

Status: Point in time view as at 28/03/2011.

Changes to legislation: Civic Government (Scotland) Act 1982, Cross Heading: Disposal of applications for the grant and renewal of licences is up to date with all changes known to be in force on or before 01 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 1 **S**

LICENSING—FURTHER PROVISIONS AS TO THE GENERAL SYSTEM

Modifications etc. (not altering text)

C1 Sch. 1: power to apply conferred (18.11.1996) by 1996 c. 58, ss. 33(3), 48(6)

Disposal of applications for the grant and renewal of licences

- 4 (1) In considering an application for the grant or renewal of a licence, a licensing authority may make such reasonable inquiries as they think fit and include the results of these inquiries in matters they take into account, but where they intend so to include any of these results they shall notify the applicant of that intention.
- (2) A licensing authority may, before reaching a final decision upon such an application, give the applicant and any person who has made a relevant objection or representation (within the meaning of paragraph 19 below) in relation to the application an opportunity to be heard by the authority and, where they propose to do so, shall, within such reasonable period (not being less than ^{F1}14] days) of the date of the hearing, notify the applicant and each such person of that date.
- (3) A licensing authority shall not reach a final decision upon such an application—
- (a) in relation to which a relevant objection or representation (within the meaning of paragraph 19 below) has been made to them or in relation to which they intend to take into account any result of their inquiries under sub-paragraph (1) above; and
 - (b) in respect of which they have not, under this paragraph, given the applicant and any person who has made any such objection or representation an opportunity to be heard,
- unless they have given the applicant an opportunity to notify them in writing of his views on such objection or representation or, as the case may be, result within such reasonable period (not being less than 7 days) as they may specify.
- (4) The period referred to in sub-paragraphs (2) and (3) above shall begin with the date when the notification given by the licensing authority for the purpose of sub-paragraph (2) or, as the case may be, (3) is delivered to the person concerned and, when it is sent by post, it shall be treated as being delivered at the time when it might be expected to be delivered in the normal course of post.

Textual Amendments

F1 Word in Sch. 1 para. 4(2) substituted (28.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 178(2)(f), 206(1); S.S.I. 2010/413, art. 2, sch. (with sch.)

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- 5 (1) Where an application for the grant or renewal of a licence has been made to a licensing authority they shall, in accordance with this paragraph—
- (a) grant or renew the licence ^{F2}...;
 - ^{F3}(b)
 - (c) refuse to grant or renew the licence.
- ^{F4}(1A) In granting or renewing a licence under sub-paragraph (1)(a), a licensing authority may (either or both)—
- (a) disapply or vary any standard conditions so far as applicable to the licence,
 - (b) impose conditions in addition to any mandatory or standard conditions to which the licence is subject.]
- (2) [^{F5}Subject to sub-paragraph (2A),] the conditions referred to in sub-paragraph [^{F6}(1A)(b)] above shall be such reasonable conditions as the licensing authority think fit and, without prejudice to that generality, may include—
- (a) conditions restricting the validity of a licence to an area or areas specified in the licence; and
 - (b) in relation to the grant of a licence, where that licence is intended to replace an existing licence, a condition requiring the holder of the existing licence to surrender it in accordance with paragraph 13 below.
- ^{F7}(2A) The conditions referred to in sub-paragraph (1)(b) above shall not relate to any matter in relation to which requirements or prohibitions are or could be imposed by virtue of Part 3 of the [Fire \(Scotland\) Act 2005 \(asp 5\)](#).]
- ^{F8}(2A) A variation made under sub-paragraph (1A)(a) or condition imposed under sub-paragraph (1A)(b) has no effect so far as it is inconsistent with any mandatory condition to which the licence is subject.]
- (3) A licensing authority shall refuse an application to grant or renew a licence if, in their opinion—
- (a) the applicant or, where the applicant is not a natural person, any director of it or partner in it or any other person responsible for its management, is either—
 - (i) for the time being disqualified under section 7(6) of this Act, or
 - (ii) not a fit and proper person to be the holder of the licence;
 - (b) the activity to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant or renewal of such a licence if he made the application himself;
 - (c) where the licence applied for relates to an activity consisting of or including the use of premises or a vehicle or vessel, those premises are not or, as the case may be, that vehicle or vessel is not suitable or convenient for the conduct of the activity having regard to—
 - (i) the location, character or condition of the premises or the character or condition of the vehicle or vessel;
 - (ii) the nature and extent of the proposed activity;
 - (iii) the kind of persons likely to be in the premises, vehicle or vessel;
 - (iv) the possibility of undue public nuisance; or
 - (v) public order or public safety; or
 - (d) there is other good reason for refusing the application;
- and otherwise shall grant the application.

