



Licensing (Scotland) Act 2005

2005 asp 16

PART 7

CONTROL OF ORDER

Exclusion of violent offenders

94 Exclusion orders

- (1) This section applies where a person is convicted of a violent offence committed on, or in the immediate vicinity of, any licensed premises in respect of which a premises licence has effect (referred to in this section and section 96 as “the licensed premises concerned”).
- (2) The court by or before which the person is convicted of the offence may, in addition to any sentence imposed or other disposal in respect of the offence, make an order prohibiting the person from entering—
 - (a) the licensed premises concerned, and
 - (b) such other licensed premises (if any) as the court may specify in the order, except with the appropriate consent.
- (3) The holder of the premises licence in respect of the licensed premises concerned may, by summary application to the sheriff of the appropriate sheriffdom made no later than 6 weeks after the date of the conviction, seek an order prohibiting the person convicted from entering the licensed premises concerned except with the appropriate consent.
- (4) On such an application, the sheriff, if satisfied that—
 - (a) there is a substantial risk that the person convicted will commit a further violent offence on, or in the immediate vicinity of, the licensed premises concerned, and
 - (b) an order has not been made under subsection (2) in relation to the person in respect of the same conviction,may grant the order sought.
- (5) For the purposes of an application under subsection (3), where the sheriff is satisfied that the person to whom the application relates has been convicted as mentioned in

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subsection (1), it is to be presumed, unless the contrary is proved, that the risk referred to in subsection (4)(a) exists.

(6) An order under subsection (2) or (4) is referred to in this Act as an “exclusion order”.

(7) An exclusion order has effect, subject to section 95(3), for such period, being not less than 3 months and not more than 2 years, as is specified in the order.

(8) In this section—

“the appropriate consent” means, in relation to any licensed premises, the express consent of—

(a) the premises licence holder in respect of the premises, or

(b) a person authorised by the premises licence holder to give consent for the purposes of this section,

“the appropriate sheriffdom” means the sheriffdom in which the licensed premises concerned are situated,

“violent offence” means any offence involving violence or the threat of violence.