such other meetings as appear to the board to be appropriate.
- (2) A licensing board may adjourn any meeting held by virtue of subsection (1) above from time to time during the period of one month next following the first day of such meeting, but no longer.

### 5 Arrangements for discharge of functions of licensing boards.

- (1) Subject to subsection (2) below, a licensing board may arrange for the discharge of any of its functions by a committee of the board, a member or members of the board, the clerk of the board or any other person appointed to assist the clerk.
- (2) A licensing board shall not make any arrangements under subsection (1) above for the discharge of any of the following functions—
  - (a) making a decision on the application for the grant, including the provisional grant, of a new licence;

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- (b) making a decision on an application for the renewal of a licence where a competent objection has been lodged;
  - (c) making a decision to refuse to grant the renewal of a licence;
  - (d) making a decision on the permanent transfer of a licence;
  - (e) making a decision on an application for a regular extension of permitted hours;
  - (f) making a decision on the restriction of the terminal permitted hour;
  - (g) making a decision on an application for restoration of restricted hours;
  - (h) making a decision on an application for Sunday opening under Part I of Schedule 4 to this Act other than an application under paragraph 13 of that Schedule where no objection is made in relation to the application;
  - (i) making a decision as regards a Sunday restriction order or the revocation of such an order under Part II of Schedule 4 to this Act;
  - (j) making a decision on the suspension of a licence;
  - (k) making a decision on a closure order.
  - [<sup>F19</sup>(l) making a decision on an application for the grant of a children’s certificate under section 49 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990.]
  - [<sup>F20</sup>(m) confirming, under section 25(4) of this Act, the transfer of a licence transferred by virtue of subsections (2) or (3) of that section.]
- (3) One half of the members of a licensing board (and in no case less than three members) shall be a quorum for any meeting of the board to discharge functions mentioned in subsection (2) above.
- (4) The chairman of a licensing board, or, in his absence, the clerk of the board may, if a quorum is not present for any such meeting of the board, call a further meeting in place of the meeting not held.
- (5) A licensing board may, at any such meeting of the board, act notwithstanding any vacancy, if a quorum is present.
- (6) A licensing board may only deal with any proceedings relating to matters mentioned in paragraphs (a) to (i) [<sup>F21</sup>and (l)] of subsection (2) above at a quarterly meeting of the board held by virtue of section 4(1)(a) of this Act.
- (7) Proceedings relating to matters mentioned in subsection (2) above, including voting in connection therewith, shall be held in public, but a licensing board may retire to consider its decision in any such matter and the clerk of the board shall accompany the board when it so retires unless the board otherwise directs.
- (8) The <sup>F22</sup>. . . council concerned shall provide accommodation for the meetings, and otherwise defray any necessary expenses in respect of the proceedings of the licensing boards for their area.

#### Textual Amendments

- F19** S. 5(2)(l) added (31.12.1991) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 68A:2), s. 74, **Sch. 8 para. 2**; S.I. 1991/2862, art. 3, **Schedule**.
- F20** S. 5(2)(m) added by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 68A:2), **s. 51(1)**
- F21** Words in s. 5(6) added (31.12.1991) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 68A:2), s. 74, **Sch. 8 para. 3**; S.I. 1991/2862, art. 3, **Schedule**

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**F22** Words in s. 5(8) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 106(4), **Sch. 14**; S. I. 1996/323, **art. 4(1)(c)**

**6 Chairman.**

- (1) Every licensing board shall elect annually one of its number to be chairman of the board, and until a chairman is elected, or if the chairman is absent from any meeting, the board shall elect one of its number present at the meeting to be chairman of that meeting.
- (2) Where on the election of a chairman an equal number of votes is given for two or more persons, the meeting shall determine by lot which of those persons shall be the chairman.
- (3) Subject to subsection (2) above, at any meeting of a licensing board the chairman shall, in a case of equality in voting, have a second or casting vote:

**F23** . . .

**Textual Amendments**

**F23** Words in s. 6(3) repealed by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 68A:2), s. 74, Sch. 8 Pt. I para. 4, **Sch.9** (Sch. 8 Pt. I of that Act, by virtue of which the specified words ceased to have effect, was brought into force on 31.12.1991 by S.I. 1991/2862, **art. 3**,Sch.; the repeal of the specified words by Sch. 9 of that Act was expressed to be brought into force so far as not already in force on 17.3.1993 by S.I. 1993/641, **art. 3**,Sch.)

**7 Clerk of licensing boards.**

- (1) Every <sup>F24</sup> . . . council shall appoint and employ, whether on a full-time or part-time basis—
  - (a) an officer to be the clerk of every licensing board having jurisdiction within their area, and
  - (b) such other persons as may be necessary to assist that officer or to act on his behalf as clerk or assistant clerk of those boards.
 and the clerk of a licensing board shall be an advocate or a solicitor.

**F25**(2) . . . . .

- (3) The clerk of a licensing board shall not, himself or by his partner or clerk, act as solicitor to, or agent for, any person in any proceedings before that board or in any appellate proceedings which may result therefrom and, if any person contravenes this subsection, he shall be guilty of an offence.

**Textual Amendments**

**F24** Words in s. 7(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 106(5)(a), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)

**F25** S. 7(2) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), **Sch. 13 para. 106(5)(b)**; S.I. 1996/323, **art. 4(1)(c)**

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## **8 Fees payable.**

- (1) The Secretary of State may, by order made by statutory instrument, determine the fees payable by any applicant to a licensing board.
- (2) The fees mentioned in subsection (1) above shall not include fees payable under the provisions of the Betting, Gaming and Lotteries Acts 1963 to 1971 or of the<sup>M3</sup>Gaming Act 1968.
- (3) Fees determined by the Secretary of State under subsection (1) above shall, on being paid by any applicant to the board, be paid over by the clerk of that board to the council which defray the expenses of that board.

### **Marginal Citations**

**M3** 1968 c. 65(12:1).

## **PART II**

### **THE GENERAL LICENSING SYSTEM**

## **9 Grant of licences by licensing boards.**

- (1) A licensing board may, in accordance with the provisions of this Part of this Act, grant a licence to any person for the sale by retail or supply of alcoholic liquor by that person.
- (2) A licence so granted by a licensing board shall be in respect of premises specified therein, being premises situated within the area of the board.
- (3) The types of licence which may be so granted by a licensing board are those specified in Schedule 1 to this Act.
- (4) A licence granted by a licensing board shall be in such form as the board may decide.
- (5) A licence granted otherwise than at a properly constituted meeting of a licensing board or otherwise than in accordance with the provisions of this Act shall be void.

## **10 Application for licence.**

- (1) An application to a licensing board of any kind mentioned in subsection (6) below in respect of any premises shall be in such form as may be prescribed, shall be completed and signed by the applicant or his agent, and shall be lodged with the clerk of the licensing board within whose area the premises are situated not later than five weeks before the first day of the meeting of the board at which the application is to be considered.
- (2) In the case of an application for the grant of a new licence, the applicant shall—
  - (a) along with his application, lodge with the clerk of the board a plan of the premises in respect of which the application is made; and
  - (b) arrange for the display at the premises, in a place and at a height where it can conveniently be read by the public, of a notice in the prescribed form intimating his application and the type of licence for which he applies, for a period of at least 21 days before the first day of the meeting as aforesaid.

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Paragraph (a) of this subsection shall not apply to an application for the grant of an off-sale licence.

- (3) In the case of an application for the provisional grant of a new licence, the applicant shall—
- (a) along with his application, lodge with the clerk of the board a plan of the premises in respect of which the application is made; and
  - (b) arrange for the display at the site of the premises of a notice all as mentioned in subsection (2)(b) above.
- [<sup>F26</sup>(3A) In the case of an application for the grant, the provisional grant or the renewal of a public house licence or a refreshment licence, the application shall state whether the applicant intends the premises to be open for the sale or supply of alcoholic liquor during the permitted hours on a Sunday]
- (4) An applicant shall not be treated as having failed to comply with subsection (2)(b) or (3)(b) above if the notice is, without any fault or intention of his, removed, obscured or defaced before the first day of the meeting of the board at which the application is to be considered, so long as he has taken reasonable steps for its protection and, if need be, replacement.
- (5) In the case of an application for the grant or provisional grant of a new licence, the applicant shall, not later than three weeks before the first day of the meeting of the board at which the application is to be considered, give notice in writing of the application to every occupier of premises situated in the same building as the premises to which the application relates.
- (6) The applications referred to in subsection (1) above are as follows—
- (a) an application for the grant or renewal of a licence;
  - (b) an application for the provisional grant of a new licence;
  - (c) an application for a permanent transfer of a licence;
  - (d) an application for a regular extension of permitted hours.
- (7) On receipt of an application of a kind referred to in subsection (6) above, and until the first day of the meeting of the board at which the application is to be considered, the clerk of a licensing board shall make the application, together with the documents lodged therewith, available for inspection by members of the public during normal office hours.
- [<sup>F27</sup>(8) A notice as mentioned in subsection (2) above and notice under subsection (5) above shall include a statement as to whether the applicant intends the premises to be open for the sale or supply of alcoholic liquor during the permitted hours on a Sunday.]

#### Textual Amendments

- F26** S. 10(3A) added by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 68A:2), s. 46(2)(a)
- F27** S. 10(8) added by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 68A:2), s. 46(2)(b)



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## **11 Special provisions for applications made other than by individual natural persons.**

- (1) Where an application is made for a new licence, or for the renewal or permanent transfer of a licence, by an applicant who is not an individual natural person, the following provisions of this section shall apply.
- (2) The application shall name both the applicant and the employee or agent of the applicant whom the applicant intends should have the responsibility for the day to day running of the premises to which the application relates.
- (3) Where an application is granted, the licensing board shall grant the licence or transfer in the names of both persons mentioned in subsection (2) above, and any reference in this Act to the holder of a licence includes a reference to both of those persons.
- (4) Unless a licence is transferred to another employee or agent within 8 weeks from the time when the employee or agent named in a licence ceases to be responsible for the day to day running of the premises to which the licence relates, the licence shall cease to have effect.

## **12 Publication of list of applications.**

- (1) The clerk of a licensing board shall, in accordance with the provisions of this section, not later than three weeks before the first day of the meeting of the board at which the applications are to be considered, cause to be published in one or more newspapers circulating in the area of the board a list of all competent applications made to the board for—
  - (a) the grant, including the provisional grant, of a new licence;
  - (b) the regular extension of permitted hours.
- (2) In relation to each application for a new licence, the list mentioned in subsection (1) above shall specify—
  - (a) the name, designation and address of the applicant;
  - (b) in the case of an application to which section 11 of this Act applies, the names, designations and addresses of both persons named in the application;
  - (c) the address of the premises in respect of which the licence is desired;
  - (d) the type of licence for which application is made;
  - (e) the first day of the meeting of the licensing board at which the application is to be considered.
  - <sup>F28</sup>(f) in the case of an application for a public house licence or a refreshment licence, whether the applicant intends the premises to be open for the sale or supply of alcoholic liquor during the permitted hours on a Sunday.]
- (3) In relation to each application for the regular extension of permitted hours, the list mentioned in subsection (1) above shall specify—
  - (a) the name, designation and address of the applicant;
  - (b) the address of the premises in respect of which the application is made and the type of licence held in respect of those premises;
  - (c) the nature of the extension of hours for which application is made;
  - (d) the first day of the meeting of the licensing board at which the application is to be considered.

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### Textual Amendments

**F28** S. 12(2)(f) added by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 68A:2\)](#), s. 46(3)

## 13 Consideration of applications.

- (1) A licensing board shall not at any meeting hear the cases of applicants for new licences until all the other cases have been disposed of:  
Provided that where more than one application for a licence has been made in respect of any premises, the licensing board may hear and consider such applications together.
- (2) Where an applicant for the grant of a licence or an objector thereto—
  - (a) has, through inadvertence or misadventure, failed to comply with any of the preliminary requirements of this Act; or
  - (b) having duly lodged his application or objection, has died before the meeting of the board at which such application or objection was to have been heard;
 the board may, if it thinks fit, and upon such terms as the board thinks proper, postpone the consideration of the application or objection to an adjourned meeting.
- (3) At such adjourned meeting the licensing board may, if it is satisfied that the terms specified by the board have been complied with—
  - (a) proceed to grant the licence to the applicant or, as the case may be, to his executors, representatives or disponees (being possessed of the premises in respect of which the application has been made);
  - (b) proceed to consider the objection, whether on the part of the objector or, in the case of a deceased objector, on the part of his representatives; as if the preliminary requirements of this Act had been complied with.

## 14 Further application for new licence where previous application refused.

Where a licensing board has refused an application for a new licence in respect of any premises, the board shall not, within two years of its refusal, entertain a subsequent application for a new licence in respect of the same premises unless the board, at the time of refusing the first-mentioned application, makes a direction to the contrary.

## 15 Attendance at meeting of licensing board by applicant or his representative.

- (1) A licensing board may decline to consider an application if the applicant or his representative does not attend the meeting at which the application is to be considered: Provided that an applicant for the renewal of a licence or for the permanent transfer of a licence need not attend or be represented unless the applicant has been cited by the board to attend the meeting.
- (2) A licensing board shall not refuse an application for the renewal or permanent transfer of a licence without hearing the applicant or his representative:  
Provided that the board may refuse such an application if the applicant, having been cited by the board to attend the meeting at which his application is to be considered, fails to attend such a meeting.

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## 16 Objections in relation to applications.

- (1) It shall be competent for any of the following persons to object in relation to any application to a licensing board for the grant (including the provisional grant) renewal or permanent transfer of a licence, namely,—
- (a) any person owning or occupying property situated in the neighbourhood of the premises to which the application relates or any organisation which in the opinion of the board represents such persons;
  - (b) a community council, which has been established in accordance with the provisions of the <sup>M4</sup>Local Government (Scotland) Act 1973, for the area in which the premises are situated;
  - (c) any organised church which, in the opinion of the licensing board, represents a significant body of opinion among persons residing in the neighbourhood of the premises;
  - (d) the chief constable.
  - <sup>F29</sup>(e) the fire authority for the area in which the premises are situated;
  - (f) a local authority for the area in which the premises are situated.]
- (2) Where a competent objector desires to object in relation to any application, he shall, not later than seven days before the meeting of the licensing board at which the application is to be considered—
- (a) lodge with the clerk of the board a written notice of objection which shall be signed by the objector or his agent and shall specify the grounds of his objection and
  - (b) intimate his objection to the applicant in the manner provided by subsection (3) below,
- and an objection shall not be entertained by the licensing board unless it is proved or admitted that such objection was intimated to the applicant as aforesaid.
- (3) An objection shall, for the purposes of paragraph (b) of subsection (2) above, be intimated to the applicant—
- (a) by delivering to him a copy of the notice of objection lodged with the licensing board under paragraph (a) of that subsection; or
  - (b) by sending a copy of the said notice by registered post or by recorded delivery in a letter addressed to him at his proper address; or
  - (c) by leaving a copy of the said notice for him at his proper address;
- and, for the purposes of paragraphs (b) and (c) of this subsection, the proper address in the case of an applicant being an individual natural person shall be his place of abode as specified in his application or, in the case of such an applicant applying for the renewal of a licence, the premises in respect of which the application is made, <sup>F30</sup>or, in the case of the agent of an applicant, shall be his place of business,] and, in the case of an applicant other than an individual natural person, shall be the address specified in the application.
- (4) Notwithstanding anything in the foregoing provisions of this section, it shall be competent for a licensing board to entertain objections from the chief constable, lodged at any time before the hearing of an application, if the board is satisfied that there is sufficient reason why due notice and intimation of the objection could not be given, and in such a case the chief constable shall cause his objections to be intimated to the applicant before the hearing.

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- (5) The licensing board may only entertain an objection under this section if the objection is relevant to one or more of the grounds on which, by virtue of section 17 of this Act, an application may be refused, and shall [F31, whether or not the objector appears, consider] any competent objection before arriving at its decision.
- (6) The licensing board, if in its opinion any objection to the renewal of a licence is frivolous or vexatious, may find the objector liable in the expenses caused by such objection to such extent as the board thinks fit, or, if in its opinion any such objection is unauthorised, may find the agent of the objector liable in the expenses as aforesaid; and the amount of any expenses so found due may be recovered in the sheriff court having jurisdiction, and a certified copy of the finding of the licensing board shall be sufficient evidence and authority for decerning for the said amount with expenses.

#### Textual Amendments

- F29** S. 16(1)(e)(f) added (31.12.1991) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 68A:2), s. 74, **Sch. 8 para. 5(a)**; S.I. 1991/2862, art. 3, **Schedule**.
- F30** Words in s. 16(3) inserted (31.12.1991) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 68A:2), s. 74, **Sch. 8 para. 5(b)**; S.I. 1991/2862, **art. 3, Schedule**.
- F31** Words in s. 16(5) substituted (31.12.1991) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 68A:2), s. 74, **Sch. 8 para. 5(c)**; S.I. 1991/2862, **art. 3, Schedule**.

#### Marginal Citations

- M4** 1973 c. 65(81:2).

### [F32] 16A Observations by chief constable in relation to applications.

- (1) Without prejudice to section 16 of this Act, in considering an application—
- (a) for the grant (including the provisional grant), renewal or permanent transfer of a licence;
  - (b) the regular extension of permitted hours under section 64 of this Act; or
  - (c) the grant of a children’s certificate under section 49 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990,
- a licensing board shall have regard to any observations on the application submitted by the chief constable in accordance with the following provisions of this section.
- (2) Where the chief constable intends to submit observations in relation to any application, he shall, not later than seven days before the meeting of the licensing board at which the application is to be considered—
- (a) lodge with the clerk of the board a written notice of his observations; and
  - (b) intimate his observations to the applicant in the manner provided by subsection (3) below,
- and observations shall not be entertained by the licensing board unless it is proved or admitted that such observations were intimated to the applicant as aforesaid.
- (3) Observations shall, for the purposes of paragraph (b) of subsection (2) above, be intimated to the applicant—
- (a) by delivering to him a copy of the observations lodged with the licensing board under paragraph (a) of that subsection; or

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- (b) by sending him a copy of the said observations by registered post or by recorded delivery in a letter addressed to him at his proper address; or
  - (c) by leaving a copy of the said observations for him at his proper address;
- and, for the purposes of paragraphs (b) and (c) of this subsection, the proper address of an applicant shall be as provided for in subsection (3) of section 16 of this Act.
- (4) Notwithstanding anything in the foregoing provisions of this section, it shall be competent for the licensing board to entertain observations from the chief constable, lodged at any time before the hearing of an application, if the board is satisfied that there is sufficient reason why due notice and intimation of the observations could not be given, and in such a case the chief constable shall cause his observations to be intimated to the applicant before the hearing.
- (5) The licensing board shall have regard to any observations submitted by the chief constable in accordance with this section whether or not they are relevant to one or more grounds on which, by virtue of section 17 of this Act, an application may be refused.]

#### Textual Amendments

**F32** S. 16A inserted (1.1.1991) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 68A:2), s. 53(1)

### 17 Grounds for refusal of application.

- (1) A licensing board shall refuse an application of the type described in subsection (2) below if it finds that one or more of the following grounds for refusal, being competent grounds, applies to it—
- (a) that the applicant, or the person on whose behalf or for whose benefit the applicant will manage the premises or, in the case of an application to which section 11 of this Act applies, the applicant or the employee or agent named in the application is not a fit and proper person to be the holder of a licence;
  - (b) that the premises to which an application relates are not suitable or convenient for the sale of alcoholic liquor, having regard to their location, their character and condition, the nature and extent of the proposed use of the premises, and the persons likely to resort to the premises;
  - (c) that the use of the premises for the sale of alcoholic liquor is likely to cause undue public nuisance, or a threat to public order and safety;
  - [<sup>F33</sup>(d) that, having regard to—
    - (i) the number of licensed premises in the locality at the time the application is considered; and
    - (ii) the number of premises in respect of which the provisional grant of a new licence is in force,the board is satisfied that the grant of the application would result in the over provision of licensed premises in the locality,]
- and otherwise shall grant the application.
- (2) The grounds on which different types of application may competently be refused by a licensing board are those mentioned opposite the respective types of application set out below—

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<i>Typ e of application</i>	<i>Compete n t grounds</i>
new licence, including the provisional grant of such a licence	those set out in subsection (1) above.
renewal of licence	those set out in paragraphs (a) to (c) of subsection (1) above.
permanent transfer of a licence	that set out in paragraph (a) of subsection (1) above.

[<sup>F34</sup>(2A) A licensing board shall refuse to grant or renew a public house or a refreshment licence in respect of the permitted hours on a Sunday if it finds that the opening and use on a Sunday of the premises to which the application relates would cause undue disturbance or public nuisance in the locality, but the refusal of an application on that ground alone shall not prevent the licensing board from granting the application in respect of days other than Sundays.]

- (3) In considering the grounds for refusal mentioned in paragraph (a) of subsection (1) above, the licensing board may have regard to any misconduct on the part of any person mentioned in that paragraph, whether or not constituting a breach of this Act or any byelaw made thereunder, which in the opinion of the board has a bearing on his fitness to hold a licence.
- (4) An applicant for the grant of a new licence, including the provisional grant of such a licence, or for the renewal or permanent transfer of a licence may appeal to the sheriff against a refusal of a licensing board to grant, renew or transfer the licence [<sup>F35</sup>or to grant the licence in respect of the permitted hours on a Sunday], as the case may be.
- (5) Any competent objector who appeared at the hearing of any application mentioned in subsection (4) above may appeal to the sheriff against the decision of the licensing board to grant, renew or transfer a licence, as the case may be.
- (6) Any person entitled under this section to appeal to the sheriff against the grant or refusal of a licence may appeal to the sheriff against a decision of a licensing board to attach or not to attach a condition to a licence, being a condition mentioned in section 38(3) or 101(2) of this Act.

#### Textual Amendments

- F33** S. 17(1)(d) substituted (31.12.1991) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 68A:2), s. 74, **Sch. 8 para. 6**; S.I. 1991/2862, art. 3, **Schedule**.
- F34** S. 17(2A) inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 68A:2), **s. 46(4)(a)**
- F35** Words in s. 17(4) inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 68A:2), **s. 46(4)(b)**

## 18 Giving of reasons for decisions of a licensing board.

- (1) A licensing board shall [<sup>F36</sup>, within 21 days of being required to do so under subsection (2) below,] give reasons for arriving at any decisions mentioned in section 5(2) of this Act <sup>F37</sup>. . . .

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- (2) Reasons for decisions referred to in subsection (1) above may be required to be given by the board in writing on a request being made to the clerk of the board, not more than 48 hours after the decision is made, by the applicant or, as the case may be, by the holder of the licence, or by any objector, or by any complainer who appeared at the hearing.
- (3) Where a licensing board gives reasons in writing at the request of a party to the hearing, the board shall give copies of those reasons to all other parties to the hearing.
- (4) [<sup>F38</sup>The period of 21 days referred to in subsection (1) above and] the period of 48 hours referred to in subsection (2) above shall not include a day which is a Sunday, Christmas Day, New Year's Day, Good Friday, a bank holiday, or a public holiday, or a day appointed for public thanksgiving or mourning.

