

**Changes to legislation:** Licensing (Scotland) Act 2005, SCHEDULE 1 is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

## SCHEDULE 1

(introduced by section 5(8))

### LICENSING BOARDS

#### *Membership*

- 1 (1) A Licensing Board is to consist of such number (being not fewer than 5 and not more than 10) of members as may be determined by the relevant council.
- (2) The members of a Licensing Board are to be elected by the relevant council from among their councillors.
- (3) In the case of a Licensing Board for a licensing division, not less than one third of the total number of members of the Board must be councillors for wards within the division.

#### **Commencement Information**

**II** Sch. 1 para. 1 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, Sch.

#### *Election of members*

- 2 (1) Each council must, at their first meeting after each ordinary election of the council, hold an election of members to—
  - (a) the Licensing Board for the council's area, or
  - (b) if that area is divided into licensing divisions, each of the Licensing Boards for those divisions.
- (2) Where a council makes a determination under section 5(2) to divide their area into divisions, the council must—
  - (a) at the meeting at which that determination is made, or
  - (b) at the first meeting of the council after that meeting,hold an election of members to the Licensing Board for each division.
- (3) Where, under section 5(4), a council revokes a determination dividing their area into divisions, the council must—
  - (a) at the meeting at which the determination is revoked, or
  - (b) at the first meeting of the council after that meeting,hold an election of members to the single Licensing Board for the council's area.
- (4) Where there is a vacancy in the membership of a Licensing Board, the relevant council must, at their first meeting after the vacancy arises, hold an election to fill the vacancy.

#### **Commencement Information**

**I2** Sch. 1 para. 2 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, Sch.

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*Disqualification from membership*

- 3 (1) A councillor is disqualified from election as, and from being, a member of a Licensing Board if the councillor is—
- (a) a premises licence holder,
  - (b) an employee of a premises licence holder and works as such in licensed premises,
  - (c) whether alone or in partnership with another person, engaged in the business of producing or selling alcohol,
  - (d) a director or other officer of a company so engaged, or
  - (e) an employee of any person so engaged and works as such in that business.
- (2) A councillor who knowingly acts or purports to act as a member of a Licensing Board at a time when the councillor is disqualified from being such a member by virtue of sub-paragraph (1) commits an offence.
- (3) A person guilty of an offence under sub-paragraph (2) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

**Commencement Information**

**I3** Sch. 1 para. 3 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, Sch.

*Tenure of office etc.*

- 4 (1) A member of a Licensing Board—
- (a) holds office as such, subject to the following provisions of this paragraph and to paragraph 11(4), during the period—
    - (i) beginning on the day after the member's election, and
    - (ii) ending on the day on which the next election of members of the Board is held in accordance with paragraph 2(1),
  - (b) is eligible for re-election as a member,
  - (c) may, at any time, resign by giving notice to the clerk of the Board, and
  - (d) ceases to hold office—
    - (i) on ceasing to be a councillor of the relevant council, or
    - (ii) on becoming disqualified from being a member of a Licensing Board.
- (2) The clerk must give the relevant council a copy of any notice received under sub-paragraph (1)(c).

**Commencement Information**

**I4** Sch. 1 para. 4 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, Sch.

*Removal of members from office*

- 5 The relevant council may remove a member from office if the member is unfit by reason of mental or physical inability.

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#### Commencement Information

**I5** Sch. 1 para. 5 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, Sch.

#### *Convener*

- 6 (1) A Licensing Board must, at their first meeting after each election of members of the Board held in accordance with paragraph 2(1), (2) or (3), elect one of their members as convener of the Board.
- (2) Where there is a vacancy in the office of convener, the Board must, at their first meeting after the vacancy arises, elect one of their members to fill the vacancy.
- (3) The convener of a Licensing Board—
- (a) holds office as such for the period—
    - (i) beginning on the day after the convener's election, and
    - (ii) ending with the day on which the next election of a convener is held in accordance with sub-paragraph (1),
  - (b) is eligible for re-election as convener of the Board,
  - (c) may, at any time, resign by giving notice to the clerk of the Board, and
  - (d) ceases to hold office on ceasing to be a member of the Board.
- (4) The clerk must give the relevant council a copy of any notice received under sub-paragraph (3)(c).
- (5) If the convener is for any reason unable to chair any meeting of the Board, the Board must, at the meeting, elect another of their members to chair that meeting.
- (6) If, at any meeting of the Board, there is an equality in the votes of members on any matter, the member chairing the meeting has a casting vote.

#### Commencement Information

**I6** Sch. 1 para. 6 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, Sch.

#### *Removal of convener*

- 7 (1) The convener of a Licensing Board may be removed from office by the Board.
- (2) A decision of a Board to remove the convener is valid only if the number of members voting in favour of the decision exceeds one half of the total number of members of the Board.

