



# Civic Government (Scotland) Act 1982

## 1982 CHAPTER 45

### PART II

#### LICENSING AND REGULATION—PARTICULAR ACTIVITIES

##### *Miscellaneous licences*

#### **38 Boat hire licences.**

- (1) Subject to the provisions of this section, a licence under this Act, to be known as a “boat hire licence”, shall be required for the use of a vessel, in the course of a trade or business carried on in or from any place within the area of a licensing authority, for the purpose of—
  - (a) letting it on hire; or
  - (b) carrying for reward 12 or fewer passengers, for pleasure, recreational, educational or sporting purposes.
- (2) A boat hire licence may relate to one or more vessels or classes of vessel and shall specify—
  - (a) the vessels or the classes of vessels to which it relates; and
  - (b) the maximum number of vessels or of each class of vessel which may be used under the licence.
- (3) A boat hire licence shall extend to the use of any vessel added to or substituted for a vessel to which the licence relates if—
  - (a) the additional or substitute vessel is of identical type to a vessel of a class to which the licence relates; and
  - (b) the maximum number referred to in subsection (2)(b) above is not exceeded.
- (4) A boat hire licence shall not be required in respect of the use—
  - (a) of any vessel in respect of which there is in force a passenger certificate, load line certificate or load line exemption certificate under the [F1Merchant Shipping Act 1995];

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- (b) for a continuous period of over 24 hours, of any vessel having overnight sleeping accommodation;
  - (c) of any vessel for the purpose of instruction or training in seamanship;
  - (d) of any vessel exclusively for fishing in non-tidal waters;
  - (e) of any vessel—
    - (i) on any inland waterway; or
    - (ii) at any harbour owned or managed by the British Waterways Board; or
  - (f) of any vessel with the consent of the harbour authority (within the meaning of the <sup>M1</sup>Harbours Act 1964) in any harbour owned or managed by them.
- (5) Before granting an application to grant or renew a boat hire licence a licensing authority may require the applicant to produce a certificate in respect of each vessel to which the application relates issued by a person appearing to the authority to be suitably qualified for the purpose of issuing such a certificate stating that the vessel is suitably designed, constructed, maintained and equipped and in a safe condition for the purpose for which, and the place or waters in which, it is to be used.
- (6) Without prejudice to paragraphs 5(3), 11 and 12 of Schedule 1 to this Act a licensing authority shall—
- (a) refuse an application to grant or renew a boat hire licence;
  - (b) suspend a boat hire licence in accordance with the said paragraph 12,
- to the extent that it relates to any vessel which is in their opinion not in a safe condition for the purpose for which, and the place or waters in which, it is to be or, as the case may be, is being used.
- (7) Without prejudice to paragraph 5 of Schedule 1 to this Act, a licensing authority, on granting an application for the grant or renewal of a boat hire licence, shall attach conditions—
- (a) fixing the maximum number of persons which may be carried in the vessel;
  - (b) specifying inland waters in their area, the inland waters adjacent to inland waters in their area and the tidal waters within which each vessel or class of vessel to which the application relates may be used.
- (8) The holder of a boat hire licence shall effect and maintain in force in relation to every vessel to which the licence relates a policy of insurance to the satisfaction of the licensing authority and complying with subsection (9) below, and shall not reduce the amount or extent of the cover specified in the policy without the prior approval of the authority.
- (9) A policy of insurance complies with this subsection if it insures such person, persons, or classes of persons as may be specified in the policy in respect of any liability which may be incurred by him or them in respect of the death of or bodily injury to any person caused by, or arising out of, the use of the vessel.
- (10) Any person who, being the holder of a boat hire licence, uses or causes or permits any other person to use a vessel to which the licence relates without having in force in relation to that vessel a policy of insurance in accordance with subsection (8) above shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding [<sup>F2</sup>level 4 on the standard scale].
- (11) Where—
- (a) a vessel in respect of which a boat hire licence is in force is used—

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- (i) within the territorial waters of the United Kingdom adjacent to Scotland; and
  - (ii) within any inland waters or waters specified in the licence under subsection (7)(b) above; but
  - (iii) outwith the area of the licensing authority which granted or last renewed the licence; and
- (b) all persons carried in the vessel embark initially from places within the area of the authority,

it shall not be necessary to have in force in respect of that use of the vessel a boat hire licence granted by any other licensing authority and the conditions subject to which the licence is held shall continue to apply to such use.