#### Textual Amendments

- F36** Words in s. 18(1) inserted (31.12.1991) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 68A:2\)](#), s. 74, [Sch. 8 para. 7\(a\)](#); S.I. 1991/2862, [art. 3](#), Schedule.
- F37** Words in s. 18(1) repealed by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 68A:2\)](#), ss. 74, 75(2), [Sch. 8 para. 7\(a\)](#), [Sch. 9](#) (Sch. 8 Pt. I of that Act, by virtue of which the specified words ceased to have effect, was brought into force on 31.12.1991 by S.I. 1991/2862, [art. 3](#), Sch.; the repeal of the specified words by Sch. 9 of that Act was expressed to be brought into force so far as not already in force on 17.3.1993 by S.I. 1993/641, [art. 3](#), Sch.).
- F38** Words in s. 18(4) inserted (31.12.1991) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 68A:2\)](#), s. 74, [Sch. 8 para. 7\(b\)](#); S.I. 1991/2862, [art. 3](#), Schedule

#### [<sup>F39</sup>18A Licensing conditions for certain events.

- (1) In granting—
  - (a) a licence under section 17 of this Act;
  - (b) an occasional licence under section 33 of this Act; or
  - (c) an occasional permission under section 34 of this Act,in respect of premises on or a place at which it appears to the licensing board that any event to which this section applies may be held, the licensing board shall attach to the licence or permission the prescribed conditions and such other conditions as the board considers necessary for the purpose of safeguarding the health and safety of persons attending any such event.
- (2) The duty of a licensing board under subsection (1) above to attach conditions to a licence or permission is without prejudice to any power of the board under this Act to attach or impose conditions to or in respect of a licence or permission.
- (3) This section applies to any event—
  - (a) at which music is played or relayed;
  - (b) which consists of or includes the opportunity for persons attending the event to engage in dancing; and
  - (c) at which it appears to the board that offences may be committed in relation to controlled drugs within the meaning of section 2 of the <sup>M5</sup>Misuse of Drugs Act 1971.

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- (4) The Secretary of State may, by order, prescribe the conditions which are to be attached to a licence or permission under this section, and an order made under this subsection may prescribe—
- (a) the terms of any such condition; or
  - (b) the description of any such condition, the terms of which shall be specified by the licensing board,
- and such an order shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Without prejudice to the generality of subsection (1) above or to the power of the Secretary of State to prescribe terms or descriptions of conditions under subsection (4) above, the conditions may provide that no event to which this section applies, or no such description of such events as may be determined by the board, shall be held without the consent of the board.
- (6) The holder of a licence may appeal to the sheriff against—
- (a) the terms of any condition (other than the terms of any condition prescribed under subsection (4) above) imposed under subsection (1) above; and
  - (b) the refusal of consent under subsection (5) above.
- (7) The holder of a licence or his employee or agent shall be guilty of an offence if he contravenes any condition attached to the licence or permission under subsection (1) above.
- (8) It shall be a defence for a person charged with an offence under subsection (7) above to prove that he took all reasonable steps to comply with the condition.
- (9) In this section—
- “holder of a licence” includes a person to whom an occasional permission has been granted under section 34 of this Act;
- “dancing” includes any movement apparently to the accompaniment of music;
- “music” includes sounds wholly or predominantly characterised by the emission of a succession of repetitive beats; and
- “prescribed conditions” means the conditions prescribed by the Secretary of State under subsection (4) above.
- (10) In the application of section 67(1)(a) and (c) and (2) to an offence under subsection (7) above, “licence-holder” includes a person to whom an occasional permission has been granted.]

#### Textual Amendments

**F39** Ss. 18A, 18B inserted (21.10.1996) by 1996 c. 36, s. 1(1); S.I. 1996/2670, art. 2

#### Marginal Citations

**M5** 1971 c. 38.



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**F40 18B Conditions for existing licences.**

- (1) This section applies to premises in respect of which a licence has been granted, whether before or after the coming into force of this section, under section 17 of this Act where no conditions have been attached to the licence in pursuance of section 18A of this Act.
- (2) Where it appears to a licensing board that an event to which section 18A of this Act applies may be held on premises to which this section applies, the board shall convene a meeting for the purpose of attaching to the licence the conditions specified in subsection (1) of that section.
- (3) The clerk to the licensing board shall, not later than 21 days before the date of the meeting to be held under subsection (2) above, serve on the holder of the licence and send to the chief constable a notice of—
  - (a) the meeting;
  - (b) where the Secretary of State has prescribed the terms of any prescribed conditions, such terms;
  - (c) in the case of any other prescribed conditions, the terms proposed by the board; and
  - (d) where the board proposes to attach any other conditions to the licence, the terms of such conditions.
- (4) At the meeting held under subsection (2) above, unless the holder of the licence satisfies the board that no event to which section 18A of this Act applies will be held on the premises, the board shall attach to the licence the prescribed conditions and such other conditions as it considers necessary in the terms determined in accordance with subsection (5) below.
- (5) In determining—
  - (a) whether the board is satisfied as mentioned in subsection (4) above; or
  - (b) what conditions (other than prescribed conditions) to attach to a licence or the terms (other than such terms as are prescribed) of such conditions,the board shall have regard to any observations submitted by the chief constable and any other person or body mentioned in section 16(1) of this Act.
- (6) Subsections (2) to (4) of section 16 of this Act shall apply in relation to any observations made under subsection (5) above as they apply in relation to any objection made under that section; and for the purposes of such application any reference in the said subsections (2) to (4)—
  - (a) to an application shall be construed as a reference to conditions proposed to be attached to the licence;
  - (b) to the applicant shall be construed as a reference to the holder of the licence;
  - (c) to an objection shall be construed as a reference to an observation;
  - (d) to the proper address of the applicant shall be construed as a reference to the address at which notice is served on the holder of the licence under subsection (3) above,and cognate expressions shall be construed accordingly.
- (7) The terms of conditions to be attached to the licence in pursuance of subsection (4) above are—
  - (a) in the case of the prescribed conditions—
    - (i) where the terms of any condition have been prescribed, such terms;

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- (ii) where the description of any condition has been prescribed, such terms as the board considers appropriate;
  - (b) in the case of any other condition notified under subsection (3)(d) above, such terms as the board consider appropriate; and
  - (c) in the case of any condition not so notified, such terms as are agreed with the holder of the licence.
- (8) Subsections (5) to (10) of section 18A of this Act shall apply to conditions attached to a licence under subsection (4) above as they apply to conditions attached to a licence under section 18A(1) of this Act.
- (9) The clerk to the licensing board shall forthwith intimate to the holder of the licence—
- (a) where the board is satisfied that no event to which section 18A of this Act will be held on the premises, that fact; and
  - (b) where the board attaches conditions to the licence, such conditions by sending to the holder of the licence a copy of the licence with the conditions attached.
- (10) In this section “prescribed conditions” has the same meaning as in section 18A of this Act.

#### Textual Amendments

**F40** Ss. 18A, 18B inserted (21.10.1996) by 1996 c. 36, s. 1(1); S.I. 1996/2670, art. 2

## 19 Canvassing.

- (1) If any applicant for the grant, renewal [<sup>F41</sup>, permanent transfer, temporary transfer under section 25(1A) of this Act or confirmation of transfer under subsection (4) of that section] of a licence or for a regular extension of permitted hours, either by himself or by another person at the instigation of the applicant, attempts to influence a member of a licensing board to support his application at any time before its consideration by the board, he shall be guilty of an offence.
- (2) If proceedings are pending under subsection (1) above, the licensing board may adjourn consideration of an application to which the proceedings relate until the proceedings are concluded.
- (3) If an applicant is convicted of an offence under subsection (1) above in relation to an application before the board, the board may refuse to consider the application.

#### Textual Amendments

**F41** Words in s. 19(1) substituted (15.4.1992) by Licensing (Amendment) (Scotland) Act 1992 (c. 18), s. 1(2); S.I. 1992/819, art.3

## 20 Register of applications and decisions.

The clerk of each licensing board shall keep a register of applications for licences and shall, at the end of each day’s meeting of the board, enter in the register the decisions taken on the applications.

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This register shall be available to any member of the public at times and places to be determined by the clerk.

## 21 Issue of licences.

- (1) The clerk of each licensing board shall make out and deliver a licence to every person to whom a licence is granted by the board [<sup>F42</sup>and shall do so within 28 days of the grant of the licence].
- (2) The clerk of a licensing board shall, [<sup>F43</sup>on application], make out a duplicate of any licence issued by him under this section and shall certify such duplicate to be a true copy of the original licence, and any such duplicate, duly certified as aforesaid, shall be sufficient evidence of the facts therein contained and of the terms of the original licence.
- [<sup>F44</sup>(3) The period of 28 days referred to in subsection (1) above shall not include a day which is a Sunday, Christmas Day, New Year's Day, Good Friday, a bank holiday, or a public holiday, or a day appointed for public thanksgiving or mourning.]

### Textual Amendments

- F42** Words in s. 21(1) added (31.12.1991) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 68A:2\)](#), s. 74, **Sch. 8 para. 8(a)**; S.I. 1991/2862, **art. 3**, Schedule.
- F43** Words in s. 21(2) substituted (31.12.1991) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 68A:2\)](#), s. 74, **Sch. 8 para. 8(b)**; S.I. 1991/2862, **art. 3**, Schedule.
- F44** S. 21(3) added (31.12.1991) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 68A:2\)](#), s. 74, **Sch. 8 para. 8(c)**; S.I. 1991/2862, **art. 3**, Schedule.

## 22 ..... <sup>F45</sup>

### Textual Amendments

- F45** S. 22 repealed by [Finance Act 1982 \(c. 28, SIF 40:1\)](#), **Sch. 10 Pt. I**

## 23 Special provisions relating to applications for new licence.

- (1) Subject to subsection (6) of this section, an application for the grant or provisional grant of a new licence (other than an off-sale licence) shall not be entertained by a licensing board unless there are produced to the board, in accordance with the provisions of this section, certificates from the appropriate authority as to the suitability of the premises for which the licence is sought in relation to planning, building [<sup>F46</sup>standards] and food hygiene.
- (2) In relation to planning, the certificate from the appropriate authority should state that the applicant has obtained in respect of the premises planning permission under the <sup>M6</sup>Town and Country Planning (Scotland) Act 1972 or, in the case of an application for the provisional grant of a licence, outline planning permission under sections 39 and 40 of that Act, or, in either case, a determination under section 51 of that Act that planning permission is not required [<sup>F47</sup>or a certificate under section 90A of that Act that the proposed use or operations would be lawful as mentioned in the said section 90A.].

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- (3) In relation to building [<sup>F48</sup> standards ] , the certificate from the appropriate authority—
- (a) in the case of an application for a new licence, should state—
- <sup>F49</sup>(i) either that a building warrant for the construction of the premises has been granted under section 9 of the Building (Scotland) Act 2003 (asp 8) and a completion certificate has been accepted under section 18 of that Act, or that no building warrant for construction of the premises is required; and]
- <sup>F49</sup>(ii) either that a building warrant for the conversion of the premises has been granted under section 9 of that Act or that no such warrant is required;]
- (b) in the case of an application for the provisional grant of a licence, should state—
- <sup>F50</sup>(i) that a building warrant for the construction of the premises has been granted under section 9 of that Act; and]
- <sup>F50</sup>(ii) either that a building warrant for the conversion of the premises has been granted under section 9 of that Act, or that on completion of construction of the premises in accordance with the warrant a building warrant for the conversion of the premises will be granted, or that no such warrant is required.]
- Expressions used in this subsection and in the [<sup>F51</sup> that Act ] have the same meanings in this subsection as they have in that Act.
- (4) In relation to food hygiene, the certificate from the appropriate authority should, in the case of an application for a new licence, state that the premises to which the application relates comply, or, in the case of an application for the provisional grant of a licence, would comply, with the requirements of regulations made under [<sup>F52</sup>section 16 of the <sup>M7</sup>Food Safety Act 1990] relating to construction, layout, drainage, ventilation, lighting and water supply or concerned with the provision of sanitary and washing facilities.
- (5) Before granting or making the provisional grant of a new licence, the licensing board shall consult the fire authority for the area.
- (6) In relation to building [<sup>F53</sup> standards ] , food hygiene and consultation with the fire authority, subsections (1), (3), (4) and (5) of this section shall not apply to the application for or the making of a provisional grant of a licence under section 26(2) of this Act but shall apply to the application for affirmation and to the affirmation of such a grant.
- (7) In this section, [<sup>F54</sup>the appropriate authority is the council].

#### Textual Amendments

- F46** Word in s. 23(1) substituted (1.5.2005) by [Building \(Scotland\) Act 2003 \(asp 8\)](#), s. 59(1), [sch. 6 para. 12\(2\)](#) (with s. 53); S.S.I. 2004/404, art. 2(1)
- F47** Words in s. 23(2) added (1.7.1993) by [1993 c. 20](#), s. 1(2)
- F48** Word in s. 23(3) substituted (1.5.2005) by [Building \(Scotland\) Act 2003 \(asp 8\)](#), s. 59(1), [sch. 6 para. 12\(2\)](#) (with s. 53); S.S.I. 2004/404, art. 2(1)
- F49** S. 23(3)(a)(i)(ii) substituted (1.5.2005) by [Building \(Scotland\) Act 2003 \(asp 8\)](#), s. 59(1), [sch. 6 para. 12\(3\)\(a\)](#) (with s. 53); S.S.I. 2004/404, art. 2(1)
- F50** S. 23(3)(b)(i)(ii) substituted (1.5.2005) by [Building \(Scotland\) Act 2003 \(asp 8\)](#), s. 59(1), [sch. 6 para. 12\(3\)\(b\)](#) (with s. 53); S.S.I. 2004/404, art. 2(1)

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- F51** Words in s. 23(3) substituted (1.5.2005) by Building (Scotland) Act 2003 (asp 8), s. 59(1), **sch. 6 para. 12(3)(c)** (with s. 53); S.S.I. 2004/404, art. 2(1)
- F52** Words substituted by Food Safety Act 1990 (c. 16, SIF 53:1, 2), ss. 54, 59(1), **Sch. 3 para. 19**
- F53** Word in s. 23(6) substituted (1.5.2005) by Building (Scotland) Act 2003 (asp 8), s. 59(1), **sch. 6 para. 12(2)** (with s. 53); S.S.I. 2004/404, art. 2(1)
- F54** Words in s. 23(7) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 106(6)**; S.I. 1994/323, **art. 4(1)(c)**

#### Marginal Citations

- M6** 1972 c. 52(123:2).  
**M7** 1990 c. 16.

## 24 Special provisions relating to applications for renewal of a licence.

- (1) Before granting the renewal of a licence, the licensing board shall consult the fire authority for the area.
- (2) On any application for the renewal of a licence, the licensing board may require a plan of the premises to which the application relates to be produced to it and lodged with the clerk.

## 25 Transfer of licences.

- (1) A licensing board may, on an application made to the board in that behalf, <sup>F55</sup> . . . transfer to a new tenant or [<sup>F56</sup>to a new or existing] occupant of any licensed premises the licence then subsisting in respect of those premises.
- <sup>F57F58</sup>(1A) At any time, a licensing board may make such a transfer on a temporary basis and the licence so transferred shall have effect until the appropriate meeting of the board, which shall be—
  - (a) the next meeting of the board; or
  - (b) where the temporary transfer has been made within the period of 6 weeks before the first day of the next meeting, the next following meeting of the board.
- (1B) At the appropriate meeting and on an application for a permanent transfer, the licensing board shall make a decision on the permanent transfer of the licence transferred temporarily under subsection (1A) above.
- (1C) Where a board refuses to make a permanent transfer of a licence which has been temporarily transferred under subsection (1A) above, the licence so transferred shall have effect until the time within which an appeal may be made has elapsed or, if an appeal has been lodged, until the appeal has been abandoned or determined.]
- (2) A licensing board may, on an application made to it in that behalf by—
  - (a) the executors, representatives or donees of any person who held a licence in respect of premises situated within the area of the board and who has died before the expiry of the licence; or
  - (b) the trustee, judicial factor or curator bonis of any person holding such a licence who has become bankrupt, insolvent or incapable before the expiry of the licence;transfer the licence to the applicant if the applicant is in possession of the premises.

*Status: Point in time view as at 01/05/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Licensing (Scotland) Act 1976 (repealed). (See end of Document for details)*

- (3) A licensing board may, on an application made to it in that behalf by a person other than an individual natural person, substitute another employee or agent of the applicant for the employee or agent mentioned in section 11 or 26 of this Act.
- [<sup>F57</sup>(4) A licence transferred by virtue of subsection (2) or (3) above shall have effect until the next meeting of the licensing board, which, on an application for confirmation of the transfer of the licence, shall consider whether it is satisfied that the person to whom the licence has been transferred is a fit and proper person to be the holder of a licence and—
- (a) if it is so satisfied, it shall confirm the transfer of the licence; and;
  - (b) if it is not so satisfied, it shall refuse to confirm the transfer.
- (4A) In considering the fitness of the person to whom the licence has been transferred, the licensing board may have regard to any misconduct on his part, whether or not constituting a breach of this Act or any byelaw made thereunder, which in its opinion has a bearing on his fitness to hold a licence.
- (4B) If the transfer of a licence has been confirmed under subsection (4) above, the licence shall have effect, in accordance with subsections (4) and (5) of section 30 of this Act, until the quarterly meeting of the licensing board three years after the meeting at which the licence was originally granted or renewed by a licensing board.
- (4C) If a licensing board refuses to confirm the transfer of a licence under subsection (4) above, the person to whom the licence had been transferred may appeal to the sheriff against that refusal and the licence shall have effect until the time within which an appeal may be made has elapsed or, if an appeal has been lodged, until the appeal has been abandoned or determined.]
- (5) Where a licence is transferred under this section to any person, the clerk of the licensing board shall, on payment of the appropriate fee, endorse on the licence a note of the transfer.
- (6) Any licence transferred under this section shall be held subject to the conditions on which it was originally granted.
- (7) A transfer of a licence under subsection [<sup>F59</sup>(1) or] (1) above is in this Act referred to as a permanent transfer.

#### Textual Amendments

- F55** Word in s. 25(1) (which was inserted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990](#) (c. 40), s. 51(2)(a)) repealed (15.4.1992) by virtue of [Licensing \(Amendment\) \(Scotland\) Act 1992](#) (c. 18), s. 1(1)(a); S.I. 1992/819, art.3.
- F56** Words inserted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990](#) (c. 40, SIF 68A:2), s. 51(2)(b)
- F57** S. 25(4)–(4C) substituted for s. 25(4) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990](#) (c. 40, SIF 68A:2), s. 51(4)
- F58** S. 25(1A)–(1C) added by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990](#) (c. 40), s. 51(3) and substituted (15.4.1992 subject to saving in S.I. 1992/819, art. 4) by [Licensing \(Amendment\) \(Scotland\) Act 1992](#) (c. 18), s. 1(1)(b); S.I. 1992/819, art.3
- F59** Words in s. 25(7) inserted (15.4.1992) by [Licensing \(Amendment\) \(Scotland\) Act 1992](#) (c. 18), s. 1(1)(c); S.I. 1992/819, art.3

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*Status: Point in time view as at 01/05/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Licensing (Scotland) Act 1976 (repealed). (See end of Document for details)*

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## 26 Provisional grant of licence.

- (1) A licensing board may, on an application in that behalf made to the board by any person interested in premises about to be constructed or in course of construction for use as licensed premises, make a provisional grant of a licence in respect of those premises if the board is satisfied—
  - (a) that the premises will be fit and convenient for their purpose, and
  - (b) that, if the premises had been completed in accordance with the plan thereof lodged with the board in pursuance of section 10 of this Act, the board would on application have granted such a licence in respect thereof.
- (2) If on an application under this section the applicant lodges with the board, instead of the plan mentioned in paragraph (b) of subsection (1) above, a plan sufficient to identify the site of the premises, together with such description of the premises as will give a general indication of their proposed size and character (with reference in particular to the sale of alcoholic liquor), then—
  - (a) the licensing board shall deal with the application as if made under subsection (1) above; but
  - (b) any provisional grant of a licence made on an application under this subsection shall become ineffective unless affirmed by the licensing board on application made to the board to that effect within 12 months of the provisional grant of the licence, any such application being accompanied by a plan of the premises.
- (3) A licensing board may consider any application made to it under paragraph (b) of subsection (2) above at any meeting of the board held not earlier than 14 days after the making of the application and shall affirm the provisional grant if the board is satisfied that the premises, if completed in accordance with the plan mentioned in that paragraph, will be fit and convenient for their purpose and that the said plan does not deviate materially from the site plan and description of the premises lodged under the said subsection (2).
- (4) A licence of which a provisional grant has been made as aforesaid shall not come into force until such grant is declared final by the licensing board, and subject to subsection (6) below, the board shall, on being so requested, declare the grant final if it is satisfied either—
  - (a) that the premises in respect of which the grant was made have been completed in accordance with the plan thereof lodged with the board, or
  - (b) that the premises have been completed and that such deviations from the said plan as exist are of minor importance and have not materially altered the character of the premises or the facilities for the supply of alcoholic liquor thereat.
- (5) A licensing board shall not entertain a request to declare the provisional grant of a licence final unless the person to whom the grant was made has given to the board such notice of his intention to make the request as may be prescribed.
- (6) In the case of a request by a person other than an individual natural person that the licensing board shall declare the provisional grant of a licence final, that person shall include in the notice mentioned in subsection (5) above the name of the employee or agent whom it is intended should have the day to day running of the premises, and the board shall not declare the provisional grant final if it finds that the employee or agent so named in the notice is not a fit and proper person to be the holder of a licence.

*Status: Point in time view as at 01/05/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Licensing (Scotland) Act 1976 (repealed). (See end of Document for details)*

- (7) Where a licensing board declares a provisional grant final in such a case as is described in subsection (6) above, the licence shall be in the names of both persons mentioned in that subsection, and any reference in this Act to the holder of a licence includes a reference to both of those persons.
- (8) Until the date of the first renewal of licences provisionally granted under subsection (1) or (2) above after those licences have been declared final, subsections (2) to (5) of section 30 of this Act shall have effect in relation to those licences with the substitution in subsection (3) of section 30 of a reference to one year instead of the reference to three years.
- (9) A licensing board may refuse to renew a licence provisionally granted under subsection (1) or (2) above if the board considers that there has been unreasonable delay on the part of the applicant in completing the premises.
- (10) An applicant may appeal to the sheriff against a decision of a licensing board to refuse to affirm a licence under subsection (2) above or to refuse to declare a provisional grant of a licence final under subsection (4) above.

## 27 Grant of provisional licence.

A licensing board may grant a provisional licence to the holder of any licence to enable him to carry on business in temporary premises during the reconstruction of his premises.

