

SOLAR Licensing Forum

Alcohol (Licensing, Public Health and Criminal Justice) (Scotland) Bill

The response below is restricted to those aspects of the Bill which will impact upon legal and administrative procedures relating to liquor licensing as SOLAR Licensing Forum's membership is representative of Clerks / Depute Clerks of Licensing Boards who administer the liquor licensing function on behalf of Boards.

Do you support the Bill as a whole?

As stated above this response is made only to the part of the Bill relating to liquor licensing and which may affect the legal and administrative procedures of Licensing boards and does not offer a view on policy matters within the Bill which may be considered by Board members.

Do you support particular provisions in the Bill?

Parts of the Bill relating to amendments of existing statutory procedures are not supported for the reasons set out below.

Do you have concerns about particular provisions in the Bill?

Yes. The proposal to amend the timetable for responses to applications and in particular to extend the distance from 4m to 50m for neighbour notification

How will the particular provisions in the Bill fit with your work, or the work of your organisation?

Increasing the distance of the existing neighbour notification area will place a significant resource burden upon Licensing Boards' administrative support teams who already anticipate an increased workload as a result of amendments required to administrative processes and reporting requirements under the Air Weapons and Licensing (Scotland) Bill . Whilst it is considered that amendment to established time periods may lead to confusion ,it is also suggested that any increase in consultation periods if agreed , be restricted to 28 days . This would bring the legislation into line with the statutory consultation period for licences granted under the Civic Government (Scotland) Act 1982 and other related legislation .

Will the Bill have financial or resource implications for you or your organisation?

The neighbour notification proposal will result in increased resource expenditure as set out above.

Do you have any other comments or suggestions relevant to the Bill?

Whatever the eventual outcome of consideration of the Bill, given the various amendments already made to the 2005 Act to date including those still to be introduced as a result of the Air Weapons and Licensing (Scotland) Bill , it is essential that the Act is consolidated to facilitate its understanding in practice.

Container marking: off-sales

Proposal: This proposal gives local Licensing Boards the power to impose a "container marking condition" on "off-sales premises" in the Board's area. It

allows individual containers (e.g. a beer can) to be discreetly marked in such a way that the premises from which they were sold can later be identified.

A container marking condition can only be imposed by Licensing Boards on written request from the Chief Constable (in practice, a local police officer with delegated responsibility). This keeps the initiative with the police, in line with their role in operating any container marking scheme. The request must contain details of the container marking scheme which the police wish to see put in place.

The Licensing Board must provide written reasons to the police if it either departs from the terms set out in the request, or refuses the request altogether.

As a result:

- A container marking condition has effect for the period specified by the Licensing Board in the variation.
- The Licensing Board may only impose a container marking condition where it is satisfied that the condition “is necessary or expedient for the purposes of any of the licensing objectives” .
- Before imposing the condition, the Licensing Board must give notice to certain key persons, and to the affected licence-holders. There is no requirement to publish notice of the proposed variation, and there is no obligation to notify the Fire Authority.
- The notice must describe the proposed container marking variation and the premises to which it would apply. It must also specify the date by which representations about the proposed variation may be made which must be 21 days after receipt of the notice, and the right to make representations applies only to those to whom notice is given.
- Where representations are received (within the 21 day time-limit), the Board must hold a hearing, and may give such persons who have made representations as the Board considers appropriate an opportunity to be heard.
- Where the Licensing Board makes a variation, it must amend each premises licence affected, notify the police and the affected licence-holders within one month, send a copy to each affected premises, and publicise the variation as it thinks fit.
- The variation does not have effect until notice has been given to the affected licence-holders.

Licensing Boards are given the power to revoke container marking conditions where they are no longer required or expedient in terms of the licensing objectives, but only after consulting the police. Where the Licensing Board makes a revocation, it must amend each premises licence affected, notify the police and the affected licence-holders within one month, send a copy to each affected premises, and publicise the variation as it thinks fit.

These powers extend to provisional premises licences.

Response: No view is offered as to how successful this proposal may be to prevent or reduce under-age drinking. Introduction of such a procedure however will require additional legal/ administrative procedures to be undertaken by Licensing Boards .

Applications for, or to vary, premises licence: consultation and publicity

Proposal: This expands the scope of local consultation where no community council is active and increases the length of time available to respond to a consultation on a new licence application or an application to vary an existing licence.

When a Board receives a premises licence application it has to notify (among others) “each person having a notifiable interest in neighbouring land” and “any community council within whose area the premises are situated”. “Neighbouring land” is defined as land (other than land that is part of a road or railway line, or covered by water) that is “within 4 metres in any direction of any boundary of the premises to which the application in question relates”. The proposal redefines “neighbouring land”, in cases where there is no active community council, to include the much larger area that extends up to 50 metres from the premises in any direction.

The Board currently advertises a premises licence (or variation) application on its website (for a continuous period of 21 days) or in a newspaper circulating in the area of the Board, and allows at least 21 days for objections or representations to be made. The proposal doubles both of these 21-day periods.

It also doubles the length of time a notice must be displayed at or near the premises from 21 to 42 days.

If the notice is removed or defaced during the original display period (currently 21 days), the Board may require it to be re-displayed for a further period (also currently 21 days). The proposal allows the Board to set whatever further display period it considers necessary to ensure that the notice has been displayed, undamaged, for at least 42 days in total. For example, if the original notice had been displayed for 30 of the original 42 days before being removed or damaged, a further 12 day period would be sufficient.

Response: As set out earlier in this response. It should be noted in highly populated urban areas that 50 m will significantly increase those who require to be notified during the neighbour notification procedure. Again as stated earlier it is suggested that any increase in the notification period should be to a maximum of 28 days in line with other statutory licensing regimes.

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