



Civic Government (Scotland) Act 1982

1982 CHAPTER 45

PART I

LICENSING—GENERAL PROVISIONS

Modifications etc. (not altering text)

- C1 Pt. 1 modified (3.6.1991) by S.I. 1991/1253, art. 3(2), **Sch.** (which S.I. was revoked (7.6.2000) by S.S.I. 2000/177, art. 9)
- C2 Pt. 1 applied (with modifications) (7.6.2000) by S.S.I. 2000/177, art. 4, **Sch.** (as amended (1.10.2003) by S.S.I. 2003/463, art. 6)
- C3 Pt. 1 applied (with modifications) (2.2.2006) by The Civic Government (Scotland) Act 1982 (Licensing of Skin Piercing and Tattooing) Order 2006 (S.S.I. 2006/43), arts. 1(1), 3, **sch.**
- C4 Pt. 1 applied (with modifications) (3.4.2009) by The Civic Government (Scotland) Act 1982 (Licensing of Booking Offices) Order 2009 (S.S.I. 2009/145), arts. 1(1), 3, **sch.**
- C5 Pt. 1 modified (27.11.2009) by The Local Services (Operation by Licensed Hire Cars) Regulations 2009 (S.I. 2009/2863), regs. 1, 5 (with reg. 3)

1 Application of Parts I and II of this Act.

This Part of this Act shall have effect with respect to the licensing of the activities for which licences are required under Part II of this Act.

2 Licensing authorities.

- (1) For the administration of licensing in relation to the activities in connection with which licences are required under Part II of this Act there shall be a licensing authority for [^{F1}the area of each local authority].
- (2) The licensing authority shall be the [^{F2}local authority] within whose area the activity is, or is to be, carried on.
- (3) Notwithstanding subsection (2) above, a [^{F2}local authority] shall not be exempt from any requirement to have a licence or any other obligation under this Part or Part II

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of this Act and a licensing authority shall have power to entertain and dispose of an application by a [local authority] for a licence or in respect of a licence held by them.

Textual Amendments

- F1** Words in s. 2(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 129(2)(a)**; S.I. 1996/323, **art. 4(1)(c)**
- F2** Words in s. 2(2)(3) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 129(2)(b)**; S.I. 1996/323, **art. 4(1)(c)**

3 Discharge of functions of licensing authorities.

- (1) For the purpose of the discharge of their functions under this Part of this Act, every licensing authority shall consider, within 3 months of its having been made to them under paragraph 1 of Schedule 1 to this Act, each application so made and, subject to the following provisions of this section, reach a final decision on it within 6 months.
- (2) On summary application by the licensing authority within the 6 month period referred to in subsection (1) above, the sheriff may, if it appears to him that there is good reason to do so, extend that period as he thinks fit.
- (3) The applicant shall be entitled to be a party to a summary application under subsection (2) above.
- (4) Where the licensing authority have failed to reach a final decision on the application before the expiry of—
 - (a) the 6 month period referred to in subsection (1) above, or
 - (b) such further period as the sheriff may have specified on application under subsection (2) above,
 the licence applied for shall be deemed to have been granted or, as the case may be, renewed ^{F3}... on the date of such expiry and shall remain in force for one year, but this subsection is without prejudice to the powers of revocation under section 7(6)(a) of this Act, of variation under paragraph 10 of Schedule 1 to this Act and of suspension under paragraphs 11 and 12 of that Schedule and to the provisions of paragraph 8(5) of that Schedule.
- (5) The licensing authority shall make out and deliver the licence to the applicant to whom it has been deemed to have been granted under subsection (4) above.

Textual Amendments

- F3** Word in s. 3(4) repealed (28.3.2011) by **Criminal Justice and Licensing (Scotland) Act 2010 (asp 13)**, **ss. 172(2), 206(1)**; S.S.I. 2011/178, **art. 2, sch.** (with sch.)

