



Licensing (Scotland) Act 2005

2005 asp 16

PART 6

PERSONAL LICENCES

Grant and renewal of personal licence

74 Determination of personal licence application

- (1) A personal licence application received by a Licensing Board is to be determined by the Board in accordance with this section.
- (2) If—
 - (a) all of the conditions specified in subsection (3) are met in relation to the applicant, ^{F1}...
 - (b) the Board has received from the [^{F2}chief constable] a notice under section 73(3)(a),
 - [^{F3}(c) the notice does not include a recommendation under section 73(4),
I no information has been provided under section 73(5) or 73A(2),]
 - ^{F4}(ca)
 - (d) the applicant has signed the application, and
 - (e) subsection (8) does not apply,]the Board must grant the application.
- (3) The conditions referred to in subsection (2)(a) are that—
 - (a) the applicant is aged 18 or over,
 - (b) the applicant possesses a licensing qualification, ^{F5}...
 - [^{F6}(ba) the applicant does not already hold a personal licence, and]
 - (c) no personal licence previously held by the applicant has been revoked [^{F7}under any provision of this Act other than section 87(3)] within the period of 5 years ending with the day on which the application was received.
- (4) If any of those conditions is not met in relation to the applicant, the Licensing Board must refuse the application.
- (5) If—

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- (a) all of those conditions are met in relation to the applicant, and
 - [^{F8}(b) the notice received from the [^{F9}chief constable] under subsection (3)(a) or (b) of section 73 includes a recommendation under subsection (4) of that section,]
- the Licensing Board must hold a hearing for the purpose of considering and determining the application.

[^{F10}(5A) If—

- (a) all of those conditions are met in relation to the applicant,
- (b) the Board has received from the [^{F11}chief constable] a notice under subsection (3)(b) of section 73, and
- (c) the notice does not include a recommendation under subsection (4) of that section,

the Board may hold a hearing for the purpose of considering and determining the application.

[If—

- [^{F12}(5AA) (a) all of those conditions are met in relation to the applicant,
- (b) the notice received from the chief constable under subsection (3)(a) or (b) of section 73 does not include a recommendation under subsection (4) of that section, and
 - (c) information has been provided under subsection (5) of that section or under section 73A(2),

the Board may hold a hearing for the purpose of considering and determining the application.]

(5B) If the Board decides not to hold a hearing under subsection (5A) [^{F13}or (5AA)], the Board must grant the application.]

- (6) At a hearing under subsection [^{F14}(5), (5A) or (5AA)], the Licensing Board must, after having regard to the chief constable's notice [^{F15}and any information provided under section 73(5) or 73A(2)]—
 - (a) if satisfied that [^{F16}a ground for refusal applies], refuse the application, or
 - (b) if not so satisfied, grant the application.

[^{F17}(6A) The grounds for refusal are—

- (a) that, having regard to the licensing objectives, the applicant is not a fit and proper person to be the holder of a personal licence,
- (b) that it is otherwise necessary to refuse the application for the purposes of any of the licensing objectives.]

[^{F18}(7) Subsection (8) applies if—

- (a) all of the conditions specified in subsection (3) are met in relation to the applicant,
- (b) the Board has received from the [^{F19}chief constable] a notice under section 73(3)(a), and
- (c) the applicant has held a personal licence which—
 - (i) expired within the period of 3 years ending on the day on which the application was received, or
 - (ii) was surrendered by the applicant by notice under section 77(6) received within that period.

(8) The Licensing Board may—

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- (a) hold a hearing for the purposes of considering and determining the application, and
- (b) after having regard to the circumstances in which the personal licence previously held expired or, as the case may be, was surrendered—
 - (i) refuse the application, or
 - (ii) grant the application.]

