



Civic Government (Scotland) Act 1982

1982 CHAPTER 45

PART III

[^{F1}CONTROL OF SEX SHOPS AND SEXUAL ENTERTAINMENT VENUES]

Textual Amendments

- F1** Pt. 3 title substituted (26.4.2019) by [Air Weapons and Licensing \(Scotland\) Act 2015 \(asp 10\)](#), ss. [76\(4\)](#), [88\(2\)](#); S.S.I. 2019/99, art. [2\(1\)\(b\)](#) (with art. 3)

45 Control of sex shops.

- (1) A [^{F2}local authority] may resolve that Schedule 2 to this Act shall have effect in their area; and if they do so resolve that Schedule shall have such effect as from the day specified in that behalf in the resolution (which must not be before the expiration of the period of one month beginning with the day on which the resolution is passed).
- (2) A [^{F2}local authority] shall, not later than 28 days before the day specified in the resolution for the coming into effect of Schedule 2 to this Act in the [^{F2}authority's] area, publish notice that they have passed a resolution under this section in a newspaper circulating in their area.
- (3) The notice shall state the general effect of that Schedule.

Textual Amendments

- F2** Words in s. 45(1)(2) substituted (1.4.1996) by [1994 c. 39, s. 180\(1\)](#), [Sch. 13 para. 129\(3\)](#); S.I. [1996/323](#), art. [4\(1\)\(c\)](#)

[^{F3}45A Licensing of sexual entertainment venues: interpretation

- (1) This section applies for the purposes of the interpretation of section 45B and Schedule 2 (as modified for the purposes of section 45B).

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- (2) “Sexual entertainment venue” means any premises at which sexual entertainment is provided before a live audience for (or with a view to) the financial gain of the organiser.
- (3) For the purposes of that definition—
- “audience” includes an audience of one,
 - “financial gain” includes financial gain arising directly or indirectly from the provision of the sexual entertainment,
 - “organiser”, in relation to the provision of sexual entertainment in premises, means—
 - (a) the person (“A”) who is responsible for—
 - (i) the management of the premises, or
 - (ii) the organisation or management of the sexual entertainment, or
 - (b) where A exercises that responsibility on behalf of another person (whether by virtue of a contract of employment or otherwise), that other person,
 - “premises” includes any vehicle, vessel or stall but does not include any private dwelling to which the public is not admitted,
 - “sexual entertainment” means—
 - (a) any live performance, or
 - (b) any live display of nudity,

which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).
- (4) For the purposes of the definition of “sexual entertainment”, “display of nudity” means—
- (a) in the case of a woman, the showing of (to any extent and by any means) her nipples, pubic area, genitals or anus,
 - (b) in the case of a man, the showing of (to any extent and by any means) his pubic area, genitals or anus.
- (5) Sexual entertainment is provided if (and only if) it is provided (or allowed to be provided) by or on behalf of the organiser.
- (6) References in Schedule 2 (as modified for the purposes of section 45B) to the use of any premises by a person as a sexual entertainment venue are to be read as references to their use by the organiser.
- (7) The following are not sexual entertainment venues—
- (a) a sex shop (within the meaning of paragraph 2(1) of Schedule 2),
 - (b) such other premises as the Scottish Ministers may by order specify.
- (8) An order under subsection (7)(b) may make different provision for different purposes.
- (9) Premises at which sexual entertainment is provided as mentioned in subsection (2) on a particular occasion (“the current occasion”) are not to be treated as a sexual entertainment venue if sexual entertainment has not been provided on more than 3 previous occasions which fall wholly or partly within the period of 12 months ending with the start of the current occasion.
- (10) For the purposes of subsection (9)—

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- (a) each continuous period during which sexual entertainment is provided on the premises is to be treated as a separate occasion, and
 - (b) where the period during which sexual entertainment is provided on the premises exceeds 24 hours, each period of 24 hours (and any part of a period of 24 hours) is to be treated as a separate occasion.
- (11) The Scottish Ministers may by order provide for—
- (a) descriptions of performances, or
 - (b) descriptions of displays of nudity,
- which are not to be treated as sexual entertainment for the purposes of this section.
- (12) An order under subsection (7)(b) or (11) is subject to the negative procedure.