[^{F4}3A] Mandatory licence conditions

- (1) The Scottish Ministers may by order made by statutory instrument prescribe conditions to which licences granted by licensing authorities under this Act are to be subject.
- (2) Different conditions may be prescribed under subsection (1)—
 - (a) in respect of different licences, or different types of licence,

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- (b) otherwise for different purposes, circumstances or cases.
- (3) No order may be made under subsection (1) unless a draft of the statutory instrument containing the order has been laid before and approved by resolution of the Scottish Parliament.
- (4) Subsection (1) does not affect any other power of the Scottish Ministers under this Act or any other enactment to prescribe conditions—
 - (a) to which licences granted by licensing authorities under this Act are to be subject, or
 - (b) to be imposed by licensing authorities in granting or renewing licences under this Act.
- (5) The following conditions are referred to in this Part and Part 2 of this Act as “mandatory conditions”—
 - (a) conditions prescribed under subsection (1),
 - (b) conditions prescribed under any power referred to in subsection (4), and
 - (c) conditions imposed, or required to be imposed, by any provision of this Part or Part 2 of this Act.
- (6) In this section and section 3B, references to licences granted by licensing authorities include references to—
 - (a) licences renewed by licensing authorities, and
 - (b) licences deemed by virtue of section 3(4) to be granted or renewed by licensing authorities.

Textual Amendments

F4 Ss. 3A, 3B inserted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), ss. [172\(3\)](#), [206\(1\)](#); S.S.I. 2011/178, art. 2, sch. (with sch.)

3B Standard licence conditions

- (1) A licensing authority may determine conditions to which licences granted by them under this Act are to be subject.
- (2) Conditions determined under subsection (1) are referred to in this Part and Part 2 as “standard conditions”.
- (3) Different conditions may be determined under subsection (1)—
 - (a) in respect of different licences, or different types of licence,
 - (b) otherwise for different purposes, circumstances or cases.
- (4) A licensing authority must publish, in such manner as they think appropriate, any standard conditions determined by them.
- (5) Standard conditions have no effect—
 - (a) unless they are published, and
 - (b) so far as they are inconsistent with any mandatory conditions.
- (6) Subsection (1) is subject to paragraph 5(1A)(a) of Schedule 1 to this Act.]

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Textual Amendments

- F4** Ss. 3A, 3B inserted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), ss. [172\(3\)](#), [206\(1\)](#); S.S.I. 2011/178, art. 2, sch. (with sch.)

4 Further provisions as to licensing.

Schedule 1 to this Act (which contains further provisions as to licensing and regulation in relation to the activities in connection with which licences are required under Part II of this Act) shall have effect.

5 Rights of entry and inspection.

- (1) Without prejudice to any other provision of this Act, an authorised officer of the licensing authority ^{F5}, an authorised civilian employee ^{F6}... or a constable may, for the purposes specified in subsection (2) below, at any reasonable time—
- (a) enter and inspect any premises, vehicle or vessel used or to be used for an activity in relation to which a licence is in force or has been applied for under this Act;
 - (b) require production of and inspect any equipment, plant, apparatus or stock-in-trade which is or is to be kept or used in connection with any such activity;
 - (c) require production of and inspect any records or other documents required by or under this Part or Part II of this Act to be kept by the holder of the licence and take copies of or extracts from any such record or document.
- (2) The purposes referred to in subsection (1) above are—
- (a) where a licence is in force—
 - (i) seeing whether the terms of the licence are being complied with and, if they are not, obtaining information in respect of such non-compliance;
 - (ii) obtaining information relevant to the question whether the terms of the licence should be varied under paragraph 10 of Schedule 1 to this Act or whether the licence should be renewed or, under paragraph 11 or 12 of that Schedule, suspended; or
 - (b) where the grant of a licence has been applied for, obtaining information relevant to the question whether the application should be granted.
- (3) Any person who—
- (a) being a person for the time being in charge of any premises, vehicle or vessel, fails without reasonable excuse to permit a constable ^{F7}, an authorised civilian employee ^{F8}... who, in pursuance of subsection (1) above, demands to do so to enter or inspect the premises, vehicle or vessel or obstructs the entry thereto of a constable or such an ^{F9} employee or ^{F9} officer, in pursuance of that subsection;
 - (b) being a person in respect of whom powers are exercised under subsection (1) above, on being required under that subsection to do so by a constable ^{F7}, an authorised civilian employee ^{F8}... , fails without reasonable excuse to produce any equipment, plant, apparatus or stock-in-trade or to permit a constable or such an ^{F9}

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employee or] officer, in pursuance of that subsection, to inspect any equipment, plant, apparatus or stock-in-trade;

- (c) being a holder of a licence, on being required by a constable [^{F11}, an authorised civilian employee] or an authorised officer of the licensing authority ^{F12}... , in pursuance of subsection (1) above, to produce any records or other document required by or under this Part or Part II of this Act to be kept by the holder of a licence, fails without reasonable excuse to produce them;

shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding [^{F13}level 3 on the standard scale].

