



Licensing (Scotland) Act 2005

2005 asp 16

PART 3

PREMISES LICENCES

Review of premises licence

36 Application for review of premises licence

- (1) Any person may apply to the appropriate Licensing Board in respect of any licensed premises in relation to which a premises licence has effect for a review of the licence on any of the grounds for review.
- (2) An application under subsection (1) is referred to in this Act as a “premises licence review application”.
- (3) The grounds for review referred to in subsection (1) are—
 - (a) that one or more of the conditions to which the premises licence is subject has been breached, or
 - (b) any other ground relevant to one or more of the licensing objectives.
- (4) A Licensing Standards Officer may make a premises licence review application on the ground specified in subsection (3)(a) only if—
 - (a) in relation to the alleged ground for review, the Officer or any other Licensing Standards Officer has issued to the licence holder a notice under section 14(2)(a)(i), and
 - (b) the licence holder has failed to take the action specified in the notice to the satisfaction of the Officer.
- (5) A premises licence review application must specify the alleged ground for review, including in particular—
 - (a) where the ground is that specified in subsection (3)(a), the condition or conditions alleged to have been breached,
 - (b) where the ground is that specified in subsection (3)(b), the licensing objective or objectives to which the alleged ground of review relates.

Status: This is the original version (as it was originally enacted).

- (6) The Licensing Board may reject a premises licence review application if the Board considers the application—
- (a) is vexatious or frivolous, or
 - (b) does not disclose any matter relevant to any ground for review.
- (7) Where the Licensing Board rejects a premises licence review application under subsection (6), the Board—
- (a) must give notice of the decision, and the reasons for it, to the applicant, and
 - (b) where it is rejected on the ground that it is frivolous or vexatious, may recover from the applicant any expenses incurred by the Board in considering the application.
- (8) In any proceedings by a Licensing Board for the recovery of expenses under subsection (7)(b), a copy of any minute of proceedings of the Licensing Board—
- (a) recording the Board’s rejection of the application and the grounds for rejection, and
 - (b) certified by the clerk of the Board to be a true copy,
- is sufficient evidence of the rejection and of the establishment of the grounds for rejection.

37 Review of premises licence on Licensing Board’s initiative

- (1) The appropriate Licensing Board in respect of any licensed premises in relation to which a premises licence has effect may, on their own initiative, propose to review the licence on any of the grounds for review.
- (2) A proposal under subsection (1) is referred to in this Act as a “premises licence review proposal”.
- (3) The grounds for review referred to in subsection (1) are those specified in subsection 36(3).
- (4) A premises licence review proposal must specify the alleged ground for review, including in particular—
- (a) where the ground is that specified in subsection 36(3)(a), the condition or conditions alleged to have been breached,
 - (b) where the ground is that specified in subsection 36(3)(b), the licensing objective or objectives to which the alleged ground of review relates.

38 Review hearing

- (1) Where a Licensing Board—
- (a) makes a premises licence review proposal, or
 - (b) receives a premises licence review application,
- the Board must hold a hearing for the purposes of considering and determining the proposal or application unless, in the case of a premises licence review application, the Board has rejected the application under subsection 36(6).
- (2) A hearing under subsection (1) is referred to in this Act as a “review hearing”.
- (3) Where a review hearing is to be held, the Licensing Board must—

- (a) in the case of a premises licence review application, give notice of the hearing to the applicant, and
 - (b) give notice of the hearing and a copy of the premises licence review proposal or application to—
 - (i) the licence holder, and
 - (ii) any Licensing Standards Officer for the area in which the premises concerned are situated, unless, in the case of a premises licence review application, the applicant is such an Officer.
- (4) Where a Licensing Standards Officer receives under subsection (3)(b)(ii) a copy of a premises licence review proposal or application—
- (a) the Officer must, before the review hearing, prepare and submit to the Licensing Board a report on the proposal or application, and
 - (b) the Licensing Board must take the report into account at the hearing.
- (5) The Licensing Board may, for the purposes of the review hearing—
- (a) obtain further information from such persons, and in such manner, as the Board thinks fit, and
 - (b) take the information into account.
- (6) In particular, the Board may—
- (a) request—
 - (i) the attendance at the review hearing of any person for the purpose of providing information, and
 - (ii) the production at the review hearing by any person of any documents in that person's possession or under that person's control, and
 - (b) take into account any information relevant to any ground for review even though it is not relevant to any circumstances alleged in the review proposal or application under consideration.

39 Licensing Board's powers on review

- (1) At a review hearing in relation to any premises licence, the Licensing Board may, if satisfied that a ground for review is established (whether or not on the basis of any circumstances alleged in the premises licence review proposal or application considered at the hearing) take such of the steps mentioned in subsection (2) as the Board considers necessary or appropriate for the purposes of any of the licensing objectives.
- (2) Those steps are—
- (a) to issue a written warning to the licence holder,
 - (b) to make a variation of the licence,
 - (c) to suspend the licence for such period as the Board may determine,
 - (d) to revoke the licence.
- (3) On making a variation under subsection (2)(b), the Board may provide for the variation to apply only for such period as they may determine.

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

40 Review of Licensing Board’s decision to vary or suspend licence

Where a Licensing Board has made a variation under subsection (2)(b) of section 39 or suspended the licence under subsection (2)(c) of that section, the Board may—

- (a) on the application of the licence holder, and
 - (b) if satisfied that, by reason of a change of circumstances, the variation or suspension is no longer necessary,
- revoke the variation or suspension.