#### Textual Amendments

**F1** Words in s. 38(4)(a) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para. 67** (with s. 312(1))

**F2** Words substituted by virtue of **Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. 289G**

#### Marginal Citations

**M1** 1964 c. 40.

### 39 Street traders' licences.

- (1) Subject to subsection (3) below, a licence, to be known as a “street trader’s licence”, shall be required for street trading by a person, whether on his own account or as an employee.
- (2) In this section “street trading” means doing any of the following things in a public place—
- (a) hawking, selling or offering or exposing for sale any article;
  - (b) offering to carry out or carrying out for money or money’s worth any service, to any person in the public place and includes doing any of these things there in or from a vehicle or in or from a kiosk or moveable stall not entered in the valuation roll except where it is done in conjunction with or as part of a retail business being carried on in premises abutting the public place.
- (3) A street trader’s licence shall not be required for—
- (a) the sale of newspapers only;
  - (b) the sale of milk by or on behalf of a person registered under [<sup>F3</sup>regulations made under section 19 of the Food Safety Act 1990];
  - (c) the sale of coal, coke or any solid fuel derived from coal or of which coal or coke is a constituent;
  - (d) any activity in respect of which a certificate under the <sup>M2</sup>Pedlars Act 1871 has been granted;
  - (e) any activity in respect of which a licence is required under this Act apart from this section; or
  - (f) organising or participating in a public charitable collection within the meaning of subsection (16) of section 119 of this Act in accordance with permission granted under that section.

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(4) Where an application for a street trader’s licence is made in respect of an activity which—

- (a) consists of or includes food business within the meaning of [<sup>F4</sup>sections 1(3) of the Food Safety Act 1990]; and
- (b) involves the use of a vehicle, kiosk or moveable stall,

the licensing authority shall, without prejudice to paragraph 5(3) of Schedule 1 to this Act, refuse the application unless there is produced to them a certificate by [<sup>F5</sup>a food] authority (for the purposes of section 5 of the Food Safety Act 1990) [<sup>F6</sup>mentioned in subsection (4A)] stating that the vehicle, kiosk or moveable stall complies with [<sup>F7</sup>such requirements as the Scottish Ministers may by order made by statutory instrument specify].

[<sup>F8</sup>(4A) A food authority referred to in subsection (4) is a food authority in Scotland which, in respect of the activity mentioned in that subsection—

- (a) has registered the establishment that carries out or intends to carry out the activity for the purposes of Article 6.2 of Regulation ECNo. 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs, or
- (b) where no such food authority has registered the establishment for those purposes, a food authority which is—
  - (i) the licensing authority to which the application mentioned in subsection (4) in respect of the activity is made, or
  - (ii) another licensing authority to which an application for a street trader's licence in respect of the activity is or has been made.]

[<sup>F9</sup>(5) An order under subsection (4) may specify requirements by reference to provision contained in another enactment.

(6) A statutory instrument containing an order made under subsection (4) is subject to annulment in pursuance of a resolution of the Scottish Parliament.]

#### Textual Amendments

- F3** Words substituted by Food Safety Act 1990 (c. 16, SIF 53:1, 2), ss. 54, 59(10), **Sch. 3 para. 25(a)**
- F4** Words substituted by Food Safety Act 1990 (c. 16, SIF 53:1, 2), ss. 54, 59(10), **Sch. 3 para. 25(b)(i)**
- F5** Words in s. 39(4) substituted (30.6.2014) by Regulatory Reform (Scotland) Act 2014 (asp 3), **ss. 56(a)(i)**, 61(2); S.S.I. 2014/160, art. 2(1)(2), sch. (with art. 3)
- F6** Words in s. 39(4) inserted (30.6.2014) by Regulatory Reform (Scotland) Act 2014 (asp 3), **ss. 56(a)(ii)**, 61(2); S.S.I. 2014/160, art. 2(1)(2), sch. (with art. 3)
- F7** Words in s. 39(4) substituted (28.3.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 175(2)**, 206(1); S.S.I. 2011/178, art. 2, sch. (with sch.)
- F8** S. 39(4A) inserted (30.6.2014) by Regulatory Reform (Scotland) Act 2014 (asp 3), **ss. 56(b)**, 61(2); S.S.I. 2014/160, art. 2(1)(2), sch. (with art. 3)
- F9** S. 39(5)(6) inserted (28.3.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 175(3)**, 206(1); S.S.I. 2011/178, art. 2, sch. (with sch.)