#### Commencement Information

**I7** Sch. 1 para. 7 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, Sch.

#### *Administrative support*

- 8 (1) In relation to each Licensing Board, the relevant council must—

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- (a) appoint, on such terms and conditions as they may determine, a clerk of the Board, and
- (b) provide the Board and the clerk, or ensure they are provided, with such other staff, property and services as are required for their purposes.

(2) A clerk appointed under sub-paragraph (1)(a) must be an advocate or solicitor.

#### Commencement Information

**18** Sch. 1 para. 8 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, Sch.

#### Committees

- 9 A Licensing Board may establish committees for or in connection with the exercise of any of their functions.

#### Commencement Information

**19** Sch. 1 para. 9 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, Sch.

#### Delegation of functions

- 10 (1) A Licensing Board may authorise (whether generally or specifically)—
- (a) any member of the Board,
  - (b) any committee established by the Board,
  - (c) the clerk of the Board, or
  - (d) any member of staff provided under paragraph 8(1)(b),
- to exercise on behalf of the Board any of the Board's functions under this Act, other than the functions mentioned in sub-paragraph (2).
- (2) Those functions are—
- (a) determining the Board's policy for the purposes of a licensing policy statement or supplementary licensing policy statement,
  - (b) determining, for the purposes of any such statement, whether there is overprovision of licensed premises, or licensed premises of any particular description, in any locality,
  - (c) determining a premises licence application,
  - (d) determining a premises licence variation application where the variation sought is not a minor variation,
  - (e) determining an application for the transfer of a premises licence where the applicant has been convicted of a relevant offence or a foreign offence,
  - (f) determining—
    - (i) a personal licence application, or
    - (ii) a personal licence renewal application,
 where the applicant has been convicted of a relevant offence or a foreign offence,
  - (g) conducting a hearing under this Act (including taking any of the steps mentioned in sub-paragraph (3) at, or as result of, the hearing),
  - (h) making a closure order,

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- (i) refusing an application for confirmation of a provisional premises licence.
- (3) The steps referred in sub-paragraph (2)(g) are—
  - (a) at a review hearing in respect of a premises licence—
    - (i) issuing a written warning to the licence holder,
    - (ii) revoking or suspending the licence, or
    - (iii) making a variation of the licence, or
  - (b) making an order revoking, suspending or endorsing a personal licence.
- (4) A Licensing Board may, under sub-paragraph (1), delegate to the clerk of the Board [<sup>F1</sup> or to a member of staff provided under paragraph 8(1)(b)] the function of granting an occasional licence application only where there is no notice of objection or representations in relation to the application <sup>F2</sup>....

#### Textual Amendments

- F1** Words in Sch. 1 para. 10(4) inserted (1.10.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 189\(3\)](#), 206(1); S.S.I. 2011/178, art. 2, Sch.
- F2** Words in Sch. 1 para. 10(4) repealed (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), s. 206(1), [Sch. 6 para. 18](#); S.S.I. 2010/413, art. 2, Sch.

#### Commencement Information

- I10** Sch. 1 para. 10 in force at 1.5.2007 by [S.S.I. 2007/129](#), art. 3, [Sch.](#)

### *Training of members*

- 11 (1) Each member of a Licensing Board must, no later than one month after the expiry of each 3 month period, produce to the clerk of the Board evidence that the member has, during the period, complied with such requirements as to the training of members of Licensing Boards as may be prescribed.
- (2) In sub-paragraph (1), “3 month period” means, in relation to a member of a Licensing Board—
  - (a) the period of 3 months beginning on the day on which the member is elected, and
  - (b) if the member is re-elected, the period of 3 months beginning with the day on which the member is re-elected.
- (3) A member of a Licensing Board must not take part in any proceedings of the Board until the member has produced the evidence required by sub-paragraph (1).
- (4) If a member of a Licensing Board fails to comply with sub-paragraph (1), the member ceases to hold office as a member of the Board.
- (5) Regulations under sub-paragraph (1) prescribing training requirements may, in particular—
  - (a) provide for accreditation by the Scottish Ministers of—
    - (i) courses of training, and
    - (ii) persons providing such courses,for the purposes of the regulations,

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- (b) prescribe different requirements in relation to different descriptions of members, and
- (c) require that any person providing training or any particular description of training in accordance with the regulations holds such qualification as may be prescribed in the regulations.