Textual Amendments

- F3** Ss. 45A-45C inserted (1.12.2015 for the insertion of s. 45A for specified purposes, 26.4.2019 in so far as not already in force) by [Air Weapons and Licensing \(Scotland\) Act 2015 \(asp 10\)](#), ss. 76(3), 88(2); [S.S.I. 2015/382, art. 2, sch.](#); [S.S.I. 2019/99, art. 2\(1\)\(b\)](#) (with art. 3)

45B Licensing of sexual entertainment venues

- (1) A local authority may resolve that Schedule 2 (as modified for the purposes of this section) is to have effect in their area in relation to sexual entertainment venues.
- (2) If a local authority passes a resolution under subsection (1), Schedule 2 (as so modified) has effect in their area from the day specified in the resolution.
- (3) The day mentioned in subsection (2) must not be before the expiry of the period of one year beginning with the day on which the resolution is passed.
- (4) A local authority must, not later than 28 days before the day mentioned in subsection (2), publish notice that they have passed a resolution under this section.
- (5) The notice must—
 - (a) state the general effect of Schedule 2 (as modified for the purposes of this section), and
 - (b) be published electronically or in a newspaper circulating in the local authority's area.
- (6) For the purposes of this section, paragraphs 1 and 3 to 25 of Schedule 2 apply with the following modifications—
 - (a) references to a sex shop are to be read as references to a sexual entertainment venue,
 - (b) references to the use by a person of premises, vehicles, vessels or stalls as a sexual entertainment venue are to be read as references to their use by the organiser,
 - (c) in paragraph 1—
 - (i) in sub-paragraph (b)—
 - (A) the word “or” immediately following paragraph (i) is omitted,
 - (B) paragraph (ii) is omitted, and
 - (ii) sub-paragraph (c) is omitted,
 - (d) in paragraph 7—

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- ^{F4}(i)
- (ii) after sub-paragraph (3) insert—
- ^{F5c}(3A)
- ^{F5}(3B)
- (3C) The applicant must also, not later than 7 days after the date of the application—
- (a) send a copy of the application to each person or body listed in the local authority's determination under sub-paragraph (3D), and
 - (b) submit to the local authority a certificate stating that the applicant has complied with this sub-paragraph.
- (3D) For the purposes of sub-paragraph (3C), a local authority must—
- (a) from time to time determine the persons or bodies who must receive a copy of the application, and
 - (b) publicise the determination in such manner as they consider appropriate.”,
- (e) in paragraph 9—
- (i) in sub-paragraph (5)(c)—
 - (A) after the word “in” insert “ the local authority's area or ”,
 - (B) after the word “for” insert “ their area or ”,
 - (ii) after sub-paragraph (5) insert—

“(5A) For the purposes of sub-paragraph (5)(c), a local authority must—

 - (a) from time to time determine the appropriate number of sexual entertainment venues for their area and for each relevant locality, and
 - (b) publicise the determination in such manner as they consider appropriate.”,
 - (iii) after sub-paragraph (6) insert—

“(6A) A local authority may refuse an application for the grant or renewal of a licence despite the fact that a premises licence under Part 3 of the Licensing (Scotland) Act 2005 is in effect in relation to the premises, vehicle, vessel or stall to which the application relates.”,
- (f) in paragraph 12(2)(b), for “shorter” substitute “ other ”,
- (g) in paragraph 19(1)(e), for the words from “without” to the end of paragraph (e) substitute “knowingly permits any person under the age of 18 to enter the sexual entertainment venue—
- (i) at a time when sexual entertainment is being provided, or
 - (ii) without reasonable excuse, at any other time,”, and
- (h) in paragraph 25, in each of sub-paragraphs (1)(a) and (2), for “45” substitute “ 45B ”.
- (7) In carrying out functions conferred by virtue of this section, a local authority must have regard to any guidance issued by the Scottish Ministers.

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Textual Amendments

- F3** Ss. 45A-45C inserted (1.12.2015 for the insertion of s. 45A for specified purposes, 26.4.2019 in so far as not already in force) by [Air Weapons and Licensing \(Scotland\) Act 2015 \(asp 10\)](#), **ss. 76(3)**, 88(2); [S.S.I. 2015/382](#), art. 2, sch.; [S.S.I. 2019/99](#), art. 2(1)(b) (with art. 3)
- F4** S. 45B(6)(d)(i) repealed (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\)](#), **ss. 31(4)(a)**, 59(1)
- F5** Words in s. 45B(6)(d)(ii) repealed (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\)](#), **ss. 31(4)(b)**, 59(1)

45C Statements of policy in relation to sexual entertainment venues

- (1) This section applies where a local authority passes a resolution under section 45B(1).
- (2) The local authority must prepare a statement of their policy with respect to the exercise of their functions in relation to the licensing of sexual entertainment venues (a “SEV policy statement”).
- (3) In preparing a SEV policy statement, a local authority must—
 - (a) consider the impact of the licensing of sexual entertainment venues in their area, having regard, in particular, to how it will affect the objectives of—
 - (i) preventing public nuisance, crime and disorder,
 - (ii) securing public safety,
 - (iii) protecting children and young people from harm,
 - (iv) reducing violence against women, and
 - (b) consult such persons or bodies as they consider appropriate.
- (4) The local authority must publish the SEV policy statement at the same time and in the same manner as they publish the notice of the resolution under section 45B(4).
- (5) The local authority must—
 - (a) from time to time review the SEV policy statement and make such revisions as they consider appropriate (if any), and
 - (b) publish the revised statement in such manner as they consider appropriate.
- (6) Subsection (3) applies to a review of a SEV policy statement as it applies to preparing such a statement.
- (7) In exercising their functions in relation to the licensing of sexual entertainment venues, a local authority must have regard to their SEV policy statement or revised statement.
- (8) In this section—

“children” means persons under the age of 16,
“young people” means persons aged 16 or 17.]

