



# Criminal Justice and Licensing (Scotland) Act 2010

2010 asp 13

## PART 8

### LICENSING UNDER CIVIC GOVERNMENT (SCOTLAND) ACT 1982

#### **172 Conditions to which licences under 1982 Act are to be subject**

- (1) The 1982 Act is amended as follows.
- (2) In section 3(4) (automatic grant or renewal of licence where application not determined within specified period), the word “unconditionally” is repealed.
- (3) After section 3 insert—

#### **“3A Mandatory licence conditions**

- (1) The Scottish Ministers may by order made by statutory instrument prescribe conditions to which licences granted by licensing authorities under this Act are to be subject.
- (2) Different conditions may be prescribed under subsection (1)—
  - (a) in respect of different licences, or different types of licence,
  - (b) otherwise for different purposes, circumstances or cases.
- (3) No order may be made under subsection (1) unless a draft of the statutory instrument containing the order has been laid before and approved by resolution of the Scottish Parliament.
- (4) Subsection (1) does not affect any other power of the Scottish Ministers under this Act or any other enactment to prescribe conditions—
  - (a) to which licences granted by licensing authorities under this Act are to be subject, or
  - (b) to be imposed by licensing authorities in granting or renewing licences under this Act.

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- (5) The following conditions are referred to in this Part and Part 2 of this Act as “mandatory conditions”—
- (a) conditions prescribed under subsection (1),
  - (b) conditions prescribed under any power referred to in subsection (4), and
  - (c) conditions imposed, or required to be imposed, by any provision of this Part or Part 2 of this Act.
- (6) In this section and section 3B, references to licences granted by licensing authorities include references to—
- (a) licences renewed by licensing authorities, and
  - (b) licences deemed by virtue of section 3(4) to be granted or renewed by licensing authorities.

### **3B Standard licence conditions**

- (1) A licensing authority may determine conditions to which licences granted by them under this Act are to be subject.
  - (2) Conditions determined under subsection (1) are referred to in this Part and Part 2 as “standard conditions”.
  - (3) Different conditions may be determined under subsection (1)—
    - (a) in respect of different licences, or different types of licence,
    - (b) otherwise for different purposes, circumstances or cases.
  - (4) A licensing authority must publish, in such manner as they think appropriate, any standard conditions determined by them.
  - (5) Standard conditions have no effect—
    - (a) unless they are published, and
    - (b) so far as they are inconsistent with any mandatory conditions.
  - (6) Subsection (1) is subject to paragraph 5(1A)(a) of Schedule 1 to this Act.”.
- (4) In section 27C (conditions in respect of knife dealers’ licences)—
- (a) in subsection (1)—
    - (i) in paragraph (b), after “prejudice to” insert “section 3B and”, and
    - (ii) in paragraph (c), after “that” insert “section and”, and
  - (b) subsection (2) is repealed.
- (5) In section 41(3) (power to attach conditions to public entertainment licences), after “prejudice to” insert “section 3B of and”.
- (6) In Schedule 1 (further provisions as to the general licensing system), in paragraph 5—
- (a) in sub-paragraph (1)—
    - (i) in paragraph (a), the word “unconditionally” is repealed, and
    - (ii) paragraph (b) is repealed,
  - (b) after that sub-paragraph insert—
 

“(1A) In granting or renewing a licence under sub-paragraph (1)(a), a licensing authority may (either or both)—

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- (a) disapply or vary any standard conditions so far as applicable to the licence,
- (b) impose conditions in addition to any mandatory or standard conditions to which the licence is subject.”,
- (c) in sub-paragraph (2), for “(1)(b)” substitute “(1A)(b)”, and
- (d) after that sub-paragraph insert—
  - “(2A) A variation made under sub-paragraph (1A)(a) or condition imposed under sub-paragraph (1A)(b) has no effect so far as it is inconsistent with any mandatory condition to which the licence is subject.”.