## 28 Licence not to be granted for premises on special roads.

- (1) Premises shall be disqualified for receiving a licence if they are situated on land acquired or appropriated by a special road authority, and for the time being used, for the provision of facilities to be used in connection with the use of a special road provided for the use of traffic of class 1 (with or without other classes).
- (2) For the purposes of this section—
- “special road” and “special road authority” have the same meanings as in the <sup>F60M8</sup>Roads (Scotland) Act 1984], and
  - “class 1” means class 1 in Schedule <sup>F61</sup>3 to that Act, as varied from time to time by any order under section 8] of that Act, but, if that Schedule is amended by such an order so as to add to it a further class of traffic, the order may adapt the reference in this section to traffic of Class 1 so as to take account of the additional class.

### Textual Amendments

**F60** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), ss. 128(1), 156(1), [Sch. 9 para. 77\(2\)\(a\)](#)

**F61** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), ss. 128(1), 156(1), [Sch. 9 para. 77\(2\)\(b\)](#)

### Marginal Citations

**M8** 1984 c. 54.



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*Status: Point in time view as at 01/05/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Licensing (Scotland) Act 1976 (repealed). (See end of Document for details)*

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## **29 Alcoholic liquor which may be sold under licence.**

- (1) A licence granted under this Act by a licensing board shall authorise the holder thereof to sell by retail spirits, wine, made-wine, porter, ale, beer, cider, perry, and any other alcoholic liquor:

Provided that the licensing board may, when granting a licence or an application for an extension of the permitted hours, restrict the alcoholic liquor which may be sold thereunder to wine, made-wine, porter, ale, beer, cider and perry.

- (2) Where by virtue of a decision of a licensing board under the proviso to subsection (1) above only alcoholic liquor other than spirits may be sold, it shall be an offence for the licence-holder or his employee or agent to sell spirits.

## **30 Currency of licence.**

- (1) A new licence shall come into effect on being granted by a licensing board, except that where there were objections at the hearing the licence shall not come into effect until—

- (a) the time within which an appeal may be made has elapsed, or
- (b) where an appeal has been lodged, the appeal has been abandoned or determined in favour of the applicant for the licence.

- (2) A renewed licence shall come into effect on being renewed by a licensing board.

- (3) A licence shall have effect in accordance with the following provisions of this section until the quarterly meeting of the licensing board three years after the meeting at which the licence was granted or renewed by a licensing board.

- (4) Subject to section 13(2) of this Act, if no application is made for the renewal of a licence at the quarterly meeting mentioned in subsection (3) above, the licence shall expire on the first day of that meeting.

- (5) If an application is made for the renewal of a licence, the licence in respect of which the application is made shall continue to have effect—

- (a) until the application for renewal is granted by the board;
- (b) if the application for renewal is refused, until the time within which an appeal may be made has elapsed or, if an appeal has been lodged, until the appeal has been abandoned or determined.

## **31 Suspension of licence on receipt of complaint.**

- (1) Where on a complaint being made to a licensing board by any person or body mentioned in section 16(1) of this Act the board is satisfied that it is in the public interest to do so, it may, in accordance with the provisions of this section, suspend a licence.

- (2) A licensing board may order the suspension of a licence on one or both of the following grounds—

- (a) that the licence-holder is no longer a fit and proper person to be the holder of a licence;
- (b) that the use of the premises in respect of which the licence is held has caused undue public nuisance or a threat to public order or safety.

- [<sup>F62</sup>(c) that there has been a breach of the conditions attached to the licence under section 18A(1) or 18B(4) of this Act.]

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*Status: Point in time view as at 01/05/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Licensing (Scotland) Act 1976 (repealed). (See end of Document for details)*

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- (3) In considering a complaint under this section, the licensing board may have regard to—
- (a) any misconduct on the part of the holder of the licence, whether or not constituting a breach of this Act or any byelaw made thereunder [<sup>F63</sup>or of any condition attached to a licence under the said section 18A(1) or 18B(4)], which in the opinion of the board has a bearing on his fitness to hold a licence;
  - (b) any misconduct on the part of persons frequenting licensed premises occurring in those premises or any misconduct in the immediate vicinity of licensed premises which is attributable to persons frequenting those premises.
- (4) On receipt of a complaint under this section, the licensing board shall decide whether or not to hold a hearing on the issue and shall inform the complainer of the board's decision in the matter.
- (5) Where the licensing board decides to hold a hearing as mentioned in subsection (4) above—
- (a) the clerk of the board shall serve on the holder of the licence, not less than 21 days before the hearing, a notice that the board proposes to hold a hearing, specifying the complaint and the grounds upon which suspension of the licence is sought;
  - (b) the clerk of the board shall give notice of the hearing to the complainer;
  - (c) any person or body mentioned in section 16(1) of this Act may, not less than 7 days before the hearing, lodge notice with the clerk of the board that he or it wishes to be heard in support of suspension of the licence specifying the grounds on which he or it seeks such suspension, and any such notice shall be intimated by such person to the holder of the licence;
  - (d) the board shall not order suspension of a licence without hearing the holder thereof unless after receiving due notice of the hearing the holder fails to appear.
- [<sup>F64</sup>(5A) Where the licensing board decides to hold a hearing as mentioned in subsection (4) above in respect of a complaint under this section which was made by a person or body other than the chief constable, the chief constable may, not less than 7 days before the hearing, lodge with the clerk of the board observations in respect of the proposed suspension of the licence, and any such observations shall be intimated by the chief constable to the holder of the licence.]
- (6) Where a licensing board decides to order the suspension of a licence, the suspension shall not take effect until the expiry of the time within which the holder of the licence may appeal to the sheriff, or, if the holder appeals to the sheriff or thereafter to the Court of Session, until the appeal has been determined in favour of the suspension or has been abandoned.
- (7) The period of the suspension of a licence under this section shall be a fixed period not exceeding one year or the unexpired portion of the duration of the licence, whichever is the less, and the effect of the suspension is that the licence shall cease to have effect during the period of the suspension.
- (8) The holder of the licence may appeal to the sheriff against any order of a licensing board under this section, including the period of suspension mentioned in the order.

*Status: Point in time view as at 01/05/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Licensing (Scotland) Act 1976 (repealed). (See end of Document for details)*

#### Textual Amendments

- F62** S. 31(2)(c) inserted (21.10.1996) by 1996 c. 36, s. 1(2)(a); S.I. 1996/2670, art. 2
- F63** Words in s. 31(3)(a) inserted (21.10.1996) by 1996 c. 36, s. 1(2)(b); S.I. 1996/2780, art. 2
- F64** S. 31(5A) inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 68A:2), s. 53(2)

### 32 Other power to suspend licence.

- (1) Where a licensing board considers that licensed premises are no longer suitable or convenient for the sale of alcoholic liquor, having regard to their character and condition, and the nature and extent of the use of the premises, the board may decide to hold a hearing with a view to making a closure order under this section, and the effect of a closure order is that the licence held in respect of the premises shall cease to have effect while the closure order is in force.
- (2) Where the licensing board decides to hold a hearing as mentioned in subsection (1) above—
  - (a) the clerk of the board shall serve on the holder of the licence, not less than 21 days before the hearing, a notice that the board proposes to hold the hearing specifying the grounds on which the board proposes to hold the hearing;
  - (b) the board shall not make a closure order without hearing the holder of the licence unless, after receiving due notice of the hearing, the holder fails to appear.
- (3) Where after a hearing under this section a licensing board is satisfied as to any one or more of the matters mentioned in subsection (1) above, the board may order the closure of the licensed premises and any such order shall specify the matters on which the order is based.
- (4) The closure order shall remain in force until such time as the board is satisfied that the matters which led to the closure order have been satisfactorily remedied.
- (5) The licence-holder may apply to the board for the cancellation of the closure order on the ground that the matters which led to the closure order have been satisfactorily remedied.
- (6) Where a licensing board decides to make a closure order under this section, the order shall not take effect until the expiry of the time within which the holder of the licence may appeal to the sheriff, or, if the holder appeals to the sheriff or thereafter to the Court of Session, until the appeal has been determined in favour of the closure order or has been abandoned.
- (7) The holder of the licence may appeal to the sheriff against the closure order or against a refusal of a licensing board to cancel a closure order.

### 33 Occasional licence for premises other than licensed premises or clubs.

- (1) A licensing board may grant an occasional licence to the holder of a licence authorising him to sell alcoholic liquor, during such hours and [F65 for such period of not more than 14 days] as the board may determine, in the course of catering for an event taking place outwith the licensed premises in respect of which he is the holder of a licence.

*Status: Point in time view as at 01/05/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Licensing (Scotland) Act 1976 (repealed). (See end of Document for details)*

- (2) A licensing board may grant an occasional licence to a registered club authorising the club to sell alcoholic liquor, during such hours and [F65 for such period of not more than 14 days] as the board may determine, at an event held outwith the premises of the club if the event arises from or relates to the functions of the club.
- (3) In granting an occasional licence under this section, which shall be in writing, the licensing board may impose such conditions as it thinks fit including a condition as to the type of alcoholic liquor which may be sold under the licence, and an occasional licence granted to the holder of a restricted hotel licence or a restaurant licence shall be subject to a condition that the sale of alcoholic liquor under the authority of the licence shall be ancillary to the provision of substantial refreshment.
- (4) If the holder of the licence or his employee or agent contravenes a condition attached to an occasional licence, he shall be guilty of an offence.
- (5) If a condition attached to an occasional licence is contravened as regards any club, every person [F66 whose name is, at the time of the contravention, contained in the list lodged under subsection (3)(b) of section 103 of this Act, or as the case may be in the new list last lodged under subsection (5) or (5A) of that section, in respect of that club] shall be guilty of an offence:  
Provided that a person shall not be convicted of such an offence if he proves that the contravention in question took place without his knowledge or consent.
- (6) The provisions of this Act and of any byelaws or regulations made thereunder, other than provisions relating to permitted hours, shall apply to the sale of alcoholic liquor under subsection (1) above as if the sale took place on licensed premises and to the sale of alcoholic liquor under subsection (2) above as if the sale took place in the registered club.
- (7) An application for an occasional licence under this section shall be made in writing to the clerk of the licensing board and shall specify the name and address of the applicant, the premises or place and occasion for which the licence is required, and the hours and period for which the licence is requested.
- (8) At the same time as the application is made under subsection (7) above, the applicant shall send a copy of the application to the chief constable, and if an occasional licence is granted under this section the clerk of the licensing board shall send a copy of the licence to the chief constable not less than 24 hours before the beginning of the event to which it relates.
- (9) A licensing board shall make such arrangements as it thinks fit as respects the consideration of applications under this section or any objection made thereto [F67 but the board shall not cause to be published the address of the applicant if the applicant provides the name and address of an agent through whom he may have intimated to him any objections.]
- (10) In subsection (1) above, “the holder of a licence” includes the holder of an off-sale licence but does not include the holder of a refreshment licence or of an entertainment licence.

#### Textual Amendments

**F65** Words in s. 33(1)(2) substituted (31.12.1991) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 68A:2), s. 74, Sch. 8 para. 9(a); S.I. 1991/2862, art. 3, Schedule.

*Status: Point in time view as at 01/05/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Licensing (Scotland) Act 1976 (repealed). (See end of Document for details)*

- F66** Words in s. 33(5) substituted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55, SIF 36:3), s. 21(2).
- F67** Words in s. 33(9) added (31.12.1991) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 68A:2), s. 74, **Sch. 8 para. 9(b)**; S.I. 1991/2862, art. 3, **Schedule**

### 34 Occasional permissions.

- (1) A licensing board may grant an occasional permission to a person representing a voluntary organisation or a branch of a voluntary organisation authorising him to sell alcoholic liquor during such hours and [<sup>F68</sup>for such period of not more than 14 days] as the board may determine, in the course of catering for an event, arising from or related to the activities of the organisation, taking place outwith licensed premises.
- (2) Not more than four occasional permissions may be granted by a licensing board in any one year on behalf of the same voluntary organisation or the same branch of a voluntary organisation.
- (3) In granting an occasional permission under this section, which shall be in writing, the licensing board may impose such conditions as it thinks fit including a condition as to the type of alcoholic liquor which may be sold under the permission, and if the person to whom the permission is granted contravenes such a condition he shall be guilty of an offence.
- (4) The provisions of section 68 of this Act shall apply to any premises or place in respect of which an occasional permission is granted as they apply to licensed premises, with the substitution of references to the holder of the permission for the references to the holder of a licence.
- (5) The provisions of section 85 of this Act shall apply to any premises or place in respect of which an occasional permission is granted as they apply to premises in respect of which a licence (other than an off-sale licence) is in force.
- (6) The person to whom an occasional permission is granted shall ensure that the provisions of this Act or any byelaws or regulations made thereunder relating to the conduct of licensed premises are observed in the premises or place in respect of which the permission was granted as if he were the holder of a public house licence, and if he contravenes this subsection he shall be guilty of an offence:  
Provided that it shall be a defence for any person charged with an offence under this subsection if he proves that he used due diligence to prevent the occurrence of the offence.
- (7) Subsections (7) to (9) of section 33 of this Act shall apply in relation to applications for occasional permissions as they apply in relation to applications for occasional licences.

#### Textual Amendments

- F68** Words in s. 34(1) substituted (31.12.1991) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 68A:2), s. 74, **Sch. 8 para. 10**; S.I. 1991/2862, art. 3, **Schedule**.

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*Status: Point in time view as at 01/05/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Licensing (Scotland) Act 1976 (repealed). (See end of Document for details)*

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### **35 Consent of licensing board required for reconstruction, etc. of certain licensed premises.**

- (1) No reconstruction or extension of or alteration in any premises in respect of which a licence (other than an off-sale licence) is in force, being a reconstruction, extension or alteration which will affect a public or common part of such premises or any communication with such part, shall be made unless the licensing board within whose area such premises are situated has consented to such reconstruction, extension or alteration at a quarterly meeting of the board or at such other time as may be appointed by the board, or unless such reconstruction, extension or alteration is required by order of some lawful authority.
- (2) A licensing board shall not give its consent under this section to any reconstruction, extension or alteration which will materially alter the character of the premises in question or materially alter the external appearance, shape or size of the premises and may, before considering an application for the board's consent under this section, require plans of the proposed reconstruction, extension or alteration to be lodged with the clerk of the board at such time as the board may appoint.
- (3) Before giving its consent under this section, the licensing board shall consult the fire authority for the area.
- (4) If subsection (1) above is contravened, the sheriff may on a complaint at the instance of the licensing board, by order declare the licence which is in force for the premises in respect of which the contravention took place to be forfeited, or may direct that, within a time fixed by the order, the premises shall be restored to their original condition.
- (5) For the purposes of this section—
  - (a) “public part” means a part open to customers who are not residents or guests of residents; and
  - (b) “common part” means a part open generally to all residents or to a particular class of them.

### **36 Power of licensing board to order structural alterations on renewal of certain licences.**

- (1) On any application for the renewal of a licence in respect of any premises (other than off-sale premises), a licensing board may require a plan of the licensed premises to be produced to the board and lodged with the clerk, and on renewing such licence the board may order that, within a time fixed by the order, such structural alterations as the board thinks reasonably necessary to secure the proper conduct of the business shall be made in that part of the licensed premises in which alcoholic liquor is sold or consumed.
- (2) Where an order made under this section is complied with, the licensing board shall not make a further order in respect of those premises within the 6 years following the date of the first-mentioned order unless during that time the board has refused to renew the licence in force in respect of the premises.
- (3) If the holder of a licence makes default in complying with an order made under this section, he shall be guilty of an offence, and he shall be guilty of a further offence for every day on which the default continues after the expiry of the time fixed by the order.

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*Status: Point in time view as at 01/05/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Licensing (Scotland) Act 1976 (repealed). (See end of Document for details)*

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- (4) If the holder of a licence makes default in complying with an order made under this section, the licensing board may order the suspension of his licence and any such order shall specify the matters on which the order is based.
- (5) An order under subsection (4) above shall remain in force until such time as the board is satisfied that the matters which led to the order have been satisfactorily remedied.
- (6) The licence-holder may apply to the board for the cancellation of the order on the ground that the matters which led to the order have been satisfactorily remedied.
- (7) Where a licensing board decides to order the suspension of a licence the suspension shall not take effect until the expiry of the time within which the holder of the licence may appeal to the sheriff, or, if the holder appeals to the sheriff or thereafter to the Court of Session, until the appeal has been determined in favour of the suspension or has been abandoned.
- (8) The holder of the licence may appeal to the sheriff against an order made under subsection (4) above or against a refusal of a licensing board to cancel such an order.

### **37 Power of licensing board to make regulations.**

A licensing board may make regulations with respect to the making of applications for licences (including occasional licences and occasional permissions), extension of permitted hours and restriction of the terminal permitted hours and the procedure following thereon, and such regulations may include provisions designed to assist the board in determining the fitness of applicants to hold licences and the expediency of granting licences for the premises in respect of which application is made; and the board may also make regulations with respect to the procedure to be followed in transferring licences under this Act and with respect to any matters which, by virtue of this Act, may be prescribed.

### **38 Power of licensing board to make byelaws.**

- (1) Without prejudice to its other powers under this Act, a licensing board may make byelaws for any of the following purposes—
  - (a) for closing licensed premises wholly or partially on New Year's Day, and on such other days not being more than four in any one year as the board may think expedient for special reasons;
  - (b) or prohibiting holders of licenses from residing in their licensed premises, or for requiring the dwellinghouses of holders of licences to be separate from their licensed premises;
  - (c) for requiring all wines, made-wines and spirits sold by the holder of an off-sale licence to be sold in corked, stoppered or sealed vessels, cans, jars or casks;
  - (d) for requiring every holder of a hotel or public house licence to keep in his licensed premises and to renew from day to day a sufficient supply of drinking water, and such eatables as may be specified in the byelaw, and to display, offer and supply the same as may be required by the byelaw;
  - (e) for printing a list of all applications coming before any meeting of the licensing board, with such other information as may be considered necessary by the board;
  - (f) for the setting out of conditions which may be attached to licences for the improvement of standards of, and conduct in, licensed premises;

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- (g) for the granting of a licence of a type other than that applied for;

Provided that a byelaw made under paragraph (c) above shall not apply to licensed premises where no groceries are kept or sold and where a bona fide wholesale business in alcoholic liquor is carried on.

- (2) Byelaws made under subsection (1) above shall not have effect until they are confirmed by the Secretary of State, and the provisions of subsections (4) to (12) and (15) of section 202 of the <sup>M9</sup>Local Government (Scotland) Act 1973 and of section 204 of that Act shall, with any necessary modifications, apply in relation to byelaws to be made or made under this section as they apply in relation to byelaws to be made or made under that Act.
- (3) When granting a licence, a licensing board may attach to the licence any condition set out in a byelaw by virtue of paragraph (f) of subsection (1) above.
- (4) The holder of any licence or any employee or agent of his shall be guilty of an offence if he commits a breach of any byelaw or any condition attached to a licence by virtue of a byelaw.

#### Marginal Citations

M9 1973 c. 65(81:2).

### 39 Appeals to sheriff.

- (1) An appeal which may be made by virtue of any provision of this Act against any decision of a licensing board shall be to the sheriff, and the decision of the sheriff on any such appeal may include such order as to the expenses of the appeal as he thinks proper.
- (2) An appeal under this section shall be lodged with the sheriff clerk within 14 days from the date of the decision appealed against or in a case where reasons for a decision have been given under section 18(2) of this Act, within 14 days from the date of receipt of those reasons, which shall be presumed to have been received on the day after the date on which they were posted, except that in the case of reasons posted on a Friday or Saturday, they shall be presumed to have been received on the Monday next following.

[<sup>F69</sup>(2A) A licensing board may be a party to any appeal under this section.]

- (3) On good cause being shown, the sheriff may hear an appeal under this section notwithstanding that it was not lodged within the time mentioned in subsection (2) above.
- (4) The sheriff may uphold an appeal under this section only if he considers that the licensing board in arriving at its decision—
- (a) erred in law;
  - (b) based its decision on any incorrect material fact;
  - (c) acted contrary to natural justice; or
  - (d) exercised its discretion in an unreasonable manner.
- (5) In considering an appeal [<sup>F70</sup>under this section], the sheriff may hear evidence by or on behalf of any party to the appeal.



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- (6) On upholding an appeal under this section the sheriff may—
  - (a) remit the case with the reason for his decision to the licensing board for reconsideration of its decision; or
  - (b) reverse or modify the decision of the licensing board.
- (7) On remitting a case to a licensing board under subsection (6) above, the sheriff may—
  - (a) specify a date by which the rehearing by the board must take place;
  - (b) modify any procedural steps which otherwise would be required in relation to the matter by or under any enactment;and any decision of a licensing board on any such case shall be valid as if reached at a quarterly meeting as mentioned in section 4(1)(a) of this Act.
- (8) If any party to an appeal to the sheriff under any provision of this Act (other than Part VII) is dissatisfied in point of law with a decision of the sheriff, he may appeal therefrom to the Court of Session within 28 days from the date of that decision.
- (9) The Court of Session may, by act of sederunt, make rules for the conduct of proceedings under this section.

#### Textual Amendments

- F69** S. 39(2A) inserted (31.12.1991) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990](#) (c. 40, SIF 68A:2), s. 74, **Sch. 8 para. 11(2)**; S.I. 1991/2862, art. 3, **Schedule**
- F70** Words in s. 39(5) substituted (31.12.1991) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990](#) (c. 40, SIF 68A:2), s. 74, **Sch. 8 para. 11(3)**; S.I. 1991/2862, art. 3, **Schedule**.

## PART III

### SEAMEN’S CANTEENS

#### 40 Power to authorise grant of licences for seamen’s canteens.

If a body approved by the Secretary of State have provided or propose to provide a seamen’s canteen the need for which has been certified by him after consultation with the Merchant Navy Welfare Board, the licensing board within whose jurisdiction the said canteen is or will be situated may grant a licence under this Part of this Act authorising the person who is the manager of the canteen to sell alcoholic liquor in the canteen.

#### 41 Procedure for grant of licences.

- (1) A licensing board shall not refuse to grant a licence under this Part of this Act except under subsection (2) below or on one or more of the following grounds—
  - (a) that the applicant is disqualified by or under this or any other enactment for holding a licence or is in other respects not a fit and proper person to hold a licence under this Part of this Act; or
  - (b) that the premises to which an application relates are not fit and convenient for the purposes of the canteen; or
  - (c) in a case where objection has been made to the situation of the canteen, on the ground specified in the objection; or

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- (d) that the applicant or body providing the canteen has entered into an agreement limiting the sources from which the alcoholic liquor or the mineral waters to be sold in the canteen may be obtained;

but nothing in this subsection shall prevent a licensing board from specifying in the licence granted by it the types of liquor (including if the board thinks fit types of liquor other than those in respect of which the application for the licence was made) which may be sold under the licence, and the holder of the licence or his employee or agent shall be guilty of an offence if he sells alcoholic liquor of a type other than that specified in the licence.