- (4) An authorised officer of a licensing authority [^{F14}, an authorised civilian employee] or a constable may require any person who the officer [^{F15}, employee] or constable has reasonable ground to believe is carrying on an activity which requires to be licensed to produce his licence within 5 days of being required to do so.
- (5) Any person who, having been required under subsection (4) above to produce a licence, fails without reasonable excuse to do so within the period of 5 days specified in that subsection shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding [^{F13}level 1 on the standard scale].
- (6) An authorised officer of a licensing authority [^{F16} or authorised civilian employee]^{F17}... shall not be entitled to exercise the powers which he may exercise under subsection (1) or (4) above until he has produced his authorisation—
- (a) in relation to the exercise of powers under subsection (1)(a) above, to the person for the time being in charge of the premises, vehicle or vessel; and
- (b) in any other case, to the person in respect of whom the powers are to be exercised.
- (7) A constable who is not in uniform shall not be entitled to exercise the powers which he may exercise under subsection (1) or (4) above until he has produced his identification—
- (a) in relation to the exercise of powers under subsection (1)(a) above, to the person for the time being in charge of the premises, vehicle or vessel; and
- (b) in any other case, to the person in respect of whom the powers are to be exercised.

Textual Amendments

- F5** Words in s. 5(1) inserted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 173(2)(a), 206(1); S.S.I. 2010/413, art. 2, sch.
- F6** Words in s. 5(1) repealed (1.10.2006) by The Fire (Scotland) Act 2005 (Consequential Modifications and Savings) Order 2006 (S.S.I. 2006/475), art. 1, sch. 2
- F7** Words in s. 5(3)(a)(b) inserted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 173(2)(b)(i), 206(1); S.S.I. 2010/413, art. 2, sch.; S.S.I. 2010/413, art. 2, sch.
- F8** Words in s. 5(3)(a) repealed (1.10.2006) by The Fire (Scotland) Act 2005 (Consequential Modifications and Savings) Order 2006 (S.S.I. 2006/475), art. 1, sch. 2
- F9** Words in s. 5(3)(a)(b) inserted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 173(2)(b)(ii), 206(1); S.S.I. 2010/413, art. 2, sch.; S.S.I. 2010/413, art. 2, sch.
- F10** Words in s. 5(3)(b) repealed (1.10.2006) by The Fire (Scotland) Act 2005 (Consequential Modifications and Savings) Order 2006 (S.S.I. 2006/475), art. 1, sch. 2
- F11** Words in s. 5(3)(c) inserted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 173(2)(c), 206(1); S.S.I. 2010/413, art. 2, sch.

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- F12** Words in s. 5(3)(c) repealed (1.10.2006) by [The Fire \(Scotland\) Act 2005 \(Consequential Modifications and Savings\) Order 2006 \(S.S.I. 2006/475\)](#), art. 1, **sch. 2**
- F13** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **s. 289G**
- F14** Words in s. 5(4) inserted (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 173(2)(d)(i)**, 206(1); S.S.I. 2010/413, art. 2, sch.
- F15** Word in s. 5(4) inserted (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 173(2)(d)(ii)**, 206(1); S.S.I. 2010/413, art. 2, sch.
- F16** Words in s. 5(6) inserted (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 173(2)(e)**, 206(1); S.S.I. 2010/413, art. 2, sch.
- F17** Words in s. 5(6) repealed (1.10.2006) by [The Fire \(Scotland\) Act 2005 \(Consequential Modifications and Savings\) Order 2006 \(S.S.I. 2006/475\)](#), art. 1, **sch. 2**

