

Consultation on:

**Update of The Licensing
(Procedure) (Scotland)
Regulations 2007**

February 2018

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Background

- 1 The Scottish Government is responsible for regulating the powers of Scottish local authorities and Licensing Boards in relation to licensing the sale of alcohol.
- 2 The main piece of legislation that controls the sale of alcohol is the Licensing (Scotland) Act 2005 (the 2005 Act). The 2005 Act balances the rights of the majority of people who drink responsibly against the need to protect local communities from nuisance and crime associated with misuse of alcohol.
- 3 A Licensing Board is a quasi-judicial body and consists of locally elected councillors, with support from local authority staff. However, a Licensing Board is an entirely separate legal entity from a local authority.
4. Licensing Boards are primarily responsible for regulating the sale of alcohol to the public within their particular area. The Boards carry out a range of functions, including granting and reviewing licences to sell alcohol.
5. This consultation relates to the update of The Licensing (Procedure) (Scotland) Regulations 2007 (Procedure Regulations), which came into force on 1st February 2008. This secondary legislation sets out procedural matters. The individual elements of the Procedure Regulations are numbered, and termed regulations (lower case). For example regulation 1, is entitled *Citation and commencement*.
6. The Scottish Government continues to work towards simplifying and improving licensing law and practice, which includes updating guidance and Regulations to bring them up to date and ensure that they are fit for purpose. The Procedure Regulations have not been amended since their introduction.
7. We are committed to reviewing the Procedure Regulations, including carrying out this consultation to properly evaluate the likely costs and benefits of any potential changes, and to ensure that they are workable and proportionate. The Procedure Regulations may then be updated to best reflect modern needs and practice.
8. There are parts of the Procedure Regulations which refer to transitional arrangements around the time when the Licensing (Scotland) 2005 Act was being implemented, such as regulations 8(3) and 9(2). These are no longer relevant/accurate and can be deleted/amended, as appropriate, as part of the update.
- 9 The Scottish Government is still to bring into effect section 61 (deemed grant of application) of the Air Weapons and Licensing (Scotland) Act 2015 which will modernise and expand the requirement for Licensing Boards to deal with matters expeditiously. Failure to do so will have the result that the application will be deemed to have been authorised.

We therefore intend to review and where necessary amend the wording associated with the existing timelines that are provided within the Procedure Regulations so that they are compatible with section 61.

Community Engagement

10. Concerns have been raised about community engagement with the licensing process, for example during parliamentary consideration of the Alcohol (Licensing, Public Health and Criminal Justice) (Scotland) Bill, there were calls for more community involvement in licensing decisions.
11. In March 2016 NHS Scotland, in their report on Monitoring and Evaluating Scotland's Alcohol Strategy highlighted that, in terms of public access, there was limited involvement, and thus scrutiny, from the public in the licensing system. Although, the report did acknowledge there were isolated examples of action to improve public access that could be built on.
12. In September 2016, Alcohol Focus Scotland hosted a series of regional seminars to provide an opportunity for licensing stakeholders to come together to reflect upon and share their experiences. Attendees were invited to identify areas of ongoing challenge.

A lack of public participation in the licensing process was a concern shared by stakeholders across the four regional seminars. There was consensus that new ways to engage with the public were required, and the need to improve public notification of licensing applications was highlighted.

13. Further recent engagement with stakeholders has also identified that there is a desire to encourage better community engagement in licensing.
14. The relevant provisions on neighbour notification are included within the Procedure Regulations. It is therefore intended to seek views on whether the Procedure Regulations can be amended to improve community engagement.
15. Regulations 3,4,6,7,8,9 and 18 of the Procedure Regulations outline provisions on neighbour notification. These particular regulations respectively relate to –
 - Meaning of “notifiable interest”
 - Meaning of “Neighbouring land”
 - Publicity to applications
 - Display of notice
 - Periods for Board to notify applications
 - Documents to accompany notice of premises licence application
 - Occasional licences

Purpose of Consultation

16. The purpose of this consultation is to invite views from stakeholders and members of the public to assist the Scottish Government in our considerations when reviewing The Licensing (Procedure) (Scotland) Regulations 2007.
17. There have been suggestions that updating public notification of licensing applications could help with encouraging people to have their say on licensing matters.
18. We would like to seek views, in particular, regarding the sections of these Regulations which relate to the public notification process. However, feedback will be accepted from respondents on other sections of these Regulations.