#### Marginal Citations

- M2** 1871 c. 96.

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#### **40 Market operators' licences.**

- (1) Subject to subsection (2) below, a licence, to be known as a “market operator’s licence”, shall be required for carrying on a private market.
- (2) A market operator’s licence shall not be required for carrying ; on either of the following—
  - (a) functions held by charitable, religious, youth, recreational, community, political or similar organisations;
  - (b) markets held only for the sale of livestock, fodder or grain.
- (3) In addition to any other condition which may be included, a licence in respect of a private market shall include conditions as to—
  - (a) the regulation of days and hours of opening;
  - (b) the provision of adequate toilet facilities;
  - (c) the layout of the site or premises on which the market is to be held;
  - (d) the maintenance of order and public safety.
- (4) In this section, “private market” means a market, whether covered or not, carried on by any person other than a local or public authority at which goods are offered by more than one seller for sale by retail to the public.

#### **41 Public entertainment licences.**

- (1) A licence, to be known as a “public entertainment licence”, shall be required for the use of premises as a place of public entertainment.
- (2) In this section, “place of public entertainment” means any place where<sup>F10</sup>... members of the public are admitted or may use any facilities for the purposes of entertainment or recreation but does not include—
  - (a) an athletic or sports ground while being used as such;
  - [<sup>F11</sup>(aa) premises in respect of which a licence is required under section 41A of this Act while such premises are being used for the purposes mentioned in that section;]
  - (b) an educational establishment while being used as such;
  - (c) premises belonging to or occupied by any religious body while being used wholly or mainly for purposes connected with that body;
  - (d) premises licensed under the <sup>M3</sup>Theatres Act 1968 [<sup>F12</sup>or section 1 of the Cinemas Act 1985] ;
  - [<sup>F13</sup>(e) premises in respect of which there is a club gaming permit (within the meaning of section 271 of the Gambling Act 2005 (c.19)) or a prize gaming permit (within the meaning of section 289 of that Act of 2005);]
  - (f) licensed premises within the meaning of the <sup>M4</sup>Licensing (Scotland) Act [<sup>F14</sup>2005 (asp 16)] in which public entertainment is being provided during [<sup>F15</sup>licensed] hours within the meaning of that Act; <sup>F16</sup>...
  - (g) premises in which machines for entertainment or amusement are being provided incidentally to the main purpose or use of the premises where that main purpose or use is not as a place of public entertainment. [<sup>F17</sup>, or
  - (h) such other premises as the Scottish Ministers may by order made by statutory instrument specify.]

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[<sup>F18</sup>(2A) A statutory instrument containing an order made under subsection (2)(h) is subject to annulment in pursuance of a resolution of the Scottish Parliament.]

(3) Without prejudice to [<sup>F19</sup> section 3B of and ] paragraph 5 of Schedule 1 to this Act, a licensing authority may attach conditions to a public entertainment licence—

- (a) restricting the use of the premises to a specified kind or specified kinds of entertainment or recreation;
- (b) limiting the number of persons to be admitted to the premises;
- (c) fixing the days and times when the premises may be open for the purposes of the entertainment or recreation.

(4) In this section, “educational establishment” has the meaning given by paragraphs (i) and (ii) of the definition of that expression in section 135(1) of the <sup>M5</sup>Education (Scotland) Act 1980 but includes a university and a theological college.