- (2) Before application is made for the grant of a licence under this Part of this Act, draft rules as to the persons entitled to use the canteen shall be prepared for submission with the application, and the licensing board shall refuse to grant the licence unless the body providing the canteen undertake to make rules for the canteen in the form of the draft, with the modifications, if any, required by the licensing board, and not to vary those rules without the consent of the licensing board.
- (3) Any licence granted under this Part of this Act shall provide that at all times at which alcoholic liquor is sold, food and beverages other than alcoholic liquor shall also be provided for sale, and if such food and beverages are not so provided, the holder of the licence or his employee or agent, as the case may be, shall be guilty of an offence.
- (4) Part I of Schedule 2 to this Act shall have effect as respects the notices to be given and the documents to be served on an application for the grant of a licence under this Part of this Act.
- (5) A licence under this Part of this Act may, in a case where it is proposed to construct or convert premises for a seamen’s canteen, be a provisional licence to be made final after the proposal has been carried out; and Part II of the said Schedule 2 shall have effect as respects such licences.
- (6) Where any person desires to oppose an application for the grant of a licence under this Part of this Act, he shall, not later than seven days before the meeting of the licensing board at which the application is to be considered, give to the licensing board and to the applicant written notice of his objection specifying the ground of his objection in the manner mentioned in section 16(2) and (3) of this Act.
- (7) Notwithstanding the foregoing provisions of this section, it shall be competent for a licensing board to entertain objections from the chief constable, lodged at any time before the hearing of an application, if the licensing board is satisfied that is sufficient reason why due notice and intimation of the objection could not be given, and in such case the chief constable shall, where practicable, cause his objections to be intimated to the applicant before the hearing.

#### **42 Renewal of licences.**

- (1) Section 30 of this Act shall have effect in relation to licences under this Part of this Act.
- (2) If the Secretary of State has, in the calendar year in which the licence would otherwise expire, certified that the canteen is still needed, the licensing board may renew the licence.
- (3) A licensing board shall not refuse an application for the renewal of a licence under this Part of this Act except under subsection (4) below or on one or more of the following grounds—

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- (a) that the manager is disqualified by or under this or any other enactment for holding a licence or is in other respects not a fit and proper person to be the holder of a licence under this Part of this Act; or
  - (b) that the rules as to the persons entitled to use the canteen have not been observed or that the canteen has in other respects been improperly conducted; or
  - (c) that the manager or the body providing the canteen has entered into an agreement of the kind mentioned in paragraph (d) of section 41(1) of this Act.
- (4) On renewing a licence under this Part of this Act a licensing board may by order, to be served on the holder, direct that, within a time fixed by the order, such structural alterations shall be made in the premises comprising the canteen as the board thinks reasonably necessary to secure the proper conduct of the canteen, and if, when application for renewal of the licence is next made after the time fixed by the order has expired, it is not shown to the satisfaction of the licensing board that the order has been complied with, the licensing board may refuse to renew the licence.

If an order under this subsection is complied with, the licensing board shall not further order within the six years following the first-mentioned order.

- (5) Any person intending to oppose an application for renewal of a licence under this Part of this Act shall, not later than seven days before the hearing of the application, give to the holder of the licence and to the licensing board notice in writing of his intention, specifying the ground of his objection in the manner mentioned in section 16(2) and (3) of this Act.
- (6) Notwithstanding the foregoing provisions of this subsection, it shall be competent for the licensing board to entertain objections from the chief constable, lodged at any time before the hearing of the application if the board is satisfied that there is sufficient reason why due notice and intimation of the objection could not be given, and in such a case the chief constable shall, where practicable, cause his objections to be intimated to the applicant before the hearing.

#### **43 Transfer of licences.**

- (1) Where the holder of a licence under this Part of this Act subsequently ceases to be the manager of the canteen, the person for the time being in charge of the canteen may, during the period of 14 days from the date on which the holder of the licence ceased to be the manager, sell alcoholic liquor in the canteen as if that licence had been transferred to him.
- (2) A transfer of a licence under this Part of this Act shall not be refused except on the ground that the applicant is disqualified by or under this or any other enactment for holding a licence or is in other respects not a fit and proper person to hold a licence under this Part of this Act.
- (3) An applicant under this section shall give the notices required by Part III of Schedule 2 to this Act.

#### **44 Rights of appeal.**

Where a licensing board—

- (a) refuses to grant, renew or transfer a licence under this Part of this Act, or

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- (b) on an application for the grant of a licence under this Part of this Act, specifies, as types of liquor which may be sold under the licence, types other than those in respect of which the application for the licence was made, or
  - (c) on an application for renewal of a licence under this Part of this Act, does not comply with any request duly made by the applicant for a change in the specification of the types of liquor which may be sold under the licence, or
  - (d) requires modifications in the rules proposed to be made as to the persons entitled to use the canteen, or withholds its consent to a variation of those rules, or
  - (e) makes an order under section 42(4) of this Act,
- the applicant or, as the case may be, the licence-holder may appeal to the sheriff from such a decision of the licensing board.

**45 Provisions of this Act which apply to licensed canteens.**

- (1) The provisions of this Act mentioned in subsection (2) below shall apply to licensed canteens, to the holders of licences under this Part of this Act and to their employees and agents as if a licensed canteen were a public house and as if the licence-holder of a canteen were the licence-holder of a public house.
- (2) The provisions of this Act referred to in subsection (1) above are sections 31, 35, 65, 66, 71, 76, 77, 78, 79, 84, 85, 87, 88 and 126.

**46 Interpretation of Part III.**

In this Part of this Act, “canteen” includes a part of a hostel where food or drink is supplied, whether or not the food or drink is separately paid for.

**PART IV**

47— ..... F71  
52.

**Textual Amendments**  
**F71** Ss. 47–52 repealed by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23, SIF 81:2\)](#), [Sch. 4](#)

**PART V**

**THE PERMITTED HOURS**

**[<sup>F72</sup>53 Permitted hours in licensed premises and registered clubs.**

- (1) Subject to the provisions of this Act, the permitted hours in licensed premises, licensed canteens and registered clubs shall be—
  - (a) for days other than Sundays, the period between eleven in the morning and eleven in the evening; and

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- (b) for Sundays, the period between half-past twelve and half-past two in the afternoon and the period between half-past six and eleven in the evening.
- (2) Nothing in this section shall authorise the sale or supply of alcoholic liquor for consumption off the premises, being premises in respect of which a refreshment licence, an entertainment licence, a restricted hotel licence, a restaurant licence or a licence under Part III of this Act is in force.]

#### Textual Amendments

**F72** S. 53 substituted (with saving) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 68A:2), ss. 45(1), 46

### 54 Prohibition of sale and consumption of alcoholic liquor except during permitted hours.

- (1) Subject to the provisions of this Act, no person shall, except during the permitted hours—
  - (a) sell or supply to any person in any licensed premises, or licensed canteen, or in the premises of a registered club any alcoholic liquor to be consumed either on or off the premises, or
  - (b) consume in, or take from, any such premises any alcoholic liquor.
- (2) Subsection (1) above shall not apply to off-sale premises or to the off-sale part of premises (within the meaning of section 119 of this Act) in respect of which a public house licence or hotel licence is held.
- (3) Nothing in subsection (1) above shall prohibit or restrict—
  - (a) the consumption of alcoholic liquor in any premises at any time within fifteen minutes after the conclusion of the permitted hours in the afternoon or evening, as the case may be, if such liquor was supplied in those premises during the permitted hours;
  - (b) the taking of alcoholic liquor from any premises within fifteen minutes after the conclusion of the permitted hours in the afternoon or evening, as the case may be, if such liquor was supplied in those premises during the permitted hours and was not supplied or taken away in an open vessel;
  - (c) the sale or supply to, or consumption by, any person of alcoholic liquor in any premises where he is residing;
  - (d) the taking of alcoholic liquor from any premises by a person residing there;
  - (e) the supply of alcoholic liquor in any premises, for consumption on those premises, to any private friends of a person residing there who are bona fide entertained by, and at the expense of, that person, or the consumption by such friends of alcoholic liquor so supplied to them;
  - (f) the ordering of alcoholic liquor to be consumed off the premises or the despatch by the vendor of liquor so ordered;
  - (g) the supply of alcoholic liquor for consumption on licensed premises to any private friends of the holder of the licence bona fide entertained by him at his own expense, or the consumption of alcoholic liquor by persons so supplied;
  - (h) the consumption of alcoholic liquor at a meal by any person at any time within half an hour after the conclusion of the permitted hours in the afternoon or

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- evening, as the case may be, if the liquor was supplied during the permitted hours and served at the same time as the meal and for consumption at the meal;
- (i) the sale of alcoholic liquor to a trader for the purposes of his trade, or to a registered club for the purposes of the club; or
  - (j) the sale or supply of alcoholic liquor to any canteen in which the sale or supply of alcoholic liquor is carried on under the authority of the Secretary of State or to any authorised mess of members of Her Majesty’s naval, military or air forces.
- (4) If any person contravenes this section he shall be guilty of an offence.
- (5) Nothing in this Act shall be taken to require any premises to be open for the sale or supply of alcoholic liquor during the permitted hours.

<sup>F73</sup>55 .....

#### Textual Amendments

**F73** S. 55 repealed (17.3.1993) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 68A:2\)](#), s. 74, [Sch.9](#); S.I. 1993/641, [art. 3](#), Sch.

#### 56 Alternative permitted hours in certain athletic clubs during winter.

- [<sup>F74</sup>(1) A registered club may apply to the sheriff for an order providing that during the winter period the permitted hours in the club on Sundays shall not be those set out in section 53 of this Act, but shall instead be the period between half-past twelve and two in the afternoon and the period between four and nine in the evening; and the sheriff shall, if in his opinion the conditions set out in subsection (2) below are satisfied, make the order applied for.]
- (2) The conditions referred to in subsection (1) above are—
- (a) that the premises of the club are structurally adapted and bona fide used, or intended to be used, wholly or mainly for the purpose of providing facilities in connection with the carrying on by members of the club and their guests of athletic sports or athletic games;
  - (b) that one or more of such sports or games is or are usually carried on out of doors and, when so carried on, can (unless artificial lighting is used) only be carried on during hours of daylight;
  - (c) that the said premises are regularly used, or are intended regularly to be used, during the winter period, for providing facilities in connection with the carrying on by members of the club and their guests, during the hours of daylight, of such a sport or game as is mentioned in paragraph (b) above;
  - (d) that having regard to the time at which the said sport or game is usually carried on by members of the club and their guests, the permitted hours set out in [<sup>F75</sup>section 53] of this Act are not suitable for the supply of alcoholic liquor in the said premises to persons who participate in that sport or game.
- (3) On an application for an order being made under subsection (1) above by any club, the sheriff clerk shall forthwith give notice thereof to the chief constable who may, within 21 days of the date of the receipt by him of such notice, lodge with the sheriff clerk objections to the making of such order on the ground that one or more of the conditions

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set out in subsection (2) above has not or have not been satisfied in relation to the club, and shall, on lodging any such objections, send a copy thereof to the secretary of the club; and if any such objections are lodged and not withdrawn, the sheriff shall, as soon as may be, hear parties upon the application and objections and may order such enquiry as he thinks fit, and shall thereafter make or refuse to make the order applied for, and may award expenses against the unsuccessful party.

- (4) An order made under this section by the sheriff in respect of any club shall expire on the date on which the certificate of registration which is in force in respect of the club expires.
- (5) In this section, the expression “the winter period” means the period beginning with 1st October and ending with 31st March.

#### Textual Amendments

- F74** S. 56(1) substituted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 68A:2\)](#), [s. 45\(2\)\(a\)](#)
- F75** Words substituted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 68A:2\)](#), [s. 45\(2\)\(b\)](#)

## 57 Extension of permitted hours in the afternoon in certain licensed premises and clubs.

- (1) This section shall apply to any premises for which a licence (other than an off-sale licence) is held or to the premises of a registered club—
  - (a) if the holder of the licence or, as the case may be, the club gives notice of the application of the section to the premises in accordance with subsection (6) below, and
  - (b) as from such date as may be specified in the said notice:

Provided that, in the case of premises for which a public house or a hotel licence is held or the premises of a club, the licence-holder or the club, as the case may be, shall not give notice of application as aforesaid, and this section shall not apply to such premises, unless the licensing board for the area within which the premises are situated is satisfied that the premises are structurally adapted and bona fide used, or intended to be used, for the purpose of habitually providing the customary main meal at midday for the accommodation of persons frequenting the premises.

- (2) While this section applies to any premises, the effect shall be that, for the purposes mentioned in subsection (3) below, the permitted hours in those premises in the afternoon [<sup>F76</sup>on Sundays] shall be increased by the addition of one and a half hours at the end thereof.
- (3) The purposes referred to in subsection (2) above are—
  - (a) the sale or supply to persons taking table meals in the premises of alcoholic liquor supplied in a part of the premises usually set apart for the service of such persons, and supplied for consumption by such a person in that part of the premises as an ancillary to his meal; and
  - (b) the consumption of alcoholic liquor so supplied.

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- (4) While this section applies to any premises, then for purposes other than those mentioned in subsection (3) above, or in parts of the premises other than the part so mentioned, the permitted hours shall be the same as if this section did not apply to the premises.
- (5) This section shall cease to apply to any premises on such day as may be specified in the notice, if the holder of the licence or the club, as the case may be, gives notice of the disapplication of the section from the premises in accordance with subsection (6) below:  
 Provided that this section shall cease to apply to premises for which a public house or a hotel licence is held, or to the premises of a club, at any time on the licensing board ceasing to be satisfied as mentioned in the proviso to subsection (1) above.
- (6) A notice of the application of this section to, or of the disapplication of this section from, any premises—
- (a) shall be in writing;
  - (b) shall, in the case of a club, be given by the secretary of the club on its behalf;
  - (c) shall, in the case of a notice of application, specify the date from which the section is to apply to the premises and, in the case of a notice of disapplication, state that the section is to cease to apply to the premises on the date specified in the notice;
  - (d) shall be served on the chief constable not later than 14 days before the date specified as aforesaid.
- (7) The secretary of any club to the premises of which this section applies shall notify the licensing board for the area within which such premises are situated of any reconstruction or extension of, or alteration in, the premises which affects the facilities available in the premises for the provision of the customary main meal at midday, and if the secretary of any club contravenes this subsection he shall be guilty of an offence.
- (8) The holder of the licence for premises to which this section applies shall keep posted in some conspicuous place in the premises a notice stating that this section applies thereto and setting out the effect of its application, and if any person contravenes this subsection he shall be guilty of an offence.

#### Textual Amendments

**F76** Words inserted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 68A:2\), s. 45\(3\)](#)

### 58 Extension of permitted hours in the evening in certain licensed premises and clubs.

- (1) This section shall apply to any premises for which a licence (other than an off-sale licence) is held or to the premises of a registered club—
- (a) if the holder of the licence or, as the case may be, the club gives notice of the application of the section to the premises in accordance with subsection (6) below, and
  - (b) as from such date as may be specified in the said notice:

Provided that, in the case of premises for which a public house or a hotel licence is held or the premises of a club, the licence-holder or the club, as



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the case may be, shall not give notice of application as aforesaid and this section shall not apply to such premises, unless the licensing board for the area within which the premises are situated is satisfied that the premises are structurally adapted and bona fide used, or intended to be used, for the purpose of habitually providing, for the accommodation of persons frequenting the premises, substantial refreshment to which the sale and supply of alcoholic liquor is ancillary.

- (2) While this section applies to any premises, the effect shall be that for the purposes mentioned in subsection (3) below the permitted hours in those premises in the evening shall be increased by the addition of two hours at the end thereof.
- (3) The purposes referred to in subsection (2) above are—
  - (a) the sale or supply to persons taking table meals in the premises of alcoholic liquor supplied in a part of the premises usually set apart for the service of such persons, and supplied for consumption by such a person in that part of the premises as an ancillary to his meal; and
  - (b) the consumption of alcoholic liquor so supplied.
- (4) While this section applies to any premises, then for purposes other than those mentioned in subsection (3) above, or in parts of the premises other than the part so mentioned, the permitted hours shall be the same as if this section did not apply to the premises.
- (5) This section shall cease to apply to any premises on such day as may be specified in the notice if the holder of the licence or the club, as the case may be, gives notice of the disapplication of the section from the premises in accordance with subsection (6) below:  
Provided that this section shall cease to apply to premises for which a public house or a hotel licence is held, or to the premises of a club, at any time on the licensing board ceasing to be satisfied as mentioned in the proviso to subsection (1) above.
- (6) A notice of the application of this section to, or of the disapplication of this section from, any premises—
  - (a) shall be in writing;
  - (b) shall, in the case of a club, be given by the secretary of the club on its behalf;
  - (c) shall, in the case of a notice of application, specify the date from which the section is to apply to the premises and, in the case of a notice of disapplication, state that the section is to cease to apply to the premises on the date specified in the notice;
  - (d) shall be served on the chief constable not later than 14 days before the date specified as aforesaid.
- (7) The secretary of any club to the premises of which this section applies shall notify the licensing board for the area within which such premises are situated of any reconstruction or extension of, or alteration in, the premises which affects the facilities available in the premises for the provision of substantial refreshment, and if the secretary of any club contravenes this subsection he shall be guilty of an offence.
- (8) The holder of the licence for premises to which this section applies shall keep posted in some conspicuous place in the premises a notice stating that this section applies thereto and setting out the effect of its application, and if any person contravenes this subsection he shall be guilty of an offence.

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## 59 Restaurants in public houses may have permitted hours on Sundays in certain cases.

(1) This section shall apply to any premises for which a public house licence is held and in respect of which <sup>F77</sup>there are no permitted hours on a Sunday]—

- (a) if the holder of the licence gives notice of the application of the section to the premises in accordance with subsection (6) below, and
- (b) as from such date as may be specified in the said notice:

Provided that a licence-holder shall not give notice of application as aforesaid, and this section shall not apply to the premises for which he holds his licence, unless—

- (i) the licensing board for the area within which the premises are situated is satisfied that the premises are structurally adapted and bona fide used, or intended to be used, for the purpose of habitually providing the customary main meal at midday or in the evening, or both, for the accommodation of persons frequenting the premises, and that the part of the premises mentioned in subsection (3) below does not contain a bar counter; and
- (ii) . . . . . <sup>F78</sup>

(2) While this section applies to any premises, the effect shall be that for the purposes mentioned in subsection (3) below there shall be permitted hours in those premises on Sundays, such permitted hours being the period between half-past twelve and half-past two in the afternoon and the period between half-past six and eleven in the evening.

(3) The purposes referred to in subsection (2) above are—

- (a) the sale or supply to persons taking table meals in the premises of alcoholic liquor supplied in a part of the premises usually set apart for the service of such persons, and supplied for consumption by such a person in that part of the premises as an ancillary to his meal; and
- (b) the consumption of alcoholic liquor so supplied.

(4) While this section applies to any premises, then for purposes other than those mentioned in subsection (3) above, or in parts of the premises other than the part so mentioned, or except as otherwise provided by this Act, there shall be no permitted hours on Sundays.

(5) This section shall cease to apply to premises on such day as may be specified in the notice if the holder of the licence gives notice of the disapplication of the section from the premises in accordance with subsection (6) below:

Provided that this section shall cease to apply to premises at any time on the licensing board ceasing to be satisfied as mentioned in paragraph (i) of the proviso to subsection (1) above.

(6) A notice of the application of this section to, or of the disapplication of this section from, any premises—

- (a) shall be in writing;
- (b) shall, in the case of a notice of application, specify the date from which the section is to apply to the premises and, in the case of a notice of disapplication, state that the section is to cease to apply to the premises on the date specified in the notice;
- (c) shall be served on the chief constable not later than 14 days before the date specified as aforesaid.

*Status: Point in time view as at 01/05/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Licensing (Scotland) Act 1976 (repealed). (See end of Document for details)*

- (7) The holder of the licence for premises to which this section applies shall keep posted in some conspicuous place in the premises a notice stating that this section applies thereto and setting out the effect of its application, and if any licence-holder contravenes this subsection he shall be guilty of an offence.

**Textual Amendments**

- F77** Words substituted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c.40, SIF 68A:2\), s. 46\(5\)](#)
- F78** [S. 59\(1\)\(b\)](#) proviso para. (ii) repealed by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23, SIF 81:2\), Sch. 4](#)

**60 Other provisions as respects extension of permitted hours on Sundays.**

- (1) This section shall apply to any premises for which a hotel licence, restricted hotel licence, or restaurant licence is held and to any premises for which a public house licence or refreshment licence is held and in respect of which [<sup>F79</sup>there are permitted hours on Sundays in accordance with section 53 of this Act] if the licence-holder gives notice of the application of the section to the premises in accordance with the provisions of section 58(1) of this Act, and the effect of the application of this section to those premises shall be that, for the purposes mentioned in section 58(3) of this Act, the permitted hours on Sundays shall be extended by the addition to them of the hours between five and half-past six in the evening, and subsections (4), (5), (6) and (8) of that section shall apply accordingly.
- (2) This section shall apply to any premises for which a public house licence is held and to which section 59 of this Act applies if the licence-holder gives notice of the application of the section to the premises in accordance with the provisions of subsection (1) of section 59 of this Act, and the effect of the application of this section to those premises shall be that, for the purposes mentioned in subsection (3) of section 59 of this Act, the permitted hours on Sundays shall be extended by the addition to them of the hours between five and half-past six in the evening, and subsections (5) to (7) of that section shall apply accordingly.

**Textual Amendments**

- F79** Words substituted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c.40, SIF 68A:2\), s. 46\(6\)](#)

**F80 61** .....

**Textual Amendments**

- F80** [S. 61](#) repealed (17.3.1993) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 68A:2\), s. 74, Sch.9](#); [S.I. 1993/641, art. 3](#), Sch.

*Status: Point in time view as at 01/05/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Licensing (Scotland) Act 1976 (repealed). (See end of Document for details)*

## 62 Seasonal licences.

- (1) On granting or transferring a licence in respect of any premises, a licensing board may, if the applicant so requests and if the board is satisfied that the requirements of the area for which the board is constituted make it desirable, insert in the licence a condition that, during such part or parts of the year as may be specified in the condition (being a part which is not longer, or parts which taken together are not longer, than 180 days),—
  - (a) in the case of premises other than off-sale premises, there shall be no permitted hours in the premises; or
  - (b) in the case of hotel premises, there shall be no permitted hours in the premises except in that part or those parts of the premises which consist of a bar or a restaurant which is open to the public; or
  - (c) in the case of off-sale premises, the licence-holder shall not open the premises for the serving of customers with alcoholic liquor.
- (2) A licence in which such a condition has been inserted is in this Act referred to as a seasonal licence.