6 Powers of entry to and search of unlicensed premises.

- (1) If a justice of the peace or sheriff is satisfied by evidence on oath that there is reasonable ground for suspecting that—
- (a) an activity in respect to which a licence under this Act [^{F18}(other than a knife dealer's licence)] is required is being carried on in any premises, vehicle, or vessel; and
 - (b) no such licence is in force,
- he may grant a warrant authorising any constable to enter and search the premises, vehicle or vessel specified in the warrant.
- (2) A constable may use reasonable force in executing a warrant granted under subsection (1) above.
- (3) A constable who is not in uniform shall produce his identification if required to do so by any person in or upon any premises, vehicle or vessel which the constable is about to enter, is entering or has entered under the powers conferred under subsection (1) above, and if he has been so required to produce his identification, he shall not be entitled to enter or search the premises, vehicle or vessel or, as the case may be, remain there or continue to search the premises, vehicle or vessel until he has produced it.
- (4) Any person who fails without reasonable excuse to permit a constable in pursuance of a warrant granted under this section to enter and search any premises, vehicle or vessel or who obstructs the entry thereto or search thereof by a constable shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding [^{F19}level 3 on the standard scale].

Textual Amendments

- F18** Words in s. 6(1)(a) inserted (1.6.2010) by [Custodial Sentences and Weapons \(Scotland\) Act 2007 \(asp 17\)](#), **ss. 59(2)**, 67(2); S.S.I. 2009/197, art. 2, sch.
- F19** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **s. 289G**

7 Offences, etc.

- [^{F20}(A1) Any person who without reasonable excuse does anything for which a licence is required under section 27A without having such a licence is guilty of an offence and liable—

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- (a) on summary conviction to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum or both;
 - (b) on conviction on indictment to imprisonment for a term not exceeding 2 years or a fine or both.]
- (1) Any person who without reasonable excuse does anything for which a licence is required under [F21 any provision of] Part II of this Act [F22 other than section 27A] without having such a licence shall be guilty of an offence and liable, on summary conviction
- [F23(a) in a case where the licence so required is a public entertainment licence, to a fine not exceeding £20,000 or to imprisonment for a term not exceeding six months or to both; and
 - (b) in any other case,], to a fine not exceeding [F24]level 4 on the standard scale].
- (2) If a condition attached to a licence is not complied with, the holder of the licence shall, subject to subsection (3) below, be guilty of an offence and liable, on summary conviction
- [F25(a) in a case where the licence is a public entertainment licence and the condition is attached under section 41(3)(b) of this Act, to such fine or imprisonment as is mentioned in subsection (1)(a) above (or to both); F26...
 - [in a case where the licence is a knife dealer's licence, to a fine not exceeding
 - F27(aa) level 5 on the standard scale; and]
 - (b) in any other case,], to a fine not exceeding [F24]level 3 on the standard scale].
- (3) It shall be a defence for a person charged with an offence under subsection (2) above to prove that he used all due diligence to prevent the commission of the offence.
- (4) Any person who, in making an application under this Part of this Act to the licensing authority, makes any statement which he knows to be false or recklessly makes any statement which is false in a material particular shall be guilty of an offence and liable, on summary conviction,
- [F28(a) in a case where the application is for a knife dealer's licence, to a fine not exceeding level 5 on the standard scale; and
 - (b) in any other case,]to a fine not exceeding [F24]level 4 on the standard scale].
- (5) Any person who, being the holder of a licence—
- (a) fails without reasonable excuse to notify the licensing authority of a material change of circumstances in accordance with paragraph 9(1) of Schedule 1 to this Act;
 - (b) without reasonable excuse makes or causes or permits to be made any material change in any premises, vehicle or vessel in contravention of paragraph 9(2) of Schedule 1 to this Act;
 - (c) fails without reasonable excuse to deliver his licence to the licensing authority in accordance with paragraph 13(2) of Schedule 1 to this Act,
- shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding, in the case of an offence under paragraph (a) or (b) above, [F24]level 3 on the standard scale], and in the case of an offence under paragraph (c) above, [F24]level 1 on the standard scale].
- (6) Where a holder of a licence is convicted of an offence under section 5 (other than subsection (5) thereof), 6 or this section, 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 one or both of the following paragraphs—