#### Textual Amendments

- F10** Words in s. 41(2) repealed (1.4.2012) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\), ss. 176\(2\)\(a\)](#), 206(1); S.S.I. 2011/178, art. 2, sch.
- F11** S. 41(2)(aa) inserted by [Fire Safety and Safety of Places of Sport Act 1987 \(c. 27, SIF 81:2\), s. 44\(5\)](#)
- F12** Words in s. 41(2)(d) substituted (1.4.2012) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\), ss. 176\(2\)\(b\)](#), 206(1); S.S.I. 2011/178, art. 2, sch.
- F13** S. 41(2)(e) substituted (1.4.2012) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\), ss. 176\(2\)\(c\)](#), 206(1); S.S.I. 2011/178, art. 2, sch.
- F14** Words in s. 41(2)(f) substituted (1.9.2009 at 5.00 a.m.) by [Licensing \(Scotland\) Act 2005 \(asp 16\), s. 150\(2\), sch. 6 para. 6\(2\)\(a\)](#) (with s. 143); S.S.I. 2007/472, art. 3
- F15** Word in s. 41(2)(f) substituted (1.9.2009 at 5.00 a.m.) by [Licensing \(Scotland\) Act 2005 \(asp 16\), s. 150\(2\), sch. 6 para. 6\(2\)\(b\)](#) (with s. 143); S.S.I. 2007/472, art. 3
- F16** Word in s. 41(2) repealed (1.4.2012) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\), ss. 176\(2\)\(d\)](#), 206(1); S.S.I. 2011/178, art. 2, sch.
- F17** S. 41(2)(h) and word added (1.4.2012) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\), ss. 176\(2\)\(e\)](#), 206(1); S.S.I. 2011/178, art. 2, sch.
- F18** S. 41(2A) inserted (1.4.2012) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\), ss. 176\(3\)](#), 206(1); S.S.I. 2011/178, art. 2, sch.
- F19** Words in s. 41(3) inserted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\), ss. 172\(5\)](#), 206(1); S.S.I. 2011/178, art. 2, sch. (with sch.)

#### Marginal Citations

- M3** 1968 c. 54.  
**M4** 1976 c. 66.  
**M5** 1980 c. 44.

[<sup>F20</sup>**41A Indoor sports entertainment licences.**

- (1) Subject to subsection (2) below, a licence to be known as an “indoor sports entertainment licence” shall be required for the use of premises as a place of public sports entertainment.
- (2) Subsection (1) above shall not apply to any occasion on which the entertainment of the public by the sport is not the principal purpose for which the premises are used but this provision does not apply in relation to a sports complex.

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- (3) Without prejudice to paragraph 5 of Schedule 1 to this Act, a licensing authority may attach conditions to an indoor sports entertainment licence—
- (a) restricting the use of the premises to a specified kind or specified kinds of public sports entertainment;
  - (b) limiting the number of persons to be admitted to the premises;
  - (c) fixing the days and times when the premises may be open for the purposes of public sports entertainment.

- (4) In this section—

“premises” means any permanent or temporary building and any tent or inflatable structure and includes a part of a building where the building is a sports complex but does not include a part of any other building;

“public sports entertainment” means any sporting event to which the public are invited as spectators;

“sporting event” means any contest, exhibition or display of any sport;

“sports complex” means a building—

- (a) which provides accommodation and facilities for both those engaging in sport and spectators; and
- (b) the parts of which are so arranged that one or more sports can be engaged in simultaneously in different parts of the building; and

“sport” includes any game in which physical skill is the predominant factor and any form of physical recreation which is also engaged in for purposes of competition or display, except dancing (in any form).]

#### Textual Amendments

**F20** S. 41A inserted by [Fire Safety and Safety of Places of Sport Act 1987 \(c. 27, SIF 81:2\)](#), [s. 44\(1\)](#)

## 42 Late hours catering licences.

- (1) A licence, to be known as a “late hours catering licence”, shall be required for the use of premises between the hours of eleven o’clock in the evening and five o’clock the following morning for the sale to or consumption by the public of [F<sup>21</sup>food] .
- (2) The reference in subsection (1) above to the sale of [F<sup>22</sup>food] is a reference to the sale of [F<sup>22</sup>food] for consumption on as well as off the premises in which [F<sup>23</sup>:it is] sold.
- (3) Without prejudice to paragraph 5 of Schedule 1 to this Act, a licensing authority may attach conditions to a late hours catering licence fixing the days and hours during which the premises may be open for business, and different days and hours may be fixed for the sale of [F<sup>24</sup>food] for consumption on the premises from those fixed for the sale of [F<sup>24</sup>food] for consumption off the premises.
- (4) A late hours catering licence shall not be required in respect of—
- (a) the use as such of licensed premises within the meaning of the Licensing (Scotland) Act [F<sup>25</sup>2005 (asp 16)] ; or
  - (b) premises being used in accordance with a public entertainment licence.
- (5) A licensing authority may, on application made to them, exempt the use of premises requiring a late hours catering licence from the requirement to have such a licence—