## 63 Exemption of international airports from restrictions on times at which alcoholic liquor may be sold or supplied.

- (1) The Secretary of State may by order bring this section into operation at any airport which appears to him to be an airport at which there is a substantial amount of international passenger traffic.
- (2) At an airport where this section is in operation, neither section 54 nor section 119 of this Act nor any provision or rule of law prohibiting or restricting the sale or supply of alcoholic liquor on Sunday shall apply to licensed premises which are within the examination station approved for the airport under [<sup>F81</sup>section 22 of the <sup>M10</sup>Customs and Excise Management Act 1979].
- (3) Before the Secretary of State makes an order bringing this section into operation at an airport, he shall satisfy himself that arrangements have been made for affording reasonable facilities in licensed premises within the said examination station on the airport for obtaining hot and cold beverages other than alcoholic liquor at all times when alcoholic liquor is obtainable for consumption in those premises, and if it appears to him that at any airport where this section is in operation such arrangements are not being maintained he shall revoke the order in force as respects that airport; but this subsection shall be without prejudice to his power of making a further order with respect to that airport.
- (4) The power of making orders under this section shall include power to revoke a previous order and shall be exercisable by statutory instrument.

### Textual Amendments

**F81** Words substituted by [Customs and Excise Management Act 1979 \(c. 2, SIF 40:1\)](#), [Sch. 4 para. 12](#)

### Marginal Citations

**M10** [1979 c. 2\(40:1\)](#).

*Status: Point in time view as at 01/05/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Licensing (Scotland) Act 1976 (repealed). (See end of Document for details)*

### **[<sup>F82</sup>63A Exemption of international ports from restrictions on permitted hours.**

- (1) The Secretary of State may by order made by statutory instrument bring this section into operation at any port which appears to him to be a port at which there is a substantial amount of international passenger traffic.
- (2) At a port where this section is in operation, neither section 54 nor section 119 of this Act nor any provision or rule of law prohibiting or restricting the sale or supply of alcoholic liquor on Sunday shall apply to licensed premises which are within an approved wharf.
- (3) Before the Secretary of State makes an order bringing this section into operation at a port, he shall satisfy himself that arrangements have been made for affording reasonable facilities in licensed premises within any approved wharf at that port for obtaining hot and cold beverages other than alcoholic liquor at all times when alcoholic liquor is obtainable for consumption in those premises.
- (4) If it appears to the Secretary of State that at any port where this section is in operation such arrangements as are mentioned in subsection (3) above are not being maintained, he shall revoke the order bringing this section into operation as respects that port, but without prejudice to his power of making a further order with respect to that port.
- (5) In this section, “approved wharf” has the same meaning as in the Customs and Excise Management Act 1979..]

#### **Textual Amendments**

**F82** S. 63A inserted (3.11.1994) by 1994 c. 40, ss. 18(2), 82(3)

### **64 Occasional and regular extensions of permitted hours.**

- (1) Any person holding a public house licence, a hotel licence, a restricted hotel licence, a restaurant licence, an entertainment licence [<sup>F83</sup>, a refreshment licence] or a licence under Part III of this Act, in respect of any premises, may apply to the licensing board within whose area the premises are situated for the grant of an occasional or regular extension of permitted hours, and at the same time as he makes the application he shall send a copy of the application to the chief constable.
- (2) A licensing board may grant an application for an occasional extension of permitted hours in connection with any occasion which the board considers appropriate, and such a grant shall authorise the person to whom it was granted to sell or supply alcoholic liquor in the premises to which the application relates during such period not exceeding one month and between such hours and on such day as may be specified in the grant.
- (3) After considering the application and any objections made thereto, a licensing board may grant an application for the regular extension of permitted hours if, having regard to the social circumstances of the locality in which the premises in respect of which the application is made are situated or to activities taking place in that locality, the board considers it is desirable to do so, and such a grant shall authorise the person to whom it was granted to sell or supply alcoholic liquor in the premises to which the application relates during such period in the year succeeding the date of the grant and between such hours and on such days as may be specified in the grant.

*Status: Point in time view as at 01/05/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Licensing (Scotland) Act 1976 (repealed). (See end of Document for details)*

[<sup>F84</sup>(3A) Where a licence has been transferred by virtue of section 25 of this Act and an application under subsection (1) above has been granted under subsection (2) or (3) above to the previous holder of the licence, the reference in subsections (2) and (3) above to the person whose application has been granted shall include a reference to the person to whom the licence has been transferred.]

[<sup>F85</sup>(4) A licensing board shall not grant an application from the holder of a public house licence for an occasional or regular extension of permitted hours on Sundays except—

- (a) as respects premises to which section 59 of this Act applies and for the purposes of that section; and
- (b) in the case of other premises, as respects any period or periods after half-past two in the afternoon,

and the board shall refuse to grant such an application if it finds that the extension of permitted hours would cause undue disturbance or public nuisance in the locality.

(4A) Nothing in subsection (4) above shall prevent the granting of an application for an occasional or regular extension of permitted hours on a Saturday for a period which continues into Sunday morning.]

(5) The secretary of a registered club may apply to the licensing board within whose area the premises of the club are situated for the grant of an occasional or regular extension of permitted hours under this section, and the licensing board may grant such an extension if it is satisfied as to the matters mentioned in subsection (2) or (3) above or, in the case of an application for an occasional extension of permitted hours, consider that the occasion or circumstances in respect of which the application is made arise out of or are related to the functions of the club or a private function organised by an individual member or group of members of the club.

(6) A licensing board may attach such conditions as it thinks fit to the grant of an occasional or regular extension of permitted hours under this section, and if—

- (a) the holder of a licence or his employee or agent contravenes such a condition he shall be guilty of an offence; or
- (b) such a condition is contravened as regards any club, every person [<sup>F86</sup>whose name is, at the time of the contravention, contained in the list lodged under subsection (3)(b) of section 103 of this Act, or as the case may be in the new list last lodged under subsection (5) or (5A) of that section, in respect of that club] shall be guilty of an offence:

Provided that a person shall not be convicted of an offence under this paragraph if he proves that the contravention in question took place without his knowledge or consent.

[<sup>F87</sup>(7) References in this Act to the permanent transfer of a licence shall be construed as references to the transfer of a licence by virtue of subsection (1B) above.]

(8) A licensing board shall not grant an extension of permitted hours under this section if it considers that the extension is likely to cause undue public nuisance or to be a threat to public order or safety.

[<sup>F88</sup>(9) Where a licensing board has refused an application under subsection (1) above for the grant of an occasional or regular extension of permitted hours in respect of any premises, the board shall not, within one year of its refusal, entertain a subsequent application for such an extension in respect of the same premises unless the board, at the time of refusing the first-mentioned application, makes a direction to the contrary.]

*Status: Point in time view as at 01/05/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Licensing (Scotland) Act 1976 (repealed). (See end of Document for details)*

### Textual Amendments

- F83** Words in s. 64(1) inserted (31.12.1991) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 68A:2), s. 74, **Sch. 8 para. 12(a)**; S.I. 1991/2682, art. 3, **Schedule**.
- F84** S. 64(3A) inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 68A:2), **s. 51(5)**.
- F85** S. 64(4)(4A) substituted for s. 64(4) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 68A:2), **s. 46(7)**.
- F86** Words substituted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55, SIF 36:3), **s. 21(2)**.
- F87** S. 64(7) substituted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 68A:2), **s. 51(6)**.
- F88** S. 64(9) inserted (31.12.1991) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 68A:2), s. 74, **Sch. 8 para. 12(b)**; S.I. 1991/2862, art. 3, **Schedule**.

## 65 Restriction orders.

[<sup>F89</sup>(1) Where, on a complaint being made to a licensing board by any person mentioned in section 16(1) of this Act in respect of any licensed premises or registered club, the board is satisfied that—

- (a) the sale or supply of alcoholic liquor in the afternoon or in the evening in licensed premises or in a registered club is the cause of undue public nuisance or constitutes a threat to public order or safety; or
- (b) the use of licensed premises is the cause of undue disturbance or public nuisance having regard to the way of life in the locality on a Sunday,

the board may make an order, in this section referred to as an “afternoon restriction order” or “evening restriction order” in the case of the grounds mentioned in paragraph (a) above or as a “Sunday restriction order” in the case of the grounds mentioned in paragraph (b) above; and, in this section, “restriction order” includes any such order.

- (1A) The effect of an afternoon restriction order is that the permitted hours between half-past two and five in the afternoon shall be reduced by such a time and for such a period as may be specified in the order.
- (1B) The effect of an evening restriction order is that the permitted hours in the evening shall be reduced by such a time and for such a period as may be specified in the order but no such order shall restrict the permitted hours before ten in the evening.
- (1C) The effect of a Sunday restriction order is that there shall be no permitted hours on Sunday for such period as may be specified in the order or that the permitted hours on Sunday shall be reduced by such a time and for such a period as may be so specified.]
- (2) The provisions of subsections (4) to (6) of section 31 of this Act shall, with any necessary modifications, apply in relation to a restriction order as they apply in relation to the suspension of a licence.
- (3) The licensing board may make a restriction order in relation to individual premises or in relation to a group of premises in respect of which the same type of licence is held [<sup>F90</sup>provided that no restriction order shall be made in respect of premises in respect of which no complaint has been made].

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*Status: Point in time view as at 01/05/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Licensing (Scotland) Act 1976 (repealed). (See end of Document for details)*

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- (4) An application for the revocation of a restriction order may only be made after the expiry of two-thirds of the period for which the restriction order is in force.
- (5) An application for the revocation of a restriction order shall be made in writing by the licence-holder of the premises or by the secretary of the registered club to which the order relates and lodged with the clerk of the licensing board not less than 21 days before the quarterly meeting at which the application is to be considered, and the licence-holder or secretary shall, at the same time, send a copy of the application to the persons whose complaint led to the making of the restriction order.
- (6) Any person competent to make a complaint under this section may object to the revocation of a restriction order, and any such objection shall be made in writing and lodged with the clerk of the licensing board and a copy thereof sent to the licence-holder or to the registered club not less than 7 days before the quarterly meeting at which the application for revocation is to be considered.
- (7) After considering the application and any objections made thereto, the licensing board may take such decision in the matter as it thinks fit and any such decision may relate to all or any of the premises which are the subject of the restriction order.
- (8) The holder of the licence or a registered club may appeal to the sheriff against a decision of a licensing board to make a restriction order or against the period specified in a restriction order or against a refusal of the board to revoke the order, and any complainer who appeared at the hearing of an application for the revocation of a restriction order may appeal to the sheriff against a decision of the board to revoke the order.

#### Textual Amendments

**F89** S. 65(1)–(1C) substituted for s. 65(1) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 68A:2), s. 48(2)

**F90** Words inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 68A:2), s. 48(3)

## 66 Temporary restriction of permitted hours.

- (1) On an application made to a licensing board by a constable of the rank of chief inspector or above for an order making a temporary restriction of permitted hours the board may, if it considers it desirable in the interests of public order or safety, order that the premises to which the application relates be closed to the public for such time of up to 3 hours and on such day or days as may be specified in the order.
- (2) The licensing board may make an order under subsection (1) above in relation to individual premises or in relation to a group of premises in respect of which the same type of licence is held.
- (3) The licence-holder of premises to which an application under subsection (1) above relates or the registered club concerned shall have no right to object to the application.
- (4) An order under this section may be made in relation to any licensed premises or registered club.



*Status: Point in time view as at 01/05/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Licensing (Scotland) Act 1976 (repealed). (See end of Document for details)*

## PART VI

### OFFENCES

#### 67 Penalties for offences against provisions of this Act and Prevention of Corruption Acts.

- (1) Schedule 5 to this Act shall have effect in accordance with the provisions of this section with respect to the penalties for offences against the provisions of this Act specified in column 1 of that Schedule, of which a rough description is given in column 2 thereof, and in that Schedule—
  - (a) column 3 shows whether the licence-holder has vicarious responsibility in relation to offences in accordance with subsection (2) below;
  - (b) column 4 shows whether the licence-holder and his premises are liable to disqualification under subsection (3) below; and
  - (c) column 5 shows the maximum penalty by way of fine or imprisonment which may be imposed.
- (2) Where an employee or agent of a licence-holder commits an offence in respect of which column 3 of Schedule 5 to this Act indicates that the licence-holder has vicarious responsibility, proceedings may be instituted against the licence-holder in respect of that offence whether or not proceedings have been instituted against the person who committed the offence:  
Provided that it shall be a defence for the licence-holder to prove that the offence occurred without his knowledge or connivance and that he exercised all due diligence to prevent its occurrence.
- (3) Where a licence-holder is convicted of an offence in respect of which column 4 of Schedule 5 to this Act indicates that the licence-holder and the premises in respect of which the licence is held may be disqualified, or of an offence under section 19 of this Act, the court by which he is convicted may make an order in accordance with either or both of the following paragraphs, that is to say—
  - (a) that the licence-holder shall be disqualified from holding a licence in respect of the premises concerned for a period not exceeding five years;
  - (b) that the premises in respect of which the licence is held shall be disqualified from being used as licensed premises for a period not exceeding five years.
- (4) Where a licence-holder is convicted of an offence under the Prevention of Corruption Acts 1889 to 1916 in connection with an application to a licensing board under this Act, the court by which he is convicted may, in addition to any other penalty which the court may impose, make an order in accordance with either or both of the following paragraphs, that is to say—
  - (a) that the licence-holder shall be disqualified from holding a licence for a period not exceeding five years in respect of the premises to which the application relates or related;
  - (b) that the premises to which the application relates or related shall be disqualified from being used as licensed premises for a period not exceeding five years.
- (5) Where an offence against this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in such capacity, he as well as

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the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

In this subsection, the expression “director”, in relation to any body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by the members thereof, means a member of that body corporate.

- (6) In this section, “licence-holder” includes the holder of a licence under Part III of this Act.

**Modifications etc. (not altering text)**

- C1 S. 67(2)(3) extended by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 68A:2\)](#), s. 49(7)(a)

**68 Protection of young persons.**

- (1) Subject to subsection (6) below, the holder of a licence or his employee or agent shall not in licensed premises sell alcoholic liquor to a person under 18, or allow a person under 18 to consume alcoholic liquor in a bar, nor shall the holder of the licence allow any person to sell alcoholic liquor to a person under 18.
- (2) A person under 18 shall not in licensed premises buy or attempt to buy alcoholic liquor nor consume alcoholic liquor in a bar.
- (3) A person shall not knowingly act as agent for a person under 18 in the purchase of alcoholic liquor, nor shall any person knowingly buy or attempt to buy alcoholic liquor for consumption in a bar in licensed premises by a person under 18.
- (4) In subsections (1) to (3) above and in sections 69 and 72 of this Act, references to a bar shall not apply to a bar at any time when it is, as is usual in the premises in question, set apart for the service of table meals and not used for the sale or supply of alcoholic liquor otherwise than to persons having table meals there and for consumption by such a person as an ancillary to his meal; and nothing in subsection (1) or (2) above shall prohibit the sale to or purchase by a person who has attained the age of 16, of beer, wine, made-wine, porter, cider or perry for consumption at a meal in a part of the premises usually set apart for the service of meals which is not a bar, or in a bar at any such time as aforesaid, and nothing in subsection (3) above shall prohibit the acting by any person as agent for a person who has attained the age of 16 in the purchase of beer, wine, made-wine, porter, cider or perry for consumption as aforesaid:  
Provided that nothing in this subsection shall authorise a person who has attained the age of 16 to purchase alcoholic liquor for consumption by a person under that age.
- (5) The holder of a licence or his employee or agent shall not deliver, nor shall the holder of a licence allow any person to deliver, to a person under 18, alcoholic liquor sold in licensed premises for consumption off the premises, except where the delivery is made at the residence or working place of the purchaser, nor shall any person knowingly send a person under 18 for the purpose of obtaining alcoholic liquor sold or to be sold as aforesaid from the licensed premises or other premises from which the liquor is delivered in pursuance of the sale:

*Status: Point in time view as at 01/05/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Licensing (Scotland) Act 1976 (repealed). (See end of Document for details)*

Provided that this subsection shall not apply where the person under 18 is a member of the licence-holder's family or his servant or apprentice and is employed as a messenger to deliver alcoholic liquor.

(6) Subsections (1) to (3) of this section shall apply in relation to any licensed canteen as if the canteen were licensed premises, but with the substitution for any reference to a bar of a reference to the canteen.

(7) If any person contravenes this section he shall be guilty of an offence.

## **69 Children prohibited from bars and licensed canteens.**

(1) [<sup>F91</sup>Subject to section 49 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990] the holder of a licence in respect of any premises or his employee or agent shall not allow a person under 14 to be in the bar of those premises during the permitted hours, and the holder of a licence under Part III of this Act in respect of any canteen or his employee or agent shall not allow such a person to be in that canteen during the permitted hours.

(2) [<sup>F91</sup>Subject to section 49 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990] no person shall cause or procure, or attempt to cause or procure, any person under 14 to go to, or to be in, the bar of any licensed premises or in any licensed canteen during the permitted hours.

(3) No offence shall be committed under this section if the person under 14—

- (a) is a child of the holder of the licence, or
- (b) resides in the licensed premises but is not employed there, or
- (c) is in the bar of the licensed premises solely for the purpose of passing to or from some other part of the premises, not a bar, being a part to or from which there is no other convenient means of access or egress, or
- (d) is in the licensed canteen solely for the purpose of passing to or from some other part of premises in which the canteen is comprised, not a bar, being a part to or from which there is no other convenient means of access or egress.

(4) No offence shall be committed under this section in respect of a bar which is in any railway refreshment room or other premises constructed, fitted and intended to be used bona fide for any purpose to which the holding of a licence is merely ancillary.

(5) If any person contravenes this section he shall be guilty of an offence.

(6) Where in any proceedings under this section it is alleged that a person was at any time under 14 and he appears to the court then to have been under that age, for the purposes of the proceedings he shall be deemed to have been then under that age unless the contrary is shown.

### **Textual Amendments**

**F91** Words in s. 69(1)(2) inserted (31.12.1991) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 68A:2\)](#), s. 74, [Sch. 8 para. 13](#); S.I. 1991/2862, [art. 3](#), Schedule

### **Modifications etc. (not altering text)**

**C2** [S. 69](#) excluded by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 68A:2\)](#), [s. 49\(3\)](#).

*Status: Point in time view as at 01/05/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Licensing (Scotland) Act 1976 (repealed). (See end of Document for details)*

## 70 Children on premises in respect of which refreshment licence held.

- (1) The holder of a refreshment licence in respect of any premises or his employee or agent shall not allow a person under 14 who is not accompanied by a person of [<sup>F92</sup>18] or over to be in the premises during the permitted hours, nor shall he allow a person under 14 to remain on the premises after eight in the evening, and if any person contravenes this section he shall be guilty of an offence.
- (2) No offence shall be committed under this section if the person under 14—
  - (a) is a child of the holder of the licence, or
  - (b) resides in the premises but is not employed there.

### Textual Amendments

**F92** Number in s. 70(1) substituted (31.12.1991) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 68A:2\)](#), s. 74, **Sch. 8 para. 14**; S.I. 1991/2862, art. 3, **Schedule**.

## 71 Defence in relation to offences under section 68(1)(5), 69(1) or 70 of this Act.

Without prejudice to any defence available to a licence-holder by virtue of the proviso to section 67(2) of this Act, it shall be a defence for any person charged with an offence under section 68(1), 68(5), 69(1) [<sup>F93</sup>, 70 or 97A] of this Act if he proves—

- (a) that he used due diligence to prevent the occurrence of the offence, or
- (b) that he had no reason to suspect that the person in relation to whom the charge was brought was under 18 or under 14, as the case may be.

### Textual Amendments

**F93** Words substituted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 68A:2\)](#), s. 54(2)

### Modifications etc. (not altering text)

**C3** S. 71 extended by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 68A:2\)](#), s. 49(7)(b)

## 72 Persons under 18 not to be employed in bars of licensed canteens.

- (1) If any person under 18 is employed in any bar of licensed premises, or in a licensed canteen, at a time when the bar or canteen is open for the sale or consumption of alcoholic liquor, the holder of the licence or the employee or agent who employed the person under 18 shall be guilty of an offence.
- (2) For the purposes of this section—
  - (a) a person shall not be deemed to be employed in a bar of licensed premises by reason only that in the course of his employment in some other part of the premises he enters the bar for the purpose of giving or receiving any message or of passing to or from some other part of the premises, not a bar, being a part to or from which there is no other convenient means of access or egress;
  - (b) a person shall not be deemed to be employed in a licensed canteen by reason only that in the course of his employment in some other part of premises in which the canteen is comprised he enters the canteen for the purpose of giving

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*Status: Point in time view as at 01/05/2005.*

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or receiving any message or of passing to or from some other part of such premises, not a bar, being a part to or from which there is no other convenient means of access or egress.

- (3) For the purposes of this section, a person shall be deemed to be employed by the person for whom he works notwithstanding that he receives no wages for his work.
- (4) Where in any proceedings under this section it is alleged that a person was at any time under 18, and he appears to the court then to have been under that age, for the purposes of the proceedings he shall be deemed to have been then under that age unless the contrary is shown.

**73 Persons under 18 not to be employed to serve alcoholic liquor in premises for which refreshment licence is held.**

- (1) A person under 18 shall not be employed in premises in respect of which a refreshment licence is held if the purpose, or one of the purposes, of his employment is to serve alcoholic liquor to persons in those premises.
- (2) For the purposes of this section a person shall be deemed to be employed in the premises where he works notwithstanding that he receives no wages for his work.
- (3) Any person who contravenes this section shall be guilty of an offence.
- (4) Where in any proceedings under this section it is alleged that a person was at any time under 18, and he appears to the court then to have been under that age, for the purposes of the proceedings he shall be deemed to have been then under that age unless the contrary is shown.

**74 Drunk persons entering or in licensed premises.**

- (1) If any person attempts to enter any licensed premises (not being premises where he is residing) while drunk he shall be guilty of an offence.
- (2) If any person is in licensed premises while drunk and incapable of taking care of himself, he shall unless he is under the care or protection of a suitable person, be guilty of an offence.
- (3) A constable may arrest without warrant any person committing an offence under this section.

**75 Procuring or aiding a drunken person to procure alcoholic liquor.**

- (1) If a person in any licensed premises procures or attempts to procure any alcoholic liquor for consumption by a drunken person, he shall be guilty of an offence.
- (2) If any person in any licensed premises aids a drunken person in obtaining or consuming any alcoholic liquor in the premises, he shall be guilty of an offence.

**76 Sale or supply of alcoholic liquor to drunken persons.**

A licence-holder or his employee or agent shall be guilty of an offence if he sells or supplies in licensed premises any alcoholic liquor to a drunken person.

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*Status: Point in time view as at 01/05/2005.*

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**77 Licence-holder and employees and agents not to be drunk.**

It shall be an offence for the licence-holder of premises or his employee or agent to be in the premises while drunk.

