



Licensing (Scotland) Act 2005

2005 asp 16

PART 2

LICENSING BODIES AND OFFICERS

Licensing Boards

5 Licensing Boards

- (1) There is to continue to be a Licensing Board for—
 - (a) the area of each council whose area is not, at the time this section comes into force, divided into licensing divisions under section 46(1) of the Local Government etc. (Scotland) Act 1994 (c. 39) (“the 1994 Act”), and
 - (b) each licensing division of such an area which is so divided at that time.
- (2) A council whose area is not so divided at that time may subsequently make a determination that their area is to be divided into divisions for the purposes of this Act.
- (3) Where a council makes such a determination—
 - (a) there is to be a separate Licensing Board for each of the divisions,
 - (b) the Licensing Board for the council’s area is dissolved on the date on which those separate Licensing Boards are elected in accordance with schedule 1, and
 - (c) anything done by the Licensing Board for the council’s area before the Board is dissolved is, to the extent that it has effect at that time, to have effect after that time as if done by such of the separate Licensing Boards as the council may determine.
- (4) A council which has made a determination (whether under subsection (2) or section 46(1) of the 1994 Act) that their area is to be divided into divisions may revoke the determination.
- (5) Where a council revokes such a determination—
 - (a) there is to be a single Licensing Board for the whole of the council’s area,

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- (b) each of the Licensing Boards for the divisions is dissolved on the date on which the single Licensing Board is elected in accordance with schedule 1, and
 - (c) anything done by the Licensing Boards for the divisions before they are dissolved is, to the extent that it has effect at that time, to have effect after that time as if done by the single Licensing Board.
- (6) Subsection (7) applies where a council—
- (a) makes a determination under subsection (2), or
 - (b) revokes such a determination or a determination made under section 46(1) of the 1994 Act.
- (7) The council must, no later than 7 days after the making of the determination or the revocation—
- (a) notify the Scottish Ministers of the determination or revocation, and
 - (b) publicise it in such manner as the council sees fit.
- (8) Schedule 1 makes further provision about the constitution of Licensing Boards, their procedure and other administrative matters relating to them.

6 Statements of licensing policy

- (1) Every Licensing Board must, before the beginning of each 3 year period, publish a statement of their policy with respect to the exercise of their functions under this Act during that period (referred to in this Act as a “licensing policy statement”).
- (2) A Licensing Board may, during a 3 year period, publish a supplementary statement of their policy with respect to the exercise of their functions during the remainder of that period (referred to in this Act as a “supplementary licensing policy statement”).
- (3) In preparing a licensing policy statement or a supplementary licensing policy statement, a Licensing Board must—
- (a) ensure that the policy stated in the statement seeks to promote the licensing objectives, and
 - (b) consult—
 - (i) the Local Licensing Forum for the Board’s area,
 - (ii) if the membership of the Forum is not representative of the interests of all of the persons specified in paragraph 2(6) of schedule 2, such person or persons as appear to the Board to be representative of those interests of which the membership is not representative, and
 - (iii) such other persons as the Board thinks appropriate.
- (4) In exercising their functions under this Act during each 3 year period, a Licensing Board must have regard to the licensing policy statement, and any supplementary licensing policy statement, published by the Board in relation to that period.
- (5) At the request of a Licensing Board—
- (a) the appropriate chief constable, or
 - (b) the relevant council,
- must provide to the Board such statistical or other information as the Board may reasonably require for the purpose of preparing a licensing policy statement or supplementary licensing policy statement.

- (6) On publishing a licensing policy statement or a supplementary licensing policy statement, a Licensing Board must—
- (a) make copies of the statement available for public inspection free of charge, and
 - (b) publicise—
 - (i) the fact that the statement has been published, and
 - (ii) the arrangements for making copies available for public inspection in pursuance of paragraph (a).
- (7) In this section, “3 year period” means—
- (a) the period of 3 years beginning with such day as the Scottish Ministers may by order appoint, and
 - (b) each subsequent period of 3 years.

7 Duty to assess overprovision

- (1) Each licensing policy statement published by a Licensing Board must, in particular, include a statement as to the extent to which the Board considers there to be overprovision of—
- (a) licensed premises, or
 - (b) licensed premises of a particular description,
- in any locality within the Board’s area.
- (2) It is for the Licensing Board to determine the “localities” within the Board’s area for the purposes of this Act.
- (3) In considering whether there is overprovision for the purposes of subsection (1) in any locality, the Board must—
- (a) have regard to the number and capacity of licensed premises in the locality, and
 - (b) consult the persons specified in subsection (4).
- (4) Those persons are—
- (a) the appropriate chief constable,
 - (b) such persons as appear to the Board to be representative of the interests of—
 - (i) holders of premises licences in respect of premises within the locality,
 - (ii) persons resident in the locality, and
 - (c) such other persons as the Board thinks fit.
- (5) In this section, references to “licensed premises” do not include references to any premises in respect of which an occasional licence has effect.

8 Applicants attempting to influence Board members

- (1) If a person making an application under this Act to a Licensing Board attempts, at any time before the application is determined by the Board, to influence a member of the Board to support the application, the person commits an offence.
- (2) If, in relation to any application made to, but not yet determined by, a Licensing Board under this Act, proceedings for an offence under subsection (1) are brought against the applicant—

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- (a) the Board must not determine the application until after the proceedings are concluded, and
 - (b) if the applicant is convicted of the offence, the Board may refuse to consider the application.
- (3) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

9 Licensing Board’s duty to keep a public register

- (1) Each Licensing Board must keep a register (referred to in this Act as a “licensing register”) containing information relating to—
- (a) premises licences, personal licences and occasional licences issued by the Board,
 - (b) the Board’s decisions in relation to applications made to the Board under this Act, and
 - (c) other decisions of the Board relating to the licences mentioned in paragraph (a).
- (2) The Scottish Ministers may by regulations make provision as to—
- (a) matters, in addition to those specified in paragraphs (a) to (c) of subsection (1), in relation to which licensing registers are to contain information,
 - (b) the information which such registers are to contain, and
 - (c) the form and manner in which the registers are to be kept.
- (3) A Licensing Board must make the licensing register kept by the Board available for public inspection at all reasonable times.