



Licensing (Amendment) (Scotland) Act 1996

1996 CHAPTER 36

An Act to amend the Licensing (Scotland) Act 1976 to require licensing boards to attach to licences conditions relating to certain events involving music and dancing and to make new provision for the composition of licensing boards for licensing divisions. [18th July 1996]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Licensing conditions for certain events

- (1) In the Licensing (Scotland) Act 1976 (in this Act referred to as “the 1976 Act”), after section 18 (giving reasons for decision of licensing board) there shall be inserted the following sections—

“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 Misuse of Drugs Act 1971.
- (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.

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;
 - (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.”
- (2) In section 31 of the 1976 Act—
- (a) in subsection (2), at the end insert—
 - “(c) that there has been a breach of the conditions attached to the licence under section 18A(1) or 18B(4) of this Act.”;
 - (b) in subsection (3)(a) after the word “thereunder” there shall be inserted the words “or of any condition attached to a licence under the said section 18A(1) or 18B(4)”.
- (3) In Schedule 5 to the 1976 Act, at the appropriate place there shall be inserted the following entry—

“Section 18A(7)	Breach of conditions relating to certain events.	Yes	Yes	Level 5”
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2 Composition of licensing divisions

- (1) Section 1 of the 1976 Act (licensing boards) shall be amended in accordance with subsections (2) to (4) below.
- (2) In subsection (4)—
- (a) for the words “subsection (9)” there shall be substituted the words “subsections (5), (5A), (9)”;

- (b) the words from “and in no case” to the end shall cease to have effect.
- (3) In subsection (5) for the word “then” there shall be substituted the words “—
 - (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)”.
 - (4) After subsection (5) there shall be inserted the following subsection—

“(5A) In no case shall a licensing board consist of less than five members of the council.”

3 Short title, commencement and extent

- (1) This Act may be cited as the Licensing (Amendment) (Scotland) Act 1996.
- (2) This Act shall come into force on such date as the Secretary of State may by order made by statutory instrument appoint.
- (3) This Act extends only to Scotland.