**78 Riotous behaviour, etc. in licensed premises.**

- (1) If any person in licensed premises—
- (a) behaves while drunk in a riotous or disorderly manner, or
  - (b) while drunk uses obscene or indecent language to the annoyance of any person,
- he shall be guilty of an offence.
- (2) A licence-holder or his employee or agent shall be guilty of an offence if he permits any breach of the peace, drunkenness or riotous or disorderly conduct in the premises in respect of which the licence is held.

**79 Refusal to leave licensed premises.**

- (1) If a person in any licensed premises—
- (a) being riotous, quarrelsome or disorderly, refuses or neglects to leave such premises on being requested so to do by the occupier or manager thereof, or his employee or agent, or by any constable, or
  - (b) refuses to leave such premises at the conclusion of the permitted hours in the afternoon or evening, as the case may be, on being requested so to do as aforesaid,
- he shall be guilty of an offence.
- (2) A constable may assist in expelling from any such premises any person who refuses or neglects to leave the premises on being requested so to do as aforesaid.
- (3) A constable may arrest without warrant any person committing an offence under this section.

**80 Penalty for permitting thieves, prostitutes, etc., or stolen goods in licensed premises.**

If any person who occupies or keeps any premises in respect of which a licence is held—

- (a) knowingly suffers thieves or reputed thieves or prostitutes or reputed prostitutes or persons convicted of an offence under section 4 or 5(3) of the <sup>M11</sup>Misuse of Drugs Act 1971 to remain in those premises, or knowingly permits thieves or reputed thieves, or prostitutes or reputed prostitutes or persons convicted of an offence under section 4 or 5(3) of the Misuse of Drugs Act 1971 to meet or assemble in the premises; or
  - (b) knowingly permits to be deposited in the premises goods which he has reasonable grounds for believing to be stolen goods;
- he shall be guilty of an offence.

*Status: Point in time view as at 01/05/2005.*

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#### **Marginal Citations**

M11 1971 c. 38(84).

#### **81 Prohibition of betting and gaming offences.**

A licence-holder or his employee or agent shall be guilty of an offence if he permits the playing of any game in the premises in respect of which the licence is held in such circumstances that an offence under the Betting, Gaming and Lotteries Acts 1963 to 1971 is committed.

#### **82 Persons found drinking in unlicensed premises.**

If a person is found drunk or drinking in premises in which alcoholic liquor is sold without a licence he shall be guilty of an offence, and a constable may arrest without warrant any person committing such an offence.

#### **83 Drinking in places of public refreshment, etc., when public house is closed.**

- (1) Subject to the provisions of this Act, alcoholic liquor shall not be consumed in any premises used for the sale to, or consumption by, the public of provisions, refreshments, confectionery or tobacco, during any time when the consumption of such liquor in public houses in the licensing area within which such premises are situated is prohibited by or under this Act, and any person who so consumes alcoholic liquor shall be guilty of an offence.
- (2) If any person keeping or occupying any such premises permits alcoholic liquor to be consumed therein in contravention of subsection (1) above, he shall be guilty of an offence, but such a person shall not be guilty of an offence under this section if he proves that the liquor in question was consumed without his knowledge or consent.
- (3) This section does not apply to the consumption of alcoholic liquor at a private function held on premises used as mentioned in subsection (1) above, being a private function which is related to a particular occasion.

#### **84 Offences in relation to constables.**

If a licence-holder or his employee or agent—

- (a) knowingly suffers to remain in his premises any constable during any part of the time appointed for the constable's being on duty, except for the purpose of the execution of the constable's duty; or
- (b) knowingly supplies any liquor or refreshment, whether by way of a gift or sale to any constable on duty, except by authority of a superior officer of the constable;

the licence-holder, employee or agent, as the case may be, shall be guilty of an offence.

#### **85 Power of police to enter licensed premises.**

- (1) A constable may at any time enter and inspect any premises in respect of which a licence (other than an off-sale licence) is in force, and may also at any time enter and inspect premises in respect of which an off-sale licence is in force if he has

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reasonable grounds for believing that an offence has been or is being committed on those premises.

- (2) If any person fails to admit a constable who demands entry to such premises in pursuance of this section or obstructs the entry to the premises of such a constable, he shall be guilty of an offence.

## **86 Power of police to enter unlicensed premises.**

- (1) A constable may at any time enter and inspect any temperance hotel, restaurant, shop, vessel or other place where food or drink is sold for consumption on the premises or in which he has reasonable grounds for believing that alcoholic liquor is being trafficked in unlawfully:

Provided that a constable below the rank of inspector shall not exercise any power of entry conferred by this section unless he has previously obtained the authority in writing of a justice of the peace or of a constable of or above the said rank, and shall not exercise such power later than eight days from the date of such authority and shall exercise it on such time or times only as may be specified in the authority.

- (2) If any person fails to admit a constable who demands entry to any premises or place in pursuance of this section or obstructs the entry to the premises or place of such constable, he shall be guilty of an offence.

## **87 Restriction on credit sales.**

- (1) A person shall not—

- (a) sell or supply in licensed premises, or in the premises of a registered club, alcoholic liquor to be consumed on the premises,
- (b) consume alcoholic liquor on any such premises,

unless it is paid for before or at the time when it is supplied or sold:

Provided that an offence shall not be committed under this section if—

- (a) the liquor is sold or supplied for consumption at a meal, supplied at the same time and is consumed with the meal, and the liquor is paid for with the meal, or
- (b) the liquor is sold or supplied for consumption by a person residing in the premises or by a private friend of such a person who is bona fide entertained by, and at the expense of, that person, and if it is paid for with that person's accommodation, or
- (c) the liquor is sold or supplied in premises in respect of which a hotel licence, restricted hotel licence, restaurant licence or entertainment licence is held (other than in a public bar of such premises) in response to the production of a credit token within the meaning of section 14 of the <sup>M12</sup>Consumer Credit Act 1974.

- (2) If any person contravenes this section he shall be guilty of an offence.

- (3) Nothing in this section shall prohibit or restrict the sale or supply of alcoholic liquor to any canteen in which the sale or supply of alcoholic liquor is carried on under the authority of the Secretary of State or to any authorised mess of the members of Her Majesty's naval, military or air forces.



*Status: Point in time view as at 01/05/2005.*

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#### **Marginal Citations**

**M12** 1974 c. 39(60).

### **88 Fraudulent adulteration of food and drink.**

A licence-holder or his employee or agent shall not fraudulently adulterate the food or alcoholic liquor sold by him or sell the same knowing them to have been fraudulently adulterated, and if he does so the licence-holder, employee or agent, as the case may be, shall be guilty of an offence.

### **89 Order to close licensed premises.**

- (1) A sheriff may, if riot or tumult happens or is expected to happen, order the holder of a licence in respect of premises situated in or near the place where a riot or tumult happens or is expected to happen to close those premises during such time as may be specified in the order.
- (2) If the holder of any licence or his employee or agent keeps premises open for the sale of alcoholic liquor during any time at which, by virtue of an order made under subsection (1) above or of an order made by a licensing board under any provision of this Act, they are required to be closed, the licence-holder, employee or agent, as the case may be, shall be guilty of an offence.

### **90 Trafficking or bartering without licence or hawking of liquor.**

Subject to the provisions of this Act, if any person—

- (a) trafficks in any alcoholic liquor in any premises or place without holding a licence in that behalf, or
- (b) barter or sells spirits by retail without holding a licence in that behalf, or
- (c) hawks alcoholic liquor,

he shall be guilty of an offence, and a constable or any other person may arrest without warrant a person committing an offence under paragraph (c) above.

### **[<sup>F94</sup>90A Wholesale selling of alcoholic liquor.**

- (1) A wholesaler or his employee or agent who barter, sells, or exposes or offers for sale alcoholic liquor shall be guilty of an offence unless—
  - (a) he does so from premises which are used exclusively for wholesale trading (whether solely of alcoholic liquor or not); or
  - (b) he does so from licensed premises, a licensed canteen or a registered club during the hours in respect of which it is lawful to sell alcohol by retail from or in these premises, that canteen or that club.
- (2) A wholesaler or his employee or agent who sells alcoholic liquor to a person under 18 shall be guilty of an offence.
- (3) A wholesaler or his employee or agent who causes or permits a person under 18 to sell alcoholic liquor without that sale having been specifically approved by a person of or over 18 shall be guilty of an offence.

*Status: Point in time view as at 01/05/2005.*

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- (4) Section 67 of this Act (penalties for offences) shall apply in respect of offences under this section as if references in that section to a licence-holder were references to a wholesaler.
- (5) Section 71 of this Act (defence of due diligence) shall apply to any person charged with an offence under this section as if the reference in that section to a licence-holder were a reference to a wholesaler.
- (6) In this section—
- “licence-holder” includes the holder of a licence under Part III of this Act; and
- “wholesale” and “wholesaler”, insofar as they relate to the sale of alcoholic liquor, have the meaning given in section 4(1) of the Alcoholic Liquor Duties Act 1979 in relation to dealing in alcoholic liquor.]

#### Textual Amendments

**F94** S. 90A inserted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 68A:2\)](#), s. 52(1)

## 91 Delivery of alcoholic liquor by vehicles, etc.

- (1) A person shall not, in pursuance of a sale by him of alcoholic liquor, deliver that liquor from any vehicle or receptacle unless—
- before the liquor was despatched, the quantity, description and price of the liquor and the name and address of the person to whom it was to be supplied had been entered in a day book kept in the premises from which the liquor was despatched, and
  - the person delivering the liquor carries a delivery book or invoice in which there had been entered, before the liquor was despatched, the quantity, description and price of the liquor and the name and address of the person to whom it was to be supplied.
- (2) A person shall not, himself or by his employee or agent,—
- carry in any vehicle or receptacle, while in use for the delivery of alcoholic liquor in pursuance of a sale by that person, any alcoholic liquor that is not entered in a day book and delivery book or invoice under subsection (1) above;
  - deliver, in pursuance of a sale, any alcoholic liquor at any address not entered as aforesaid.
- (3) A person shall not, himself or by his employee or agent, refuse to allow a constable to examine any vehicle or receptacle while in use for the delivery of alcoholic liquor or to examine a delivery book or invoice carried, or day book kept, under subsection (1) above.
- (4) Nothing in this section shall prohibit or restrict the delivery of alcoholic liquor to a trader for the purposes of his trade or to a registered club for the purposes of the club.
- (5) If any person contravenes the provisions of this section he shall be guilty of an offence.

*Status: Point in time view as at 01/05/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Licensing (Scotland) Act 1976 (repealed). (See end of Document for details)*

## 92 Restriction on carriage of alcoholic liquor in crates, etc., on contract carriages.

- (1) If the holder of a [<sup>F95</sup>PSV operator’s licence] in respect of any vehicle, either himself or by his employee or agent, or if the employee or agent of such holder permits any alcoholic liquor to be carried on the said vehicle in such a container or other device as is mentioned in subsection (4) below at any time when that vehicle is being used [<sup>F95</sup>for the carriage of passengers otherwise than at separate fares], he shall be guilty of an offence.
  - (2) If any person procures or attempts to procure a contravention of subsection (1) above he shall be guilty of an offence.
  - (3) Where the holder of a [<sup>F96</sup>PSV operator’s licence] is charged with an offence under this section by reason only of a contravention of subsection (1) above committed by an employee or agent of his, it shall be a defence for him to prove that the contravention took place without his consent or connivance and that he exercised all due diligence to prevent it.
  - (4) This section applies to any container or other device (including a container or device fixed to, or forming part of, a vehicle) constructed or adapted for the purpose of holding two or more bottles or cans or of holding liquid in excess of six pints.
- [<sup>F97</sup>(5) In this section “PSV operator’s licence” has the like meaning as in Part II of the Public Passenger Vehicles Act 1981.]

### Textual Amendments

- F95** Words substituted by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 139(2), [Sch. 7 para. 18\(a\)](#)  
**F96** Words substituted by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 139(2), [Sch. 7 para. 18\(b\)](#)  
**F97** [S. 92\(5\)](#) substituted by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 139(2), [Sch. 7 para. 18\(c\)](#)

### Modifications etc. (not altering text)

- C4** [S. 92](#) excluded by [Criminal Justice \(Scotland\) Act 1980 \(c.62, SIF 39:1\)](#), s. 70.  
[S. 92](#) excluded (1.4.1996) by [1995 c. 39, ss. 19\(2\), 53\(2\)](#)  
**C5** [S. 92\(5\)](#): Part III of the [Road Traffic Act 1960](#) repealed and [Interpretation Act 1978 \(c. 30, SIF 115:1\)](#), [s. 17\(2\)\(a\)](#) and [Public Passenger Vehicles Act 1981 \(c.14, SIF 107:1\)](#) apply

## 93 Sale of alcoholic liquor on passenger vessels on Sundays.

- (1) No person shall, except during the period between half-past twelve and half-past two in the afternoon, or the period between half-past six and eleven in the evening, himself, or by his employee or agent, sell or supply alcoholic liquor on a passenger vessel during any voyage commencing on a Sunday and terminating on the same day, being—
  - (a) a voyage between any two places in Scotland; or
  - (b) a voyage in a vessel going from and returning on the same day to the same place in Scotland;and if any person contravenes this section he shall be guilty of an offence.
- (2) In this section, the expression “passenger vessel” means a vessel of any description employed for the carriage of passengers which goes from any place in the United Kingdom to any other such place, or goes from and returns to the same place in the United Kingdom on the same day.

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94 ..... F98

#### Textual Amendments

**F98** S. 94 repealed by Finance Act 1981 (c. 35, SIF 40:1), s. 139(6), Sch. 19 Pt. III note I

### 95 Sale or supply of alcoholic liquor for consumption outside registered club.

- (1) If any person sells or supplies alcoholic liquor in the premises of a registered club for consumption off the premises, or authorises such sale or supply of alcoholic liquor, or pays for alcoholic liquor so sold or supplied, he shall, unless such liquor was sold or supplied to a member of the club in person for consumption by him or to a person holding a licence for the sale of such liquor, be guilty of an offence.
- (2) If subsection (1) above is contravened as regards any club, every person [<sup>F99</sup>whose name is, at the time of the contravention, contained in the list lodged under subsection (3)(b) of section 103 of this Act, or as the case may be in the new list last lodged under subsection (5) or (5A) of that section, in respect of that club] shall be guilty of an offence under [<sup>F99</sup>subsection (1) above]:  
Provided that a person shall not be convicted of such an offence if he proves that the contravention in question took place without his knowledge or consent.
- (3) Where in any proceedings under this section it is proved that any alcoholic liquor has been received or delivered in the premises of a registered club and taken outside those premises, for the purposes of the proceedings such liquor shall, unless the contrary is shown, be deemed to have been so taken for consumption off the premises.

#### Textual Amendments

**F99** Words substituted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55, SIF 36:3), s. 21(2)

### 96 Prohibition of sale or supply of alcoholic liquor in licensed canteens for consumption off the premises.

If any person—

- (a) sells or supplies alcoholic liquor in a licensed canteen for consumption outside the canteen, or
- (b) takes alcoholic liquor from any such canteen for consumption outside the canteen,

he shall be guilty of an offence.

### 97 Consumption in, taking away of, and selling liquor from, off-sale premises.

- (1) If the holder of an off-sale licence or his employee or agent [<sup>F100</sup>sells to any person] alcoholic liquor to be consumed on the premises in respect of which the licence is held, the licence-holder, employee or agent, as the case may be, shall be guilty of an offence.
- (2) If any person induces the holder of an off-sale licence in respect of any premises, or the employee or agent of the licence-holder, to sell <sup>F101</sup> . . . to him any alcoholic liquor,

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and consumes such liquor or any part thereof in those premises, he shall be guilty of an offence.

- (3) If the holder of an off-sale licence, or his employee or agent takes, or causes or permits any other person to take, any alcoholic liquor from the premises in respect of which he holds such licence, either—
- (a) for the purposes of its being sold or hawked on his account or for his benefit or profit, or
  - (b) for the purpose of its being consumed for his benefit or profit in any house or other premises belonging to him, or hired, used or occupied by him, or in which he may be interested, the licence-holder, employee or agent, as the case may be, shall be guilty of an offence.
- (4) A holder of an off-sale licence or his employee or agent shall be guilty of an offence if he sells wine (including made-wine) in an open vessel.

#### Textual Amendments

**F100** Words in s. 97(1) substituted (31.12.1991) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 68A:2), s. 74, Sch. 8 para. 15(a); S.I. 1991/2862, art. 3, Schedule.

**F101** Words in s. 97(2) repealed by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 68A:2), s. 74, Sch. 8 para. 15(b), Sch. 9 (Sch. 8 Pt. I of that Act, by virtue of which the specified words were omitted, was brought into force on 31.12.1991 by S.I. 1991/2862, art. 3, Sch.; the repeal of the specified words by Sch. 9 of that Act was expressed to be brought into force so far as not already in force on 17.3.1993 by S.I. 1993/641, art. 3, Sch.)

#### [<sup>F102</sup>97A Supervision of sales of liquor in off-sale premises.

A holder of a licence in respect of—

- (a) any off-sale premises; or
- (b) the off-sale part of any other premises,

or any employee or agent of his, who causes or permits a person under 18 to sell on these premises alcoholic liquor without that sale having been specifically approved by the licence holder or by a person of or over 18 acting on his behalf shall be guilty of an offence.]

#### Textual Amendments

**F102** S. 97A inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 68A:2), s. 54(1)

#### 98 Restriction on sale or supply of liquor in premises subject to restricted hotel licence.

- (1) The holder of a restricted hotel licence or his employee or agent shall be guilty of an offence if he sells or supplies any alcoholic liquor for consumption on the premises in respect of which a licence is held, except as follows, that is to say—
- (a) the licence-holder or employee or agent may sell or supply such liquor to persons taking table meals in the premises for consumption by such a person as an ancillary to his meal;

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- (b) the licence-holder or employee or agent may sell or supply such liquor to persons residing in the premises, for consumption by such a person or by a private friend of such a person who is bona fide entertained by, and at the expense of, that person;
  - (c) the licence-holder or employee or agent may supply such liquor to any private friend of a person residing in the premises who is bona fide entertained by, and at the expense of, that person, for consumption by such a friend entertained as aforesaid.
- (2) The holder of a restricted hotel licence or his employee or agent shall be guilty of an offence if he trafficks in or supplies any alcoholic liquor for consumption off the premises in respect of which the licence is held, except to persons residing in the premises, for consumption by such a person or by a private friend of such a person who is bona fide entertained by, and at the expense of, that person as an ancillary to a meal supplied at, but to be consumed off, the premises.

**99 Restriction on sale or supply of liquor in premises subject to restaurant licence.**

The holder of a restaurant licence or his employee or agent shall be guilty of an offence if—

- (a) he sells or supplies any alcoholic liquor for consumption on the premises, except to persons taking meals in the premises, for consumption by such a person as an ancillary to his meal; or
- (b) he trafficks in or supplies any alcoholic liquor for consumption off the premises in respect of which the licence is held.

**100 Restriction on sale or supply of liquor in premises subject to a refreshment licence.**

The holder of a refreshment licence or his employee or agent shall be guilty of an offence if—

- (a) he trafficks in or sells any alcoholic liquor for consumption off the premises in respect of which the licence is held, or
- (b) he sells or supplies alcoholic liquor at any time when other refreshments, including food and non-alcoholic beverages, are not available for sale.

**101 Restriction on sale or supply of liquor in premises subject to entertainment licence.**

- (1) The holder of an entertainment licence or his employee or agent shall be guilty of an offence if he trafficks in or supplies any alcoholic liquor for consumption off the premises in respect of which the licence is held.
- (2) A licensing board, when granting an entertainment licence, may attach conditions to the licence, including conditions placing restrictions on the permitted hours, in order to secure that the sale or supply of alcoholic liquor is ancillary to the entertainment, and the holder of the licence or his employee or agent shall be guilty of an offence if he contravenes any such condition.

*Status: Point in time view as at 01/05/2005.*

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## PART VII

### CLUBS

#### 102 Register of clubs.

- (1) The sheriff clerk for each sheriff court district (hereafter in this Part of this Act called “the registrar”) shall keep a register of clubs situated within that district in respect of which a certificate of registration has been granted under this Part of this Act.
- (2) A sheriff clerk depute may exercise any of the functions of the registrar under this Part of this Act.
- (3) There shall be entered in the said register in respect of each club registered therein—
  - (a) the name of the club;
  - (b) the address of the premises in respect of which the certificate of registration has been granted;
  - (c) a statement whether the club is the tenant or the proprietor and occupier of those premises;
  - (d) the name and address of the secretary of the club;
  - (e) the date of the certificate granted to the club; and
  - (f) a statement whether the certificate has been granted for the first time or on renewal.
- (4) The registration of a club under this Part of this Act shall not constitute the club licensed premises or authorise any sale of alcoholic liquor therein which would otherwise be illegal.

#### 103 Application for certificate of registration.

- (1) An application for a certificate of registration in respect of any club shall be signed by the chairman, secretary or solicitor of the club, and shall be lodged with the registrar.
- (2) There shall be specified in any such application—
  - (a) the name of the club;
  - (b) the objects of the club;
  - (c) the address of the premises occupied by the club.
- (3) There shall be lodged along with any such application—
  - (a) two copies of the rules of the club;
  - (b) a list containing the name and address of each official and each member of the committee of management or governing body of the club; and
  - (c) a statement in the form set out in Schedule 6 to this Act certifying that the club is to be or, in the case of an existing club, has been and is to be conducted as a bona fide club and not mainly for the supply of alcoholic liquor.
- (4) Any such statement as is referred to in subsection (3)(c) above shall be signed by two members of the licensing board for the area in which the premises occupied by the club are situated, and, if the premises occupied by the club are not owned by it, the statement shall be signed also by the owner of the premises or, if the owner is under a legal disability, by his legal representative:

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Provided that any member of a licensing board who has signed the statement may, within ten days of that signature, withdraw his name therefrom.

[<sup>F103</sup>(5) Subject to subsection (5A) below, any change—

- (a) made in the rules of the club; or
- (b) which renders the information contained in the list lodged under subsection (3) (b) above, or as the case may be, the new list last lodged under this or the following subsection, inaccurate or incomplete.

shall be intimated to the registrar forthwith; and where intimation is under paragraph (b) of this subsection there shall be lodged therewith a new list containing the name and address of each official and each member of the committee of management or governing body of the club after the change.

(5A) Where a change such as is mentioned in subsection (5)(b) above was made before the date on which section 21 of the <sup>M13</sup>Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 came into force and the change was duly intimated to the registrar under the provisions of this Act applying before that date, no further intimation of the change shall be required but a new list containing the name and address of each official and each member of the committee of management or governing body of the club at that date shall forthwith be lodged with the registrar.]

(6) If any person in an application under this section or in any of the [<sup>F104</sup>documents specified in subsection (3), (5) or (5A)] above makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, he shall be guilty of an offence.

(7) If subsection (6) above is contravened as regards any club, every person [<sup>F105</sup>whose name is, at the time of the contravention, contained in the list lodged under subsection (3)(b) above, or as the case may be in the new list last lodged under subsection (5) or (5A) above, in respect of that club shall be guilty of an offence under subsection (6) above]:

Provided that a person shall not be convicted of such an offence if he proves that the contravention in question took place without his knowledge or consent.

