



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 [^{F1}Merchant 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 ^{M1}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 [^{F2}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.

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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\(1\)\(b\)](#)