

LICENSING (SCOTLAND) ACT 2005

EXPLANATORY NOTES

COMMENTARY ON PARTS

Part 6 – Personal Licences

Section 74 – Determination of personal licence application

152. This section sets out the procedure that Licensing Boards must undertake when considering personal licence applications, and following receipt of the chief constable's response under section 73.
153. Subsection (2) provides that where all the conditions set out in subsection (3) are met, and there are no convictions, then the Licensing Board must grant the personal licence to the relevant person. If a condition of subsection (3) is not met the application must be refused. The conditions in subsection (3) require the applicant to be 18 or over, to hold a licensing qualification and not to have forfeited a personal licence within the preceding 5 years.
154. Subsection (5) provides that, in the circumstances where all the conditions in subsection (3) have been met, but the Licensing Board has received notice from the chief constable that the applicant has been convicted of a relevant or foreign offence, then the Board must hold a hearing so that the licence application can be considered in light of the details in the notice received from the chief constable. The circumstances thereafter under which the Boards should consider granting or refusing the licence application are set out in subsection (6). The Board therefore is not bound to refuse the licence just because of the existence of a relevant or foreign offence.