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- (4) A licensing authority shall not, in a case where a certificate falls to be submitted to them under paragraph 2(4) above, reach a final decision under this paragraph in respect of the application to which the certificate relates until it has been so submitted.
- (5) A licensing authority shall in accordance with sub-paragraph (6) below, notify their decision under sub-paragraph (1) above to—
- (a) the applicant;
 - (b) the chief constable;
 - (c) any person who made a relevant objection or representation (within the meaning of paragraph 19 below) in relation to the application; and
 - (d) where the application was for a licence for an activity wholly or mainly to be carried on
 - [^{F9}(a) in premises to which Part 3 of the [Fire \(Scotland\) Act 2005 \(asp 5\)](#) applies, the enforcing authority;
 - (b) in any other premises], the [^{F10}appropriate relevant authority] .
- (6) Notification shall be made under sub-paragraph (5)(a), (b) or (d) above within 7 days of the decision to be notified by sending to the person concerned written notice of the decision and under sub-paragraph (5)(c) above either by so doing or by publishing, within that time, in a newspaper circulating in the area of the licensing authority, notice of the decision.
- (7) A licensing authority shall make out and deliver a licence to every person to whom a licence is granted or whose licence is renewed by the authority, and shall when requested by any such person and on payment of such fee as they may charge under paragraph 15 below, make out a duplicate of any licence issued under this sub-paragraph and certify such duplicate to be a true copy of that original licence; and any document purporting to be so certified by the proper officer of the authority shall be sufficient evidence of the terms of that licence.
- (8) Where a licensing authority grant a licence in respect of which an employee or agent has been named under paragraph 1(2)(b) or (c)(iv) above, the licence shall be granted jointly in the names of the applicant and of the employee or agent, and in such a case any reference in this Schedule or in Part I or II of this Act to the holder of a licence includes a reference to one or both of those persons, as the case may require.

Textual Amendments

- F2** Word in Sch. 1 para. 5(1)(a) repealed (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 172(6)(a)(i)**, 206(1); S.S.I. 2011/178, art. 2, sch. (with sch.)
- F3** Sch. 1 para. 5(1)(b) repealed (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 172(6)(a)(ii)**, 206(1); S.S.I. 2011/178, art. 2, sch. (with sch.)
- F4** Sch. 1 para. 5(1A) inserted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 172(6)(b)**, 206(1); S.S.I. 2011/178, art. 2, sch. (with sch.)
- F5** Words in Sch. 1 para. 5(2) inserted (1.10.2006) by [The Fire \(Scotland\) Act 2005 \(Consequential Modifications and Savings\) Order 2006 \(S.S.I. 2006/475\)](#), art. 1, **sch. 1 para. 11(6)(b)(i)**
- F6** Word in Sch. 1 para. 5(2) substituted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 172(6)(c)**, 206(1); S.S.I. 2011/178, art. 2, sch. (with sch.)
- F7** Sch. 1 para. 5(2A) inserted (1.10.2006) by [The Fire \(Scotland\) Act 2005 \(Consequential Modifications and Savings\) Order 2006 \(S.S.I. 2006/475\)](#), art. 1, **sch. 1 para. 11(6)(b)(ii)**
- F8** Sch. 1 para. 5(2A) inserted by virtue of (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 172(6)(d)**, 206(1); S.S.I. 2011/178, art. 2, sch. (with sch.)

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| <p>F9 Words in Sch. 1 para. 5(5)(d) substituted (1.10.2006) by The Fire (Scotland) Act 2005 (Consequential Modifications and Savings) Order 2006 (S.S.I. 2006/475), art. 1, sch. 1 para. 11(6)(b)(iii)</p> <p>F10 Words in Sch. 1 para. 5(5)(d) substituted (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(2)(3)(d)</p> |
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