#### Textual Amendments

**F103** S. 103(5)(5A) substituted for s. 103(5) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55, SIF 36:3), s. 21(1)(a)

**F104** Words substituted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55, SIF 36:3), s. 21(1)(b)

**F105** Words substituted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55, SIF 36:3), s. 21(1)(c)

#### Marginal Citations

**M13** 1980 c. 55(36:3).

## 104 Application for renewal of certificate of registration.

(1) Subject to subsection (2) below, an application for the renewal of a certificate of registration granted to a club under this Part of this Act shall be lodged with the registrar by the secretary of the club not later than 21 days before the date of expiry of that certificate.



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- (2) Notwithstanding subsection (1) above, the sheriff may entertain such an application if it is lodged later than 21 days before the said date, but shall not grant the application unless he is satisfied that the failure to lodge it timeously was due to inadvertence.
- (3) The secretary of the club shall lodge, along with such application, a certificate stating either that no changes have been made in the rules of the club or in the list containing the names and addresses of the officials and the members of the committee of management or governing body of the club since the last application was made under this section or section 103 of this Act, as the case may be, or that any such change has already been intimated to the registrar.
- (4) Section 103 of this Act shall, with any necessary modifications, apply in respect of an application for the renewal of a certificate of registration as it applies in respect of an application under that section.

### **105 Procedure on application for grant or renewal of certificate of registration.**

- (1) The applicant shall give intimation of the lodging of an application for the grant of a certificate of registration in respect of a club by—
  - (a) publishing a notice thereof twice in the 7 days immediately following the date of such lodging in a newspaper circulating in the area in which the club is situated;
  - (b) displaying a notice thereof in a conspicuous place on or near the premises occupied by the club for the period of 21 days immediately following that date.
- (2) On an application for the grant or for the renewal of such a certificate being lodged in accordance with the foregoing provisions of this Part of this Act, the registrar shall forthwith give notice of such application—
  - (a) to the chief constable;
  - (b) to the council [<sup>F106</sup>within whose area] the premises are situated; and
  - (c) to the fire authority for the area.
- (3) Objection to the grant or renewal of a certificate of registration in respect of any club may be made on any of the grounds specified in section 108 of this Act by—
  - (a) any of the persons to whom notice has been given under subsection (2) above;
  - (b) any person owning or occupying property in the neighbourhood of the premises occupied by the club;
  - (c) a community council for the area in which the premises are situated which has been established in accordance with the provisions of the <sup>M14</sup>Local Government (Scotland) Act 1973 [<sup>F107</sup>or section 22 of the Local Government etc. (Scotland) Act 1994]; and
  - (d) any church which in the opinion of the sheriff represents a significant body of opinion among persons residing in the neighbourhood of those premises.
- (4) Any such objections shall be lodged with the registrar by the objector and a copy of the objections shall be sent to the secretary of the club in respect of which the application is made within 21 days of the first publication of the notice in pursuance of subsection (1)(a) above.
- (5) Any objections to the renewal of a certificate of registration in respect of any club by any of the persons to whom notice has been given under subsection (2) above shall be

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lodged with the registrar and a copy of the objections sent to the secretary of the club concerned within 21 days of the date of the aforesaid notice.

- (6) On an application for the grant of a certificate of registration in respect of any club or for the renewal of such a certificate—
- (a) if no objections to the grant or renewal of such certificate are lodged in accordance with the foregoing provisions of this section, or if all such objections are withdrawn, the sheriff shall, if he is satisfied that the application has been duly made in accordance with the foregoing provisions of this Part of this Act and that the rules of the club are in conformity with the provisions of this Act, grant the application;
  - (b) if such objections are lodged and not withdrawn, the sheriff shall, as soon as may be, hear parties upon the application and objections and may order such enquiry as he thinks fit, and shall thereafter grant or refuse the certificate, and may award expenses against the unsuccessful party.
- (7) The sheriff shall, on granting any such application, cause the entries required by section 102 of this Act to be made in the register of clubs and thereupon the registrar shall issue to the applicant a certificate of registration in the form set out in Schedule 6 to this Act.

#### Textual Amendments

**F106** Words in s. 105(2)(b) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 106(7)(a)**; S.I. 1996/323, **art. 4(1)(c)**

**F107** Words in s. 105(3)(c) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 106(7)(b)**; S.I. 1996/323, **art. 4(1)(c)**

#### Marginal Citations

**M14** 1973 c. 65(81:2).

### 106 Currency of certificate of registration.

A certificate of registration shall, subject to the provisions of this Part of this Act, remain in force for a period of three years from the date of issue:

Provided that, where an application for the renewal of such a certificate has been made, that certificate shall remain in force pending the final decision of the sheriff on such application for a period not exceeding three months from the date on which the certificate would otherwise have expired and, if the sheriff thinks fit, for a further period not exceeding three months.

### 107 Club rules qualifying for registration.

- (1) A certificate of registration shall not be granted under this Part of this Act to any club unless the rules of the club provide—
- (a) that the business and affairs of the club shall be under the management of a committee or governing body who shall be elected for not less than one year by the [<sup>F108</sup>general] body of members and shall be subject in whole or in part or in a specified proportion to annual re-election, or of whom not more than one-third may be non-elected persons from outwith the club and the remainder shall be elected and subject to annual re-election as aforesaid;

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- (b) that no member of the committee or governing body and no manager or servant employed in the club shall have any personal interest in the sale of alcoholic liquor therein or in the profits arising from such sale;
- (c) that the committee or governing body shall hold periodical meetings;
- (d) that, unless the club is one to which subsection (4) below applies, all matters of the club shall be elected by the whole body of members or by the committee or governing body, with or without specially added members;
- (e) that, unless the club is one to which subsection (4) below applies, the names and addresses of persons proposed as ordinary members of the club shall be displayed in a conspicuous place in the club premises for at least a week before their election, and that an interval of not less than two weeks shall elapse between the nomination and election of ordinary members;
- (f) that no alcoholic liquor shall be sold or supplied in the club to any person under 18;
- (g) that no person under 18 shall be admitted a member of the club unless the club is one which is devoted primarily to some athletic purpose or to which subsection (4) below applies;
- (h) that no persons shall be allowed to become honorary or temporary members of the club or be relieved of the payment of the regular entrance fee or subscription, except those possessing certain qualifications defined in the rules and subject to conditions and regulations prescribed therein;
- (i) that there shall be a defined subscription payable in advance by members;
- (j) that correct accounts and books shall be kept showing the financial affairs and intromissions of the club;
- (k) that a visitor shall not be supplied with alcoholic liquor in the club premises unless on the invitation and in the company of a member and that the member shall, upon the admission of such visitor to the club premises or immediately upon his being supplied with such liquor, enter his own name and the name and address of the visitor in a book which shall be kept for the purpose and which shall show the date of each visit; and
- (l) that no alcoholic liquor shall be sold or supplied in the club premises for consumption off the premises, except to a member of the club in person for consumption by him or to a person holding a licence or a wholesaler's excise licence for the sale of such liquor:

Provided that this subsection shall not apply to any lodge of Freemasons duly constituted under a charter from the Grand Lodge of Scotland.

- (2) Notwithstanding anything in subsection (1) above, the rules of a registered club may provide for the admission to the premises of the club of persons who are members of another club, and for the sale and supply of alcoholic liquor to such persons by or on behalf of the club for consumption on the premises, if—
  - (a) the other club is a registered club whose premises are in the locality and are temporarily closed; or
  - (b) both clubs exist for learned, educational, or political objects of a similar nature; or
  - (c) each of the clubs is primarily a club for persons who are qualified by service or past service, or by any particular service or past service, in Her Majesty's Forces, and are members of an organisation established by Royal Charter, and consists wholly or mainly of such persons; or

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- (d) each of the clubs is primarily a club for persons who carry on the same trade, profession or occupation, and that trade, profession or occupation is the same in the case of either club; or
  - (e) each of the clubs is a working men's club, that is to say, a club which is, as regards its purposes, qualified for registration as a working men's club under the <sup>M15</sup>Friendly Societies Act 1974, and is a registered society within the meaning of that Act or of the <sup>M16</sup>Industrial and Provident Societies Act 1965; or
  - (f) each of the clubs is one to which subsection (4) below applies.
- (3) Notwithstanding anything in this Act, the authority of a licence shall not be required for such a sale of alcoholic liquor as is mentioned in subsection (2) above and, where the rules of a club provide as aforesaid, alcoholic liquor may be supplied in the premises of the club to such persons as are mentioned in that subsection and their guests for consumption on the premises as it may to members of the club and their guests.
- (4) This subsection applies to the students union of a university, central institution, college of education or a further education college under the management of an education authority, which is recognised and certified as such to the registrar by the Senate or Academic Council of the university or the governing body of the central institution or college of education, or by the education authority, as the case may be; and any expressions used in this subsection which are also used in [<sup>F109</sup>the <sup>M17</sup>Education (Scotland) Act 1980] shall have the same meanings in this subsection as in that Act.

#### Textual Amendments

**F108** Word substituted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1980 \(c. 55, SIF 72:2\)](#), [Sch. 2 para. 10](#)

**F109** Words substituted by virtue of [Education \(Scotland\) Act 1980 \(c. 44, SIF 41:2\)](#), [Sch. 3 para. 1](#)

#### Marginal Citations

**M15** 1974 c. 46(55:1).

**M16** 1965 c. 12(55:3).

**M17** 1980 c. 44(41:2).

## 108 Competent ground of objection to registration.

The sheriff shall not consider any objection to the grant or renewal of a certificate of registration unless it is made on one or more of the following grounds:—

- (a) that the application made by the club is in any respect specified in such objection not in conformity with the provisions of this Act;
- (b) that the rules of the club are in any respect specified in such objection not in conformity with the provisions of this Act;
- (c) that the club has ceased to exist or has less than 25 members;
- (d) that the premises are, or the situation thereof is, not suitable or convenient for the purposes of a club;
- (e) that the club occupies premises in respect of which, within the period of 12 months immediately preceding the formation of the club, an order had been made under section 67(3) of this Act or the renewal of a licence under this Act had been refused, or in respect of which at the time when the premises were

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first occupied by the club an order was in force under section 110 of this Act that they should not be used for the purposes of a club;

- (f) that the club is not conducted in good faith as a club, or that it is kept or habitually used for any unlawful purpose or mainly for the supply of alcoholic liquor;
- (g) that there has been a failure to intimate to the registrar forthwith any change in the rules of the club or in the list containing the names and addresses of the officials and members of the committee of management or governing body of the club;
- (h) that the club is to be used mainly as a drinking club;
- (i) that there is frequent drunkenness in the club premises, or that drunken persons are frequently seen to leave the premises;
- (j) that the club is [<sup>F110</sup>or, in the case of an application for the renewal of a certificate of registration, has been, at any time during the currency of the certificate of registration in respect of which the application for renewal is made,] conducted in a disorderly manner;
- (k) that illegal sales of alcoholic liquor have taken place in the club premises;
- (l) that persons who are not members of the club are habitually admitted to the club premises merely for the purpose of obtaining alcoholic liquor;
- (m) that the supply of alcoholic liquor to the club is not under the control of the members of the club or of the committee of management or governing body of the club;
- (n) that the officials and committee of management or governing body of the club, or the manager, or a servant employed in or by the club, have or will have a personal interest in the purchase by the club or in the sale in the premises of the club of alcoholic liquor or in the profits arising therefrom, or, where the said premises are not owned by the club, that the owner or the immediate lessor of the premises has or will have such a personal interest;
- (o) that any of the rules of the club referred to in section 107(1) of this Act are habitually broken;
- (p) that persons are habitually admitted or supplied as members of the club without an interval of at least two weeks between their nomination and election as ordinary members, or for a subscription of a nominal amount;
- (q) that the officials and committee of management or governing body of the club, or the members of the club, are persons of bad character or persons who follow no lawful occupation and have no means of subsistence;
- (r) that the club has been, is or will be used as a resort of persons of bad character;
- (s) that alcoholic liquor is sold or supplied for consumption on or off the premises outwith the permitted hours.

#### Textual Amendments

**F110** Words in s. 108(j) inserted (31.12.1991) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990](#) (c. 40, SIF 68A:2), s. 74, [Sch. 8 para. 16](#); S.I. 1991/2862, art. 3, [Schedule](#).

### 109 Cancellation of certificate of registration.

- (1) Any person entitled under section 105(3) of this Act to object to the renewal of the certificate of registration held by a registered club may apply to the sheriff for a finding

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that the club is being <sup>F111</sup>or has been, at any time during the currency of the certificate of registration,] so managed or carried on as to give rise to a ground of objection to the renewal of its certificate, being one of the grounds of objection specified in section 108 of this Act; and the sheriff may, if he is satisfied that such ground of objection has been established, make the finding applied for and shall specify therein the grounds for the finding.

(2) Where on an application under subsection (1) above such a finding as is therein mentioned has been made in respect of any club, or where a conviction has taken place under section 95 of this Act in respect of alcoholic liquor sold or supplied in any club, a certified copy of the application and finding or of the complaint and conviction, as the case may be, shall, within six days from the date of the finding or the conviction, be transmitted by the clerk of the court (unless he is also the registrar) to the registrar.

(3) Where—

- (a) such a finding as is mentioned in subsection (1) above has been made in respect of any club; or
- (b) a conviction has taken place under section 95 of this Act in respect of alcoholic liquor sold or supplied in any club;

the registrar shall enter such finding or conviction, as the case may be, in the register of clubs and lay the same before the sheriff; and the sheriff may, if he thinks fit, after such further enquiry as he may think necessary, and having regard to the grounds specified in such finding or the magnitude of the offence, as the case may be, cancel the certificate of registration of that club.

(4) Where the certificate of registration of any club has been cancelled under subsection (3) above, that club may apply for renewal of that certificate, but not earlier than 12 months after the date of such cancellation.

(5) The sheriff may, on an application under subsection (1) above, award expenses against the unsuccessful party.

#### Textual Amendments

**F111** Words in s. 109(1) inserted (31.12.1991) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 68A:2), s. 74, **Sch. 8 para. 17**; S.I. 1991/2862, **art. 3**, Schedule.

### 110 Disqualification of premises for purposes of club.

(1) Where the sheriff has refused an application by a club for the renewal of its certificate of registration or where under section 109 of this Act he has cancelled the certificate held by a club, he may, if he thinks fit, order that the premises occupied by that club shall not be occupied and used for the purposes of any registered club.

(2) An order made under subsection (1) above shall be in force for such period as the order shall specify, not exceeding—

- (a) if the premises have not been subject to a previous order under that subsection, 12 months;
- (b) if the premises have been subject to any such previous order, five years.

(3) Such an order may, on good cause being shown, be subsequently cancelled or varied by the sheriff.

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## 111 Penalties for offences by officials of registered clubs.

- (1) Where a finding has been made under section 109(1) of this Act that a registered club is being so managed or carried on as to give rise to a ground of objection to the renewal of its certificate of registration, then if a ground of objection mentioned in paragraph (f), (i), (j) or (l) of section 108 of this Act is specified in such finding, every person <sup>F112</sup>whose name is, at the time when the situation which gave rise to the ground of objection mentioned in any of the said paragraphs existed, contained in the list lodged under subsection (3)(b) of section 103 of this Act, or as the case may be in the new list last lodged under subsection (5) or (5A) of the said section 103, in respect of that club], shall be guilty of an offence.
- (2) A person shall not be convicted of an offence under this section if he proves that the club was managed or carried on as aforesaid without his knowledge or consent and that he exercised all due diligence to prevent the club from being so managed or carried on.

### Textual Amendments

**F112** Words substituted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1980 \(c. 55, SIF 36:3\), s. 21\(3\)](#)

## 112 Persons under 14 not to be allowed in club bars.

- (1) A person under 14 shall not be allowed to be in a bar of a registered club during the permitted hours.
- (2) If subsection (1) above is contravened, every person <sup>F113</sup>whose name is, at the time of the contravention, contained in the list lodged under subsection (3)(b) of section 103 of this Act, or as the case may be in the new list last lodged under subsection (5) of (5A) of that section, in respect of that club] shall be guilty of an offence:  
Provided that a person shall not be convicted of such an offence if he proves that the contravention in question took place without his knowledge or consent.
- (3) No person shall cause any person under 14 to be in a bar of a registered club during the permitted hours, and any person contravening this subsection shall be guilty of an offence.

### Textual Amendments

**F113** Words substituted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1980 \(c. 55, SIF 36:3\), s. 21\(2\)](#)

## 113 Persons under 18 not to be employed to serve alcoholic liquor in clubs.

- (1) A person under 18 shall not be employed in a registered club if the purpose, or one of the purposes, of his employment is to serve alcoholic liquor to persons in that club.
- (2) If this section is contravened as regards any club, every person <sup>F114</sup>whose name is, at the time of the contravention, contained in the list lodged under subsection (3)(b) of section 103 of this Act, or as the case may be in the new list last lodged under subsection (5) or (5A) of that section, in respect of that club] shall be guilty of an offence:

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Provided that a person shall not be convicted of an offence under this section if he proves that the contravention in question took place without his knowledge or consent.

- (3) For the purposes of this section, a person shall be deemed to be employed in a club where he works notwithstanding that he receives no wages for his work.
- (4) Where in any proceedings under this section it is alleged that a person was at any time under 18, and he appears to the court then to have been under that age, for the purposes of the proceedings he shall be deemed to have been then under that age unless the contrary is shown.

#### Textual Amendments

**F114** Words substituted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1980 \(c. 55, SIF 36:3\)](#), s. 21(2)

#### 114 Power of police to enter clubs.

- (1) If a justice of the peace or sheriff is satisfied by evidence on oath that there are reasonable grounds for believing—
  - (a) that any registered club is being so managed or carried on as to give rise to a ground of objection to the renewal of its certificate of registration, being one of the grounds of objection specified in section 108 of this Act; or
  - (b) that an offence under this Act has been or is being committed in any registered club;

he may by warrant authorise a constable to enter the premises of such club at any time, if need be by force, and to search the premises and seize any documents relating to the business of the club and to take the names and addresses of any persons found in the premises.
- (2) If any person found in the premises of a club refuses to give his name and address on being requested to do so by a constable acting under a warrant granted in pursuance of the foregoing subsection, or gives a false name or address on being so requested, he shall be guilty of an offence.

#### 115 Inspection of register of clubs and of rules and list of members of club.

- (1) The register of clubs and a copy of the rules of any club lodged with the registrar under section 103(3) of this Act shall, at all reasonable times, be open to inspection on payment of a fee of 20p.
- (2) A chief constable or any constable authorised by him in writing or an officer of Customs and Excise shall be entitled to inspect the register of clubs and a copy of the rules of any registered club lodged as aforesaid at all reasonable times without payment.
- (3) There shall be kept on the premises of every registered club a copy of a current list containing the names and addresses of every member of the club; and a chief constable or any constable authorised by him in writing shall be entitled to inspect that list at all reasonable times without payment.



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## **116 Citation of registered club.**

Any citation of a registered club may be validly made in the registered name thereof in accordance with the <sup>M18</sup>Citation Amendment (Scotland) Act 1882, or by a copy of the citation being left by an officer of court at the registered address of the club.

### **Marginal Citations**

**M18** 1882 c. 77(45:2).

## **117 Sheriff’s jurisdiction and decision.**

- (1) The jurisdiction conferred on the sheriff by this Part of this Act shall not be excluded in relation to any club by reason only of the fact that he is a member of that club.
- (2) The decision of the sheriff in dealing with an application for the grant of a certificate of registration or for the renewal of such a certificate or in cancelling such a certificate shall be final.

## **118 Interpretation of Part VII.**

In this Part of this Act, references to the secretary of a club shall include references to any officer of the club or other person performing the duties of a secretary.

## **PART VIII**

### MISCELLANEOUS, TRANSITIONAL & GENERAL

## **119 Trading hours for off-sale premises and off-sale parts of public houses and hotels.**

- (1) The provisions of this Act relating to the permitted hours shall not apply to off-sale premises, but the provisions of this section shall apply.
- (2) On granting or transferring a public house or a hotel licence in respect of any premises a licensing board shall, if the applicant so requests and if the board is satisfied—
  - (a) that a part of the premises (in this section referred to as “the off-sale part”) is structurally adapted for the sale and supply of alcoholic liquor for consumption off the premises; and
  - (b) that there is no internal communication to which customers have access connecting the off-sale part with a part of the premises used, or intended to be used, for the sale and supply of alcoholic liquor for consumption on the premises, or that any such internal communication is capable of being closed to customers;insert in the licence the following conditions—
  - (i) a condition that the off-sale part (which shall be specified in the condition) shall not be used for the sale or supply of alcoholic liquor for consumption on the premises;
  - (ii) a condition that any internal communication to which customers have access connecting the off-sale part with a part of the premises used for the sale and supply of alcoholic liquor for consumption on the premises shall be closed

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to customers during any time when customers are present in any part of the premises; and

- (iii) a condition that no customers shall be permitted to use any internal communication for the purpose of passing from one part of the premises to another part thereof;

and, so long as the licence is subject to the said conditions, the provisions of this Act relating to the permitted hours shall not apply to the off-sale part, but the provisions of this section shall apply.

[<sup>F115</sup>(3) Off-sale premises and the off-sale part of premises shall not be opened for the serving of customers with alcoholic liquor—

- (a) on a day other than a Sunday, earlier than eight in the morning, and
- (b) on a Sunday, earlier than half past twelve in the afternoon,

and shall be closed for the serving of customers with such liquor not later than ten in the evening.]

- (4) The holder of the licence or his employee or agent shall be guilty of an offence if he contravenes this section or any condition attached to a licence by virtue of subsection (2) above.

#### Textual Amendments

**F115** S. 119(3) substituted (1.12.1994) by 1994 c. 40, s. 22; S.I. 1994/3037, arts. 2, 3

## 120 Liquor in unregistered clubs.

- (1) If any person sells or supplies alcoholic liquor in the premises of an unregistered club, or authorises the sale or supply of alcoholic liquor in any such premises, to a member or other person, or if any person pays for alcoholic liquor so sold or supplied, he shall be guilty of an offence.
- (2) If alcoholic liquor is kept in any such premises for sale or supply in those premises, every officer and member of the club shall be guilty of an offence.
- (3) A person shall not be guilty of an offence under subsection (2) above if he proves that the liquor was kept as mentioned in that subsection without his knowledge or consent.
- (4) If a justice of the peace is satisfied by evidence on oath that there are reasonable grounds for believing that alcoholic liquor is being sold or supplied in the premises of an unregistered club or is being kept in any such premises for the purpose of being sold or supplied there, he may by warrant authorise a constable to enter those premises at any time, if need be by force, and to search the premises and seize any documents relating to the business of the club and to take the names and addresses of any persons found in the premises.
- (5) If a justice of the peace is satisfied by evidence on oath that there are reasonable grounds for believing that alcoholic liquor is being kept in the premises of an unregistered club for the purposes of being sold or supplied there, he may by warrant authorise a constable to seize and remove any such liquor which the constable has reasonable grounds for supposing to be in the premises for the purpose of being sold or supplied there, together with the vessels containing the liquor.

