

# **The Licensing (Scotland) Act 2005**

**Consultation on introducing a fee for  
applying to renew a personal licence**

**July 2018**

## Background

1. Scottish local authorities and Licensing Boards have statutory functions in relation to licensing the sale of alcohol. The Scottish Government has a role in setting certain fees to be charged by Licensing Boards in the exercise of some of their functions. The level of fees set by the Government is subject to Parliamentary approval.
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 'personal licence', a key plank of the alcohol licensing regime.

## The personal licence

6. The 2005 Act requires those who authorise the sale of alcohol to possess a personal licence. The provisions for personal licences are found in sections 71 – 93 of the 2005 Act. A personal licence is issued under the 2005 Act to individuals who have obtained a Scottish Certificate for Personal Licence Holders (SCPLH) qualification.
7. When selling alcohol on licensed premises, the designated premises manager must possess a personal licence. In many premises, other members of staff also attain personal licences so that they can also authorise sales, conduct staff training, and as a matter of general best practice. Nearly sixty thousand individuals across Scotland hold a personal licence.
8. '[The Licensing \(Fees\) \(Scotland\) Regulations 2007](#)' (SSI 2007/553) (the 2007 Regulations) were made in exercise of the powers conferred by sections 136(1) and (2) and 146(2) of the 2005 Act to provide for the fees to be charged by Licensing Boards in relation to various matters under the 2005 Act. Regulation 17 of the 2007 Regulations set the fee payable when applying for a personal licence at £50:

### *Application for personal licence*

*17. The fee payable in respect of an application under section 72(1) of the Act is £50.*

9. Section 77 of the 2005 Act sets out that a personal licence has effect, subject to conditions, for a period of ten years from the date on which it is issued.

### **Renewal of personal licence**

10. Renewal of the personal licence every ten years provides an opportunity to check that any convictions for relevant and foreign offences have been properly notified to the relevant licensing authority, and that all such convictions have been properly endorsed upon the licence. It also provides an opportunity to ensure that the photograph of the holder on the personal licence is updated to aid identification.
11. With the licensing regime contained in the 2005 Act going live in September 2009, the ten year point will be reached in September 2019. This means that personal licence holders who first obtained their licence at the introduction of the existing regime (in September 2009) will need to renew their personal licence for the first time before September 2019.
12. Section 78 of the 2005 Act sets out the steps an individual must take to apply for the renewal of a personal licence.
13. The Air Weapons and Licensing (Scotland) Act 2015, which was passed by the Scottish Parliament on 25 June 2015, revised aspects of the personal licence holder arrangements, including the timescales for renewals. The 2005 Act originally required that applications for renewal should be lodged within a period of 2 months, starting from 3 months before the expiry of the licence. To assist Licensing Boards and personal licence holders, the 2015 Act substantially extended the period for renewal applications by amending the 2005 Act. The 2005 Act now requires that renewal applications are lodged no earlier than twelve months prior to expiry and no later than three months before expiry. The first personal licences issued under the Act are deemed to have an expiry date of 1 September 2019. Therefore, the window for first renewal applications opens 31 August 2018 and closes 31 May 2019.

### **Introducing a fee for applying to renew a personal licence**

14. While there is an initial £50 fee to apply for a personal licence, there is currently no fee set in regulations for a renewal application. Licensing Boards will be dealing with thousands of renewal applications in the run up to the ten year point, and we are aware of the concerns that have been raised by a number of stakeholders about the significant administrative pressure that this will place on Licensing Boards and others.
15. The Scottish Government believes that because of the amount of administrative work that this will entail for Licensing Boards, there is a strong case for introducing a fee for applying to renew a personal licence to help Licensing Boards across Scotland cover the cost of administration. As the fee for a grant of a personal licence application is £50 we consider that it is then reasonable and proportionate that the renewal fee is also set at £50.

16. The Scottish Government is required to consult before any new fee comes into force. We are therefore consulting on whether or not to draft and lay secondary legislation in Parliament to update the 2007 Regulations to introduce a fee for applying to renew a personal licence, and whether or not to set that fee at £50.

17. We would welcome views from respondents to the consultation on whether they consider the introduction of a renewal fee to be appropriate, and if so, whether they think the proposed £50 fee level is appropriate, including evidence to support their view. We are also welcoming views and evidence to support an alternative fee level being set, or no fee being introduced at all.