**Modifications etc. (not altering text)**

**C1** Sch. 1 para. 11(3) restricted (1.5.2007) by [Licensing \(Appointed Day and Transitional Provisions\) \(Scotland\) Order 2007 \(S.S.I. 2007/128\)](#), arts. 1, 4

**Commencement Information**

**I11** Sch. 1 para. 11 in force at 1.5.2007 by [S.S.I. 2007/129](#), art. 3, [Sch.](#)

*Proceedings*

12<sup>[F3]</sup>(A1) A Licensing Board may determine that a meeting is to be held—

- (a) in person,
- (b) wholly through the use of remote facilities, or
- (c) partly in person and partly through the use of remote facilities.

(A2) When determining how a meeting is to be held, a Licensing Board must take account of any views given on that issue by any person who notifies the Board of an intention to participate in the meeting.]

- (1) The quorum for a meeting of a Licensing Board is one half of the number of members (but in any case not fewer than 3).
- (2) Subject to sub-paragraph (3), meetings of a Licensing Board must be held in public.

<sup>[F4]</sup>(2A) Where a meeting is held wholly or partly through the use of remote facilities, a Licensing Board complies with the requirement mentioned in sub-paragraph (2) by enabling the public to observe the meeting through the use of remote facilities (for example, by making a web link to the meeting publicly available).]

- (3) The members of a Licensing Board may, before the Board decides any matter, conduct their deliberations on the matter in private.
- (4) The Scottish Ministers may by regulations make further provision about the proceedings of Licensing Boards including, in particular, provision as to—
  - (a) the times by which applications to a Board under this Act, and other business to be considered by a Board, are to be determined or considered,
  - (b) the publicising of meetings of a Board, and
  - (c) public access to any agenda and record of, and other information concerning, a meeting of a Board.
- (5) Subject to—
  - (a) the other provisions of this paragraph, and
  - (b) any regulations made under sub-paragraph (4),

the arrangements for meetings of a Licensing Board, and other matters relating to proceedings of the Board, are to be such as the Board may by rules provide.

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(6) A Licensing Board must ensure that any rules made by them under sub-paragraph (5) are published.

[<sup>F5</sup>(7) In this paragraph, “remote facilities” means any equipment or facility which—

- (a) enables persons who are not in the same place to participate in the meeting, and
- (b) enables those persons to speak to and be heard by each other (whether or not it enables those person to see and be seen by each other).]

#### Textual Amendments

- F3** Sch. 1 para. 12(A1)(A2) inserted (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\)](#), **ss. 32(3)(a)**, 59(1)
- F4** Sch. 1 para. 12(2A) inserted (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\)](#), **ss. 32(3)(b)**, 59(1)
- F5** Sch. 1 para. 12(7) inserted (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\)](#), **ss. 32(3)(c)**, 59(1)

#### Commencement Information

- I12** Sch. 1 para. 12 in force at 1.5.2007 by [S.S.I. 2007/129](#), **art. 3**, **Sch.**

#### *Validity of proceedings*

- 13 The proceedings of a Licensing Board are not affected by—
- (a) any vacancy in the membership of the Board,
  - (b) any defect in the election of any member of the Board, or
  - (c) the disqualification of any councillor from being a member of the Board.

#### Commencement Information

- I13** Sch. 1 para. 13 in force at 1.5.2007 by [S.S.I. 2007/129](#), **art. 3**, **Sch.**

#### *Transitional and transitory provision*

- 14 (1) Until the end of the day of the first election of members of a Licensing Board in accordance with paragraph 2(1), the members of the Board are to continue to be those who were, immediately before the coming into force of section 5, the members of the Board established under section 1 of the Licensing (Scotland) Act 1976 (c. 66) for the same area or, as the case may be, division.
- (2) Paragraph 4(1)(a) does not apply to a person who is a member of a Licensing Board by virtue of sub-paragraph (1) of this paragraph.
- (3) In the application of paragraph 11 to such a person—
- (a) sub-paragraph (1) has effect as if for “each 3 month period” there were substituted “such period as the Scottish Ministers may direct”, and
  - (b) sub-paragraph (2) is treated as if it were omitted.

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**I14** Sch. 1 para. 14 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**



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**Changes and effects yet to be applied to :**

- specified provision(s) Appointed Day(s) by [S.S.I. 2006/239 art. 2](#) (This S.S.I. is revoked on 25.5.2006 by S.S.I. 2006/286, art. 6)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 33(1)(1A) substituted for s. 33(1)-(3) by [2015 asp 10 s. 49\(2\)\(a\)](#)
- s. 33(8)(za) inserted by [2015 asp 10 s. 49\(2\)\(c\)](#)
- s. 33(8A) inserted by [2015 asp 10 s. 49\(2\)\(d\)](#)
- s. 33A inserted by [2015 asp 10 s. 49\(4\)](#)
- s. 134ZA-134ZC inserted by [2015 asp 10 s. 61\(2\)](#)