*Status: Point in time view as at 01/05/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Licensing (Scotland) Act 1976 (repealed). (See end of Document for details)*

- (6) If any of the officers or members of a club from the premises of which any alcoholic liquor has been removed under subsection (5) above is convicted of an offence under subsection (2) above in respect of such liquor or any part thereof, that liquor or such part thereof, as the case may be, and the vessels containing it shall be forfeited and sold and the proceeds thereof paid into the general fund of the [<sup>F116</sup>council within whose area] the said premises are situated.
- (7) If any person found in the premises of a club refuses to give his name and address on being requested to do so by a constable acting under a warrant granted in pursuance of subsection (4) above, or gives a false name or address on being so requested, he shall be guilty of an offence.

#### Textual Amendments

**F116** Words in s. 120(6) substituted (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 106(8)

### 121 Sale or supply of alcoholic liquor in certain theatres.

A theatre erected before 1st January 1904 shall be treated for the purposes of the sale or supply of alcoholic liquor in the theatre as if an entertainment licence were in force in respect of the theatre.

### 122 Proof of trafficking in alcoholic liquor without licence.

It shall be sufficient evidence that a person was trafficking in any alcoholic liquor in any premises or place without holding a licence in that behalf if it is proved—

- (a) that a person other than the owner or occupier of such premises or place was at the time charged found therein drunk or drinking, or having had drink supplied to him therein; and
- (b) either that such premises are or such place is, by repute, kept for the illegal sale of alcoholic liquor or that at the time charged such premises or place contained drinking utensils and fittings usually found in licensed premises.

### 123 Alcoholic liquor in confectionery.

- (1) No provision of this Act as to the sale, supply, purchase, delivery or consumption of alcoholic liquor, except subsection (2) below, and no enactment requiring the authority of a wholesaler's excise licence for the sale or supply of alcoholic liquor, shall have effect in relation to alcoholic liquor in confectionery which—
- (a) does not contain alcoholic liquor in a proportion greater than 200 millilitres of liquor [<sup>F117</sup>of a strength of 57% of ethyl alcohol by volume (at a temperature of 20 degrees Celsius)] per kilogramme of the confectionery, and
  - (b) either consists of separate pieces weighing not more than 50 grammes or is designed to be broken into such pieces for the purpose of consumption.
- (2) Alcoholic liquor in confectionery shall not be sold to a person under 16, and if any person knowingly contravenes this subsection he shall be guilty of an offence.

*Status: Point in time view as at 01/05/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Licensing (Scotland) Act 1976 (repealed). (See end of Document for details)*

#### Textual Amendments

F117 Words substituted by S.I. 1979/1755, reg. 3(1)

### 124 Local authority premises.

Subsection (6) of section 91 of the <sup>M19</sup>Local Government (Scotland) Act 1973 (certificates not to be granted for sale of liquor in premises provided under that section) shall cease to have effect, and a licensing board may grant any licence in respect of such premises.

#### Marginal Citations

M19 1973 c. 65(81:2).

### 125 Supply of alcoholic liquor on order by certain officials and others.

- (1) The holder of a licence in respect of any premises may supply alcoholic liquor from those premises during any time when such supply would, apart from this section, be prohibited by or under this Act, on an order stating why the liquor is required and signed—
  - (a) by a constable of or above the rank of inspector or by a constable in charge of a police station; or
  - (b) by the procurator fiscal, or
  - (c) by a medical official; or
  - (d) in case of sickness, accident or emergency, by a duly qualified medical practitioner.
- (2) Any such order shall be a sufficient defence in any prosecution in respect of the supply of the alcoholic liquor to which it relates if within 48 hours after the supply of such liquor the order is sent by post to the procurator fiscal together with a note of the description and quantity of the liquor supplied and the name and address of the person to whom the liquor was supplied.
- (3) The procurator fiscal shall, not later than seven days before the quarterly meeting of any licensing board having jurisdiction in the district for which he acts or any part thereof, transmit to the clerk of such board a list of orders received by him under subsection (2) above during the current quarter, being orders received from persons holding licences from that board, and the said list shall contain a note of the names and designations of all persons signing such orders.

### 126 Burden of proof in case of drunkenness in licensed premises.

If the holder of a licence in respect of any premises is charged with knowingly permitting drunkenness in those premises, and it is proved that any person was drunk in the premises it shall lie on the holder of the licence to prove that he and the persons employed by him took all reasonable steps to prevent drunkenness in the premises.

*Status: Point in time view as at 01/05/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Licensing (Scotland) Act 1976 (repealed). (See end of Document for details)*

## 127 Presumption as to contents of containers.

(1) For the purposes of any trial in connection with an alleged contravention of any provision of this Act, the following provisions of this section shall apply.

[<sup>F118</sup>(2) Any liquid found in a container (sealed or open) shall, subject to the provisions of this section, be presumed to conform to the description of the liquid on the container.

(3) An open container which is found to contain—

- (a) no liquid; or
- (b) insufficient liquid to permit analysis,

but which when sold or supplied to a person was sealed shall, subject to the provisions of this section, be presumed to have contained at the time of the sale or supply liquid which conformed to the description of the liquid on the container.

(4) Subject to subsection (5) below, in any trial of a person for an offence under this Act, he may rebut the presumption mentioned in subsection (2) or (3) above by showing that, at the time of the sale or supply, the liquid in the container did not conform to the description of the liquid on the container.

(5) A person shall not be entitled to lead evidence for the purpose of rebutting a presumption as mentioned in subsection (4) above unless, not less than 7 days before the date of the trial, he has given notice to the prosecutor of his intention to do so.]

### Textual Amendments

**F118** S. 127(2)–(5) substituted for s. 127(2)–(6) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 68A:2\)](#), **s. 55(1)**

### Modifications etc. (not altering text)

**C6** S. 127 extended by [Criminal Justice \(Scotland\) Act 1980 \(c. 62, SIF 39:1\)](#), **s. 76**  
S. 127 applied (1.4.1996) by [1995 c. 39, ss. 22, 53\(2\)](#)

## 128 Trial of offences.

(1) The following provisions shall have effect in relation to the trial of offences under this Act—

- (a) all offences shall be tried in a summary manner;
- (b) all offences other than those referred to in paragraph (c) below may be tried in the sheriff court or in the district court;
- (c) the following offences shall be tried only in the sheriff court, that is to say, any offence under section 2, 7(3), 19(1) or section 36(3) of this Act.

(2) ..... <sup>F119</sup>

### Textual Amendments

**F119** S. 128(2) repealed by [Criminal Justice \(Scotland\) Act 1980 \(c. 62, SIF 39:1\)](#), **Sch. 8**

*Status: Point in time view as at 01/05/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Licensing (Scotland) Act 1976 (repealed). (See end of Document for details)*

## 129 Conviction of licence-holder to be transmitted to clerk of licensing board.

Where the holder of a licence in respect of any premises is convicted of any offence under this Act in relation to those premises, a certified extract of such conviction shall, within six days after the date of the conviction, be transmitted by the clerk of the court to the clerk of the licensing board within whose jurisdiction such premises are situated.

## 130 Limitation of actions against sheriffs, etc.

No proceedings against any sheriff, justice of the peace, sheriff clerk, member of a licensing board, clerk of a licensing board, procurator fiscal, constable or other person on account of anything done in the execution of this Act shall lie, unless they are commenced within two months after the cause of such proceedings has arisen.

## <sup>F120</sup>131 .....

### Textual Amendments

**F120** S. 131 repealed (17.3.1993) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 68A:2), s. 74, Sch. 9; S.I. 1993/641, art. 3, Sch.

## <sup>F121</sup>132 .....

### Textual Amendments

**F121** S. 132 repealed (17.3.1993) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 68A:2), s. 74, Sch. 9; S.I. 1993/641, art. 3, Sch.

## 133 Betting and gaming licences and permits.

- (1) The authority responsible for the grant or renewal of bookmaker's permits, betting agency permits and betting office licences in Scotland under the <sup>M20</sup>Betting, Gaming and Lotteries Act 1963 shall be the licensing board for the area concerned, and accordingly for sub-paragraph (b) of paragraph (1) of Schedule 1 to that Act there shall be substituted the following sub-paragraph—
  - “(b) in any area in Scotland, the licensing board for that area constituted under section 1 of the Licensing (Scotland) Act 1976.”
- (2) The authority responsible for the grant, renewal, cancellation and transfer of licences in Scotland under the <sup>M21</sup>Gaming Act 1968 shall be the licensing board for the area concerned, and accordingly for head (b) of paragraph 1 (1) of Schedule 2 to that Act there shall be substituted the following head—
  - “(b) in any area in Scotland.”
- (3) The appropriate authority in Scotland for the purposes of Schedule 9 to the <sup>M22</sup>Gaming Act 1968 in relation to public houses and hotels shall be the licensing board for the area concerned, and accordingly for sub-paragraph (c) of paragraph (1) of that Schedule there shall be substituted the following sub-paragraph—

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“(c) in relation to any premises in Scotland in respect of which a public house licence or a hotel licence is for the time being in force, means the licensing board for the area in which the premises are situated;”

- (4) Subsections (4)<sup>F122</sup> . . . to (8) of section 39 of this Act shall apply in relation to appeals under paragraph 24 of Schedule 1 to the<sup>M23</sup> Betting, Gaming and Lotteries Act 1963, paragraph 33 or 34 of Schedule 2 and paragraph 15 of Schedule 9 to the<sup>M24</sup> Gaming Act 1968 [<sup>F123</sup>and paragraph 12 of Schedule 3 to the Lotteries and Amusements Act 1976] as they apply in relation to appeals under any provision of this Act, and in his decision on any such appeal under the said Acts of 1963 [<sup>F124</sup>1968 and 1976] the sheriff may include such order as to the expenses of the appeal as he thinks proper.

#### Textual Amendments

**F122** Words in s. 133(4) repealed (17.3.1993) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 68A:2), s. 74, **Sch.9**; S.I. 1993/641, **art. 3**, Sch.

**F123** Words inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 39:1), **s. 52**

**F124** Words substituted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 39:1), **s. 52**

#### Modifications etc. (not altering text)

**C7** Part of the text of s. 133(1)–(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Marginal Citations

**M20** 1963 c. 2(12:1).

**M21** 1968 c. 65(12:1).

**M22** 1968 c. 65.

**M23** 1963 c. 2.

**M24** 1968 c. 65.

#### 134 Notices, etc.

Any notice or document required or authorised to be given or served under this Act may be served by post.

#### 135 Orders.

Any power to make an order conferred by any provision of this Act shall include power to make an order varying or revoking any order previously made under that provision.

#### 136 Amendments and repeals.

- (1) The enactments mentioned in Schedule 7 to this Act shall have effect subject to the amendments respectively specified in that Schedule, being minor amendments or amendments consequential on the provisions of this Act.
- (2) The enactments specified in Schedule 8 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

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#### **Modifications etc. (not altering text)**

- C8** The text of s. 136 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

### **137 Expenses.**

There shall be defrayed out of moneys provided by Parliament any increase attributable to the provisions of this Act in the sums payable out of moneys so provided under any other enactment.

### **138 Exemptions and savings.**

(1) Nothing in this Act shall make unlawful—

- (a) trafficking in alcoholic liquor in a canteen held under the authority of a Secretary of State;
- (b) trafficking in alcoholic liquor in a theatre erected before 1st January 1904;
- (c) trafficking, with passengers in an aircraft, or, subject to section 93 of this Act, in a vessel or railway passenger vehicle, in alcoholic liquor for consumption on board the aircraft or vessel or in the railway passenger vehicle, if the aircraft or vessel is employed for the carriage of passengers and is being flown or navigated from a place in the United Kingdom to another such place or from and to the same place in the United Kingdom on the same day, or, as the case may be, if the railway passenger vehicle is a vehicle in which passengers can be supplied with food.

(2) Nothing in this Act shall—

- (a) affect the right of any person to carry on his business during the pendency of an appeal against the refusal of a licensing board to renew his licence;
- (b) save as expressly provided in this Act, prohibit the sale of alcoholic liquor by a wholesaler; or
- (c) affect any penalties recoverable by or on behalf of the Commissioners, or any laws relating to excise.

### **139 Interpretation.**

(1) In this Act, unless the context otherwise requires—

“alcoholic liquor” includes spirits, wine, porter, ale, beer, cider, perry and made-wine, but does not include

- <sup>F125</sup>(a) any liquor which <sup>F126</sup>is of a strength not exceeding 0.5% of ethyl alcohol by volume (at a temperature of 20 degrees Celsius) . . . <sup>F127</sup>;
- <sup>F128</sup>(b) perfumes;
- (c) flavouring essences recognised by the Commissioners as not being intended for consumption as or with dutiable alcoholic liquor;
- (d) spirits, wine or made-wine so medicated as to be, in the opinion of the Commissioners, intended for use as a medicine and not as a beverage,]

“bar” includes any place exclusively or mainly used for the sale and consumption of alcoholic liquor;

“Commissioners” means Commissioners of Customs and Excise;



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“constable” means a constable of a police force maintained under the <sup>M25</sup>Police (Scotland) Act 1967;

“contravene” includes fail to comply with, and “contravention” has a corresponding meaning;

[<sup>F129</sup>“council” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994; and references to the area of a council shall be construed accordingly;]

“development corporation” has the same meaning as in the <sup>M26</sup>New Towns (Scotland) Act 1968;

“enactment” includes any order, rule, regulation or other instrument made under an Act of Parliament;

“fire authority” has the same meaning as in section 38 of the <sup>M27</sup>Fire Services Act 1947;

“grant”, in relation to a licence, includes a grant by way of renewal, and “granting” and “application” shall be construed accordingly;

“hawking” means trafficking in or about [<sup>F130</sup>roads] or other places or in or from any boat or other vessel on the water;

“hotel” means—

(a) in towns and the suburbs thereof, a house containing at least four apartments set apart exclusively for the sleeping accommodation of travellers;

(b) in rural districts and populous places not exceeding 1,000 inhabitants according to the census for the time being last taken, a house containing at least two such apartments;

“licence” means a licence granted under this Act other than under Part III of this Act;

“licence-holder” and “holder of a licence” mean the holder of a licence under this Act other than under Part III of this Act;

“licensed canteen” means a seaman’s canteen in respect of which a licence under Part III of this Act is in force;

“licensed premises” means premises in respect of which a licence under this Act is in force other than under Part III of this Act;

“licensing area” means any area for which there is a separate licensing board;

“licensing board” means a licensing board constituted under section 1 of this Act;

“made-wine” means made-wine within the meaning of the [<sup>F131</sup>section 1 of the <sup>M28</sup>Alcoholic Liquor Duties Act 1979];

“new licence” means a licence granted in respect of premises for which, at the time of the application for such grant, either no licence was in force or a licence in a form different from the form of licence so granted was in force:

Provided that a licence granted in respect of premises which have been rebuilt after having been destroyed by fire, tempest or other unforeseen cause, and for which, at the time when they were so destroyed, a licence in the same form as the first-mentioned licence was in force, shall be deemed not to be a new licence;

“off-sale premises” means premises in respect of which an off-sale licence under this Act is in force;

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“permitted hours” means the hours during which by virtue of this Act alcoholic liquor may be sold, supplied or consumed in licensed premises; “prescribed” means prescribed by regulations made under section 37 of this Act;

“public house” includes an inn, ale-house, victualling house or other premises in which alcoholic liquor is sold by retail for consumption either on or off the premises;

“registered club” means a club in respect of which a certificate of registration under Part VII of this Act is in force, and “unregistered club” shall be construed accordingly;

“table meal” means a meal eaten by a person sitting at a table, or at a counter or other structure which serves the purpose of a table and is not used for the service of refreshments for consumption by persons not seated at a table or structure serving the purpose of a table;

“trafficking” means bartering, selling, dealing in, trading in, or exposing or offering for sale, by retail;

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.....  
“wine” means wine within the meaning of the [F131 section 1 of the M29 Alcoholic Liquor Duties Act 1979].

- (2) References in this Act to a bar counter in any premises shall not include references to a counter in such premises which is a bona fide used, or intended to be used,—
- (a) as a place at which meals are served to persons sitting thereat and at which alcoholic liquor is supplied to persons taking such meals for consumption by such a person while seated at such counter and as an ancillary to his meal; or
  - (b) as a place at which alcoholic liquor is dispensed to the holder of a licence in respect of the premises or any servant or agent of his, but to no other person, and is so dispensed in order that it may be supplied to persons frequenting the premises; or
  - (c) for both of the purposes mentioned in the two foregoing paragraphs; and for no other purpose.
- (3) For the purposes of this Act, a person shall be treated as residing in any premises, notwithstanding that he occupies sleeping accommodation in a separate building, if he is provided with that accommodation in the course of a business of providing board and lodging for reward at those premises and the building is habitually used for the purpose by way of annex or overflow in connection with those premises and is occupied and managed with those premises.
- (4) Unless the context otherwise requires, any reference in this Act to any other enactment is a reference thereto as amended, extended or applied by or under any other enactment, including this Act.
- [F133(5) Any requirement under this Act to cause to be published the address of—
- (a) an applicant in respect of any competent application made to a licensing board;
  - (b) an employee or agent of an applicant who is not an individual natural person; or
  - (c) a person who is to be the holder of a licence under Part III of this Act,
- may be satisfied by causing to be published the address of his agent and the clerk of a licensing board shall cause to be published the address of the agent rather than the

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address of any person mentioned in paragraphs (a) to (c) above if so requested by that person.

- (6) Any requirement in this Act to intimate anything to an applicant may be satisfied by so intimating to his agent.]

#### Textual Amendments

- F125** “(a)” inserted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985](#) (c. 73, SIF 39:1), **s. 53**
- F126** Words in s. 139(1) substituted (1.1.1994) by [Licensing \(Low Alcohol Drinks\) Act 1990](#) (c. 21, SIF 68A:1, 2), **ss. 2, 3(2)**
- F127** Words repealed by [Finance Act 1981](#) (c. 35, SIF 40:1), s. 139(6), **Sch. 19 Pt. III**
- F128** S. 139(1)(b)–(d) inserted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985](#) (c. 73, SIF 39:1), **s. 53**
- F129** S. 139: definition inserted (1.4.1996) by [1994 c. 39](#), s. 180(1), **Sch. 13 para. 106(9)**; S.I. 1996/323, **art. 4(1)(c)**
- F130** Word substituted by [Roads \(Scotland\) Act 1984](#) (c. 54, SIF 108), ss. 128(1), 156(1), **Sch. 9 para. 77(3)**
- F131** Words substituted by [Alcoholic Liquor Duties Act 1979](#) (c. 4, SIF 40:1), **Sch. 3 para. 9**
- F132** Definition repealed by [Finance Act 1981](#) (c. 35, SIF 40:1), s. 139(6), **Sch. 19 Pt. III**
- F133** S. 139(5)(6) inserted (31.12.1991) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990](#) (c. 40, SIF 68A:2), s. 74, **Sch. 8 para. 18**; S.I. 1991/2862, art. 3, **Schedule**.

#### Modifications etc. (not altering text)

- C9** Definition of 'hotel' in s. 139(1) applied (19.12.1991) by [City of Edinburgh District Council Order Confirmation Act 1991](#) (c. xix), s. 1, **Schedule para. 2**

#### Marginal Citations

- M25** 1967. 77(95).
- M26** 1968 c. 16(123:4).
- M27** 1947 c. 41(50).
- M28** 1979 c. 4(40:1).
- M29** 1979 c. 4(40:1).

## 140 Transitional provisions.

- (1) ..... <sup>F134</sup>
- (2) Any order made under section 5 of the <sup>M30</sup>Licensing (Scotland) Act 1962 shall continue to have effect as if made under section 56 of this Act, and, where section 6 or 8 of the said Act of 1962 or section 126 of the <sup>M31</sup>Licensing (Scotland) Act 1959 applies to any premises, the corresponding provision of this Act, that is to say, section 57 [<sup>F135</sup>, 59] or 58 of this Act, as the case may be, shall apply to those premises.
- (3) ..... <sup>F136</sup>
- (4) A certificate of registration granted in respect of any club under Part XI of the <sup>M32</sup>said Act of 1959 shall remain in force for a period of three years from the date of issue and shall have effect as if granted under Part VII of this Act.
- (5) A special permission granted under section 60 of the said Act of 1959 shall have effect in relation to occasions on or after 1st July 1977 as if that Act were still in force.
- (6) Nothing in section 136(2) of this Act shall affect any order, requirement, rule, regulation or byelaw made, direction given or any thing done under any enactment

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repealed by this Act; but any such order, requirement, rule, regulation, byelaw, direction or thing shall, so far as it has effect immediately before the repeal, continue to have effect, and, so far as it could have been made, given or done under the corresponding provision of this Act, have effect as if it had been made, given or done under that corresponding provision.

- (7) Any document referring to an enactment repealed by this Act shall be construed as referring to the corresponding provision of this Act.
- (8) The mention of particular matters in this section shall not affect the general application to this Act of <sup>F137</sup>sections 16(1) and 17(2)(a) of the <sup>M33</sup>Interpretation Act 1978] (which relates to the effect of repeals).

#### Textual Amendments

- F134** S. 140(1) repealed by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1980 \(c. 55, SIF 72:2\), Sch. 3](#)
- F135** Word substituted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1980 \(c. 55, SIF 72:2\), Sch. 2 para. 11](#)
- F136** S. 140(3) repealed by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23, SIF 81:2\), Sch. 4](#)
- F137** Words substituted by virtue of [Interpretation Act 1978 \(c. 30, SIF 115:1\), s. 25\(2\)](#)

#### Marginal Citations

- M30** 1962 c. 51.
- M31** 1959 c. 51.
- M32** 1959 c. 51.
- M33** 1978 c. 30

### 141 Short title extent and commencement.

- (1) This Act may be cited as the Licensing (Scotland) Act 1976 and extends to Scotland only.
- (2) Sections 131 and 140(1) of this Act and this section shall come into force on the passing of this Act, and the other provisions of this Act shall come into force on the appointed day, being such day as the Secretary of State may by order made by statutory instrument appoint; and different days may be appointed under this subsection for different provisions of this Act or for different purposes, or for the purposes of the same provision in relation to different cases.
- (3) Any reference in this Act to the commencement of any provision thereof shall be construed as a reference to the day when that provision comes into force.

#### Modifications etc. (not altering text)

- C10** Power of appointment conferred by s. 141(2) fully exercised: [S.I. 1976/2068](#), 1977/212 and 1977/718

**Status:**

Point in time view as at 01/05/2005.

**Changes to legislation:**

There are currently no known outstanding effects for the Licensing (Scotland) Act 1976 (repealed).