### **Purpose of consultation**

18. The purpose of this consultation is therefore:

- To consult on whether to introduce a fee for applying to renew a personal licence: and
- If we were to introduce such a fee, to seek views on what that fee level should be.

19. In terms of next steps following this consultation, the Scottish Government will analyse the responses and if considered appropriate will draft and lay secondary legislation to update the 2007 regulations to embed any new fee into Scottish law.

20. Any legislative changes would be subject to the approval of the Scottish Parliament.

**Consultation****Questions:**

(We would be grateful if you would use the consultation questionnaire provided at Annex C)

1. Do you agree that a fee for renewal of a personal licence should be introduced?

Yes / No

2. why?

3. Do you agree that £50 is an appropriate new fee level?

Yes / No

4. Why?

5. If not £50, what do you consider would be an appropriate fee level?

6. What evidence, based on cost recovery, can you supply for an appropriate fee level for renewal of a personal licence?

7. Are there any other comments you would wish to make about the renewal process or proposed fee?

## **ANNEX A**

### **Responding to this Consultation**

We are inviting responses to this consultation by Wednesday 15 August 2018.

Please respond to this consultation using the Scottish Government's consultation hub, Citizen Space (<http://consult.gov.scot>). Access and respond to this consultation online at <https://consult.gov.scot/criminal-justice/alcohol-personal-licence-renewal-fee>. 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 Wednesday 15 August 2018.

If you are unable to respond using our consultation hub, please complete the Respondent Information Form to:

Adam Sinclair  
Licensing Team  
Area GW14  
St Andrew's House  
Regent Road  
Edinburgh  
EH1 3DG

### **Handling your response**

If you respond using the consultation hub, you will be directed to the About You page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

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.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document.

To find out how we handle your personal data, please see our privacy policy:

<https://beta.gov.scot/privacy/>

## **Next steps in the process**

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.gov.scot>. If you use the consultation hub to respond, you will receive a copy of your response via email.

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. An analysis report will also be made available.

## **Comments and complaints**

If you have any comments about how this consultation exercise has been conducted, please send them to the contact address above or at [licensing.consultation@gov.scot](mailto:licensing.consultation@gov.scot).

## **Scottish Government consultation process**

Consultation is an essential part of the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.gov.scot>. 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.

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

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 B

### The Licensing (Scotland) Act 2005 – Consultation on introducing a fee for applying to renew a personal licence

#### RESPONDENT INFORMATION FORM

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

To find out how we handle your personal data, please see our privacy policy:  
<https://beta.gov.scot/privacy/>

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

## ANNEX C

### CONSULTATION QUESTIONS

**Please provide examples/evidence for your answers. Of particular interest will be information on the impact to business and regulators as a result of proposed changes including information on the additional costs of any changes proposed, the impact on competition and impact on micro and small businesses. Solutions to mitigate any negative impacts are also welcome.**

#### Questions:

**1. Do you agree that a fee for renewal of a personal licence should be introduced?**

Yes  No

**2. Why?**

Comments

**3. Do you agree that £50 is an appropriate new fee level?**

Yes  No

**4. Why?**

Comments

**5. If not £50, what do you consider would be an appropriate fee level?**

Comments

**6. What evidence, based on cost recovery, can you supply for an appropriate fee level for renewal of a personal licence?**

Comments

**7. Are there any other comments you would wish to make about the renewal process or proposed fee?**

Comments

## **ANNEX D**

### **LIST OF CONSULTEES**

Responses to this consultation are welcome from any individual or organisation with an interest.

The following will be sent a copy of the consultation directly:

All Scottish Local Authorities

All Scottish MEPs

Clerk of the Justice Committee of the Scottish Parliament

Clerk of the Local Government and Regeneration Committee of the Scottish Parliament

Consumer Focus Scotland

COSLA (Convention of Scottish Local Authorities)

Equality and Human Rights Commission

Federation of Small Businesses

Law Society of Scotland

Police Scotland

Scottish Crime and Drug Enforcement Agency

Scottish Government Library

Scottish Human Rights Commission

SOLAR (Society of Local Authority Lawyers and Administrators Scotland)

SPICe (Scottish Parliament Information Centre) library

The 6 Legal Deposit or 'Copyright' libraries

The consultation will also be sent to a number of individuals who have expressed an interest.



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