Questions

Neighbour notification

19. Regulations 3,4,6,7,8,9 and 18 of the Licensing (Procedure) (Scotland) Regulations 2007 outline the relevant provisions on neighbour notification that we would particularly welcome views on, in this consultation. These particular regulations respectively relate to –

- Meaning of “notifiable interest”
- Meaning of “Neighbouring land”
- Publicity to applications
- Display of notice
- Periods for Board to notify applications
- Documents to accompany notice of premises licence application
- Occasional licences

Q1 – Should the provisions in the current Licensing (Procedure) (Scotland) Regulations 2007, specifically relating to neighbour notifications, be updated?

- Yes
- No

Please explain your answer below, giving consideration to the following:

- Are the current provisions relating to neighbour notifications fit for purpose?
- In what way should parts relating to neighbour notifications be amended?
- What would be the likely impact for local communities, the trade and the public?

Other provisions

Q2 – Should any of the provisions in the current Licensing (Procedure) (Scotland) Regulations 2007, other than those specifically relating to neighbour notifications, be updated?

- Yes
- No

Please explain your answer below, giving consideration to the following:

- Are the other provisions fit for purpose?
- In what way should any of the other provisions be amended?
- What would be the likely impact for local communities, the trade and the public?

Additional concerns

Q3 – Do you have any additional concerns regarding the Licensing (Procedure) (Scotland) Regulations 2007? If yes, please provide details below.

- Yes
- No

Q4 - Are you aware of any examples of good practice relative to the Licensing (Procedure) (Scotland) Regulations 2007? If so, please provide details below.

- Yes
 No

Responding to this Consultation

20. We are inviting responses to this consultation by **06/06/2018**.
21. Please respond to this consultation using the Scottish Government's consultation platform, Citizen Space. You view and respond to this consultation online at <https://consult.gov.scot/criminal-law/licensing-procedure/> You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 06/06/2018.
22. If you are unable to respond online you can submit a response along with a completed Respondent Information Form (see "Handling your Response" below) to:

Licensing.Consultation@gov.scot

Handling your response

23. If you respond using Citizen Space (<http://consult.scotland.gov.uk>) you will be directed to the Respondent Information Form. Please indicate how you wish your response to be handled and, in particular, whether you are happy for your response to be published.
24. If you are unable to respond via Citizen Space please complete the Respondent Information Form attached, included in this document at **Annex A**. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.
25. All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would

therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Next steps in the process

26. Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.scotland.gov.uk>. If you use Citizen Space to respond, you will receive a copy of your response via email.
27. Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so.

Comments and complaints

28. If you have any comments about how this consultation exercise has been conducted, please send them to Licensing.Consultation@gov.scot

Scottish Government consultation process

29. Consultation is an essential part of the policy-making process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.
30. You can find all our consultations online: <http://consult.scotland.gov.uk>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.
31. Consultations may involve seeking views in a number of different ways, such as public meetings, focus groups, or other online methods such as Dialogue. (<https://www.ideas.gov.scot>)
32. Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:
 - indicate the need for policy development or review
 - inform the development of a particular policy
 - help decisions to be made between alternative policy proposals
 - be used to finalise legislation before it is implemented.
33. While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.



ANNEX A - Consultation on: Update of The Licensing (Procedure) (Scotland) Regulations 2007

RESPONDENT INFORMATION FORM

Please Note this form **must** be completed and returned with your response.

Are you responding as an individual or an organisation?

- Individual
 Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name
 Publish response only (without name)
 Do not publish response

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- Yes
 No

Consultation questions

Neighbour notification

Regulations 3,4,6,7,8,9 and 18 of the Licensing (Procedure) (Scotland) Regulations 2007 outline the relevant provisions on neighbour notification that we would particularly welcome views on, in this consultation. These particular regulations respectively relate to –

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Q1 – Should the provisions in the current Licensing (Procedure) (Scotland) Regulations 2007, specifically relating to neighbour notifications, be updated?

Yes

No

Please explain your answer below, giving consideration to the following:

- Are the current provisions relating to neighbour notifications fit for purpose?
- In what way should parts relating to neighbour notifications be amended?
- What would be the likely impact for local communities, the trade and the public?

Other provisions

Q2 – Should any of the provisions in the current Licensing (Procedure) (Scotland) Regulations 2007, other than those specifically relating to neighbour notifications, be updated?

Yes

No

Please explain your answer below, giving consideration to the following:

- Are the other provisions fit for purpose?
- In what way should any of the other provisions be amended?
- What would be the likely impact for local communities, the trade and the public?

Additional concerns

Q3 – Do you have any additional concerns regarding the Licensing (Procedure) (Scotland) Regulations 2007? If yes, please provide details below.

- Yes
- No

Q4 - Are you aware of any examples of good practice relative to the Licensing (Procedure) (Scotland) Regulations 2007? If so, please provide details below.

- Yes
- No



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