



Licensing (Scotland) Act 1976

1976 CHAPTER 66

PART II

THE GENERAL LICENSING SYSTEM

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.
- (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 grounded on paragraph (b) of sub-section (4) above, the sheriff may hear evidence by or on behalf of any party to the appeal.
- (6) On upholding an appeal under this section the sheriff may—

Status: This is the original version (as it was originally enacted).

- (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.