



# Licensing (Scotland) Act 2005

## 2005 asp 16

### PART 9

#### MISCELLANEOUS AND GENERAL

#### *Appeals*

#### **131 Appeals**

- (1) A decision of a Licensing Board specified in the left-hand column of schedule 5 may be appealed by the person specified in the right-hand column of that schedule.
- (2) An appeal under this section is to be made by way of stated case, at the instance of the appellant, to—
  - (a) where the decision appealed is specified in Part 1 of schedule 5, the sheriff principal, or
  - (b) where the decision appealed is specified in Part 2 of that schedule, the sheriff, of the appropriate sheriffdom.
- (3) The grounds on which a Licensing Board's decision may be appealed under this section are—
  - (a) that, in reaching the decision, the Licensing Board—
    - (i) erred in law,
    - (ii) based their decision on an incorrect material fact,
    - (iii) acted contrary to natural justice, or
    - (iv) exercised their discretion in an unreasonable manner, or
  - (b) where the decision is to take any of the steps mentioned in subsection (4), that the step taken is disproportionate in all the circumstances.
- (4) Those steps are—
  - (a) at a review hearing in respect of a premise 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.

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*Status: This is the original version (as it was originally enacted).*

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- (5) Where the sheriff principal or, as the case may be, sheriff upholds an appeal against a Licensing Board's decision under this section, the sheriff principal or sheriff may—
- (a) remit the case back to the Licensing Board for reconsideration of the decision,
  - (b) reverse the decision, or
  - (c) make, in substitution for the decision, such other decision as the sheriff principal or sheriff considers appropriate, being a decision of such nature as the Licensing Board could have made.
- (6) In this section, “the appropriate sheriffdom” means the sheriffdom in which the principal office of the Licensing Board whose decision is being appealed is situated.