



Licensing (Scotland) Act 2005

2005 asp 16

PART 3

PREMISES LICENCES

Premises under construction or conversion

45 Provisional premises licence

- (1) A premises licence application may be made in relation to any premises despite the fact that, at the time the application is made, the premises are yet to be, or are in the course of being, constructed or converted for use as licensed premises.
- (2) A premises licence application in respect of any such premises is referred to in this Act as a “provisional premises licence application”.
- (3) A premises licence issued in respect of any such premises does not take effect unless and until it is confirmed by the Licensing Board which issued it in accordance with section 46.
- (4) If a premises licence issued in respect of any such premises is not confirmed before the end of the provisional period, then at the end of that period the licence is treated as revoked.
- (5) A premises licence—
 - (a) to which subsection (3) applies, and
 - (b) which has not been confirmed in accordance with section 46,is referred to in this Act as a “provisional premises licence”.
- (6) The provisional period, in relation to a provisional premises licence, is the period of 2 years beginning with the date of issue of the licence.
- (7) On the application of the holder of a provisional premises licence made before the expiry of the provisional period, the Licensing Board which issued the licence may, if satisfied as to the matter mentioned in subsection (8), extend the provisional period by such period as the Board considers appropriate.
- (8) That matter is that—

Status: This is the original version (as it was originally enacted).

- (a) completion of the construction or conversion of the premises to which the licence relates has been delayed, and
 - (b) the delay has been caused by factors outwith the premises licence holder's control.
- (9) Where the provisional period in relation to any provisional premises licence has been extended under subsection (7), references in this section and section 46 to the provisional period are to that period as so extended.
- (10) Section 20 has effect in relation to a provisional premises licence application as if—
- (a) in subsection (2)(b), for sub-paragraph (iii) there were substituted—
“(iii) the certificate required by section 50(2),”, and
 - (b) in subsection (4), paragraph (g) were omitted.
- (11) In this section, “construct” and “convert” have the same meanings as they have for the purposes of the Building (Scotland) Act 2003 (asp 8).

46 Confirmation of provisional premises licence

- (1) The holder of a provisional premises licence may, at any time before the expiry of the provisional period in relation to the licence, apply to the Licensing Board which issued the licence for confirmation of the licence.
- (2) An application under subsection (1) must be accompanied by—
- (a) the provisional premises licence,
 - (b) the operating plan for the premises to which the licence relates,
 - (c) the layout plan for the premises, and
 - (d) the certificates required by section 50(3).
- (3) The operating plan referred to in subsection (2)(b) must, in particular and without prejudice to subsection (4) of section 20, contain a statement of the information specified in paragraph (g) of subsection (4) of that section.
- (4) Where a Licensing Board which issued a provisional premises licence receives an application under subsection (1) in respect of the licence, the Board must, if satisfied as to the matters mentioned in subsection (5), confirm the licence.
- (5) Those matters are that—
- (a) since the provisional premises licence was issued, or
 - (b) if, since that time, an application for a variation of the licence has been granted under section 30, since the last such application was granted,
- there has been no variation (other than a minor variation) made to the operating plan or layout plan for the premises to which the licence relates.
- (6) Where a Licensing Board confirms a provisional premises licence under subsection (4), the Board may, for the purpose specified in subsection (7), make a variation of the conditions to which the licence is subject.
- (7) That purpose is ensuring consistency with any licensing policy statement or supplementary licensing policy statement published since the licence was issued.

47 Temporary premises licence

- (1) This section applies where any licensed premises (other than premises in respect of which a provisional premises licence or occasional licence has effect) are undergoing, or are to undergo, reconstruction or conversion (referred to in this section as the “principal premises”).
- (2) The appropriate Licensing Board in relation to the principal premises may—
 - (a) on the application of the holder of the premises licence in respect of the premises, and
 - (b) if satisfied as to the matters mentioned in subsection (3),
issue to the applicant a premises licence in respect of such other premises within the Licensing Board’s area as are specified in the application (such premises being referred to in this section as the “temporary premises”).
- (3) The matters referred to in subsection (2)(b) are—
 - (a) that the temporary premises are suitable for use for the sale of alcohol, and
 - (b) that it is necessary to grant the application to enable the applicant to carry on business pending reconstruction or conversion of the principal premises.
- (4) A premises licence issued under subsection (2) is referred to in this Act as a “temporary premises licence”.
- (5) A temporary premises licence—
 - (a) has effect for such period of not more than 2 years beginning with the date of its issue as the Licensing Board may determine, and
 - (b) is subject to the same conditions as those to which the premises licence in respect of the principal premises is subject at the time the temporary premises licence is issued, with such exceptions or variations (if any) as the Licensing Board considers appropriate.
- (6) The Licensing Board may, on the application of the holder of a temporary premises licence, extend the period during which it has effect for such further period of not more than 12 months as they may determine.
- (7) In this section—
 - “conversion” has the same meaning as it has for the purposes of the Building (Scotland) Act 2003 ([asp 8](#)), and
 - “reconstruction” includes alteration, re-erection and extension.