Textual Amendments

- F3** Ss. 45A-45C inserted (1.12.2015 for the insertion of s. 45A for specified purposes, 26.4.2019 in so far as not already in force) by [Air Weapons and Licensing \(Scotland\) Act 2015 \(asp 10\)](#), **ss. 76(3)**, 88(2); [S.S.I. 2015/382](#), art. 2, sch.; [S.S.I. 2019/99](#), art. 2(1)(b) (with art. 3)

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[^{F6}45D Deemed grant of applications

- (1) For the purpose of the discharge of their functions under this Part, every local authority must—
 - (a) consider each relevant application made to them within the period of 3 months beginning with the date on which the application was made, and
 - (b) subject to the following provisions of this section, reach a final decision on the application within the period of 6 months beginning with the end of the 3 month period referred to in paragraph (a).
- (2) On an application by the local authority within the 6 month period referred to in subsection (1)(b), the sheriff may, if it appears that there is a good reason to do so, extend that period as the sheriff thinks fit.
- (3) The applicant is entitled to be a party to proceedings on an application under subsection (2).
- (4) Where the local authority have failed to reach a final decision on the application before the expiry of—
 - (a) the 6 month period referred to in subsection (1)(b), or
 - (b) such further period as the sheriff may have specified on application under subsection (2),
 the licence is deemed to have been granted, renewed or, as the case may be, varied on the date of such expiry.
- (5) A licence deemed to have been granted or renewed under subsection (4) is to remain in force for the period of one year.
- (6) A deemed variation of the terms of a licence deemed under subsection (4) is to have effect for the remaining period of the licence.
- (7) Subsections (4) and (6) do not affect—
 - (a) the powers of revocation under paragraph 13 of Schedule 2, and
 - (b) the powers of variation under paragraph 15 of that Schedule.
- (8) The deemed grant, renewal or variation of the terms of a licence under subsection (4) has the same effect, for the purposes of Schedule 2, as a decision of the licensing authority to grant, renew or vary the terms of a licence.
- (9) For the purposes of this section, a “relevant application” is an application under paragraph 6 or 15 of Schedule 2.]

Textual Amendments

F6 S. 45D inserted (1.5.2017) by [Air Weapons and Licensing \(Scotland\) Act 2015 \(asp 10\)](#), **ss. 77(3)**, **88(2)**; [S.S.I. 2016/307](#), **art. 2**, **sch.** (with **art. 4**)

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F7 Conditions of licences granted under this Part

Textual Amendments

- F7** Ss. 45E, 45F and cross-heading inserted (1.12.2015 for the insertion of s. 45E for specified purposes) by [Air Weapons and Licensing \(Scotland\) Act 2015 \(asp 10\)](#), **ss. 80(2)**, 88(2); S.S.I. 2015/382, **art. 2**, sch.

45E Mandatory licence conditions

- (1) The Scottish Ministers may by order prescribe conditions to which licences granted by local authorities under this Part 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) An order under subsection (1) is subject to the affirmative procedure.
- (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 local authorities under this Part are to be subject, or
 - (b) to be imposed by local authorities in granting or renewing licences under this Part.
- (5) The following conditions are referred to in this Part 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.
- (6) In this section and section 45F, references to licences granted by local authorities include references to—
 - (a) licences renewed by local authorities, and
 - (b) licences deemed by virtue of section 45D to have been granted or renewed by local authorities.

45F Standard licence conditions

- (1) A local authority may determine conditions to which licences granted by them under this Part are to be subject.
- (2) Conditions determined under subsection (1) are referred to in this Part 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 local authority must publish, in such manner as they think appropriate, any standard conditions determined by them.
- (5) Standard conditions have no effect—

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- (a) unless they are published, and
 - (b) so far as they are inconsistent with any mandatory conditions.
- (6) Subsection (1) is subject to paragraph 9(1A) of Schedule 2.]

Changes to legislation:

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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. 22(1)(c) repealed by [2015 asp 10 s. 65\(3\)](#)
- s. 49(9) added by [2010 asp 13 s. 200\(1\)\(b\)](#)