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- (a) in respect of any particular occasion; or
  - (b) during a specified period not exceeding 2 months in any period of 12 months.
- (6) The licensing authority may attach conditions to an exemption granted under subsection (5) above, and the provisions of Part I of this Act relating to the attaching of conditions to licences and subsection (3) above shall apply to the attaching of conditions to exemptions under this subsection.

[<sup>F26</sup>(7) In this section “food” has the meaning given in section 1 of the Food Safety Act 1990 (c.16).]

#### Textual Amendments

- F21** Word in s. 42(1) substituted (1.10.2012) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 177\(2\)](#), 206(1); S.S.I. 2011/178, art. 2, sch. (with art. 10)
- F22** Word in s. 42(2) substituted (1.10.2012) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 177\(2\)](#), 206(1); S.S.I. 2011/178, art. 2, sch. (with art. 10)
- F23** Words in s. 42(2) substituted (1.10.2012) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 177\(3\)](#), 206(1); S.S.I. 2011/178, art. 2, sch. (with art. 10)
- F24** Word in s. 42(3) substituted (1.10.2012) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 177\(4\)](#), 206(1); S.S.I. 2011/178, art. 2, sch. (with art. 10)
- F25** Words in s. 42(4)(a) substituted (1.9.2009 at 5.00 a.m.) by [Licensing \(Scotland\) Act 2005 \(asp 16\)](#), s. 150(2), [sch. 6 para. 6\(3\)](#) (with s. 143); S.S.I. 2007/472, art. 3
- F26** S. 42(7) added (1.10.2012) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 177\(5\)](#), 206(1); S.S.I. 2011/178, art. 2, sch. (with art. 10)

#### 43 Window cleaners’ licences.

A licence, to be known as a “window cleaner’s licence” shall be required for carrying on the trade of, or being employed as, a window cleaner.

#### 44 Additional activities.

- (1) The Secretary of State may, by order made by statutory instrument, designate any activity other than one of those specified in this Part of this Act—
- (a) as an activity for which, subject to a resolution of the licensing authority in relation to it under section 9 of this Act, a licence shall be required and which, subject to such a resolution, shall be regulated in accordance with the provisions specified in the order; or
  - (b) as an activity for which a licence shall be required and which shall be regulated in accordance with the provisions specified in the order.
- (2) An order made under this section may provide—
- (a) that Part I of this Act, with such modifications if any as may be specified in the order, shall have effect for the purposes of the licensing of the activity designated by the order;
  - (b) for the regulation of the activity designated by the order;
  - (c) for the repeal or modification of any enactment which provides (whether consistently or not) for the same matter as the order;
  - (d) without prejudice to any provision of Part I of this Act which has effect, with or without modification, by virtue of paragraph (a) above, for the creation



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of offences and for making offenders liable, on summary conviction, to imprisonment for a period not exceeding 60 days or such lesser maximum period as may be specified in the order or to a fine not exceeding [<sup>F27</sup>level 3 on the standard scale] or such lesser maximum fine as may be so specified or to both such fine and such imprisonment.

(3) No order shall be made under this section unless a draft of it has been laid before and approved by a resolution of each House of Parliament.

#### **Subordinate Legislation Made**

**P1** S. 44: s. 44 power exercised by [S.I. 1991/1253](#). For previous exercise of power see Index to Government Orders.

#### **Textual Amendments**

**F27** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [s. 289G](#)

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

**C1** S. 44(1) extended by [Salmon Act 1986 \(c. 62, SIF 52:2\)](#), [ss. 20\(1\), 43\(1\)](#)

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