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- (a) that the licence shall be revoked;
 - (b) that the holder of the licence shall be disqualified from holding a licence for a period not exceeding 5 years.
- (7) Where the holder of a licence is convicted of an offence under this section, an extract of such conviction and sentence (if any) shall, within 6 days after the date of the conviction, be transmitted by the clerk of the court to the licensing authority which granted the licence.
- (8) A person may appeal against an order under subsection (6) above in the same manner as against sentence and the court which made the order may, pending the appeal, suspend the effect of the order.
- (9) A person may, at any time after the expiry of the first year of his disqualification under subsection (6) above, apply to the court which ordered the disqualification to remove it, and, on such application, the court may by order remove the disqualification as from such date as may be specified in the order or refuse the application, and, in either case, may order the applicant to pay the whole or any part of the expenses of such application.
- (10) Where an offence is alleged to have been committed under subsection (2) above by an employee or agent named in a licence, proceedings in respect of that offence may be instituted against the joint licence holder who is the employer of the employee or principal of the agent, whether or not proceedings have been instituted against the employee or agent.

Textual Amendments

- F20** S. 7(A1) inserted (1.6.2010) by [Custodial Sentences and Weapons \(Scotland\) Act 2007 \(asp 17\)](#), **ss. 59(3)(a)**, 67(2); S.S.I. 2009/197, art. 2, sch.
- F21** Words in s. 7(1) inserted (1.6.2010) by [Custodial Sentences and Weapons \(Scotland\) Act 2007 \(asp 17\)](#), **ss. 59(3)(b)(i)**, 67(2); S.S.I. 2009/197, art. 2, sch.
- F22** Words in s. 7(1) inserted (1.6.2010) by [Custodial Sentences and Weapons \(Scotland\) Act 2007 \(asp 17\)](#), **ss. 59(3)(b)(ii)**, 67(2); S.S.I. 2009/197, art. 2, sch.
- F23** S. 7(1)(a)(b) inserted by [Entertainments \(Increased Penalties\) Act 1990 \(c. 20, SIF 45A\)](#), **s. 2(1)**
- F24** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **s. 289G**
- F25** S. 7(2)(a)(b) inserted by [Entertainments \(Increased Penalties\) Act 1990 \(c. 20, SIF 45A\)](#), **s. 2(2)**
- F26** Word in s. 7(2)(a) repealed (1.6.2010) by [Custodial Sentences and Weapons \(Scotland\) Act 2007 \(asp 17\)](#), **ss. 59(3)(c)(i)**, 67(2); S.S.I. 2009/197, art. 2, sch.
- F27** S. 7(2)(aa) inserted (1.6.2010) by [Custodial Sentences and Weapons \(Scotland\) Act 2007 \(asp 17\)](#), **ss. 59(3)(c)(ii)**, 67(2); S.S.I. 2009/197, art. 2, sch.
- F28** S. 7(4)(a)(b) inserted (1.9.2009) by [Custodial Sentences and Weapons \(Scotland\) Act 2007 \(asp 17\)](#), **ss. 59(3)(d)**, 67(2); S.S.I. 2009/197, art. 2, sch.

8 Interpretation of Parts I and II.

In this Part and in Part II of this Act except where the context otherwise requires—

[^{F29}“appropriate relevant authority”, in relation to a licensing authority’s area, means the authority discharging in that area the functions of a relevant authority as defined in section 6 of the [Fire \(Scotland\) Act 2005 \(asp 5\)](#)];]

[^{F30}“authorised civilian employee” means a person—

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- (a) employed by a police authority under section 9(1)(a) of the Police (Scotland) Act 1967 (c.77), and
- (b) authorised by the chief constable for the purposes of sections 5 and 11 of this Act;]

“chief constable” means, in relation to a licensing authority’s area, the chief constable for the area which includes the area of the licensing authority;

^{F31}
...

“licence” means a licence granted under this Part and Part II of this Act, and cognate expressions shall be construed accordingly;

“premises” includes land.

Textual Amendments

- F29** Words in s. 8 inserted (2.8.2005) by [The Fire \(Scotland\) Act 2005 \(Consequential Modifications and Amendments\) Order 2005 \(S.S.I. 2005/383\)](#), art. 1, **sch. 1 para. 7(7)**
- F30** Words in s. 8 inserted (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 173(3)**, 206(1); S.S.I. 2010/413, art. 2, sch.
- F31** Words in s. 8 repealed (2.8.2005) by [The Fire \(Scotland\) Act 2005 \(Consequential Modifications and Amendments\) Order 2005 \(S.S.I. 2005/383\)](#), art. 1, **sch. 2**

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