Textual Amendments

- F1** Word in s. 74(2) repealed (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010](#) (asp 13), **ss. 192(2)(a)(i)**, 206(1); S.S.I. 2010/413, art. 2, sch.
- F2** Words in s. 74(2)(b) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012](#) (asp 8), s. 129(2), sch. 7 para. 29(2), **(3)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F3** S. 74(2)(c)-(e) added (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010](#) (asp 13), **ss. 192(2)(a)(ii)**, 206(1); S.S.I. 2010/413, art. 2, sch.
- F4** S. 74(2)(ca) inserted (15.5.2017) by [Air Weapons and Licensing \(Scotland\) Act 2015](#) (asp 10), **ss. 46(4)(a)**, 88(2); S.S.I. 2017/119, art. 2, sch. (with arts. 3, 4)
- F5** Word in s. 74(3) repealed (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010](#) (asp 13), **ss. 192(2)(b)(i)**, 206(1); S.S.I. 2010/413, art. 2, sch.
- F6** S. 74(3)(ba) inserted (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010](#) (asp 13), **ss. 192(2)(b)(ii)**, 206(1); S.S.I. 2010/413, art. 2, sch.
- F7** Words in s. 74(3)(c) inserted (5.8.2015) by [Air Weapons and Licensing \(Scotland\) Act 2015](#) (asp 10), **ss. 60(2)**, 88(1)
- F8** S. 74(5)(b) substituted (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010](#) (asp 13), s. 206(1), **sch. 6 para. 13(2)**; S.S.I. 2010/413, art. 2, sch.
- F9** Words in s. 74(5)(b) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012](#) (asp 8), s. 129(2), sch. 7 para. 29(2), **(3)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F10** S. 74(5A)(5B) inserted (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010](#) (asp 13), s. 206(1), **Sch. 6 para. 13(3)**; S.S.I. 2010/413, art. 2, sch.
- F11** Words in s. 74(5A)(b) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012](#) (asp 8), s. 129(2), sch. 7 para. 29(2), **(3)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F12** S. 74(5AA) inserted (15.5.2017) by [Air Weapons and Licensing \(Scotland\) Act 2015](#) (asp 10), **ss. 46(4)(b)**, 88(2); S.S.I. 2017/119, art. 2, sch. (with arts. 3, 4)
- F13** Words in s. 74(5B) inserted (15.5.2017) by [Air Weapons and Licensing \(Scotland\) Act 2015](#) (asp 10), **ss. 46(4)(c)**, 88(2); S.S.I. 2017/119, art. 2, sch. (with arts. 3, 4)
- F14** Words in s. 74(6) substituted (15.5.2017) by [Air Weapons and Licensing \(Scotland\) Act 2015](#) (asp 10), **ss. 46(4)(d)(i)**, 88(2); S.S.I. 2017/119, art. 2, sch. (with arts. 3, 4)
- F15** Words in s. 74(6) inserted (15.5.2017) by [Air Weapons and Licensing \(Scotland\) Act 2015](#) (asp 10), **ss. 46(4)(d)(ii)**, 88(2); S.S.I. 2017/119, art. 2, sch. (with arts. 3, 4)
- F16** Words in s. 74(6)(a) substituted (15.5.2017) by [Air Weapons and Licensing \(Scotland\) Act 2015](#) (asp 10), **ss. 46(4)(d)(iii)**, 88(2); S.S.I. 2017/119, art. 2, sch. (with arts. 3, 4)
- F17** S. 74(6A) inserted (15.5.2017) by [Air Weapons and Licensing \(Scotland\) Act 2015](#) (asp 10), **ss. 46(4)(e)**, 88(2); S.S.I. 2017/119, art. 2, sch. (with arts. 3, 4)
- F18** S. 74(7)(8) inserted (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010](#) (asp 13), **ss. 192(2)(c)**, 206(1); S.S.I. 2010/413, art. 2, sch.
- F19** Words in s. 74(7)(b) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012](#) (asp 8), s. 129(2), sch. 7 para. 29(2), **(3)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

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Commencement Information

II S. 74 in force at 1.2.2008 by [S.S.I. 2007/472](#), art. 2, [sch. 1](#)

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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\(2\)](#)