

2011 No. 128

LICENCES AND LICENSING

LICENSING (LIQUOR)

**The Licensing (Food Hygiene Requirements) (Scotland)
Order 2011**

Made - - - - - *17th February 2011*
Laid before the Scottish Parliament *21st February 2011*
Coming into force - - - *28th March 2011*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 39(4) and (5) of the Civic Government (Scotland) Act 1982(a) and sections 50(7) and 50(7A) of the Licensing (Scotland) Act 2005(b) and all other powers enabling them to do so.

Citation and commencement and interpretation

1.—(1) This order may be cited as the Licensing (Food Hygiene Requirements) (Scotland) Order 2011 and comes into force on 28th March 2011.

(2) In this Order “the Specified Community provisions” has the meaning given in regulation 2 of the Food Hygiene (Scotland) Regulations 2006(c).

Requirements under section 39(4) of the 1982 Act

2.—(1) For the purposes of issuing a certificate under section 39(4) of the Civic Government (Scotland) Act 1982, the food authority must state in the certificate that the vehicle, kiosk or moveable stall complies with all relevant requirements of the Specified Community provisions.

(2) In this article, “food authority” has the meaning given in section 5(2) of the Food Safety Act 1990(d).

(a) 1982 c.45. Section 39(4) was amended by section 175 of the Criminal Justice and Licensing (Scotland) Act 2010.
(b) 2005 asp 16. Section 50(7) was amended by section 186 of the Criminal Justice and Licensing (Scotland) Act 2010.
(c) S.S.I. 2006/3.
(d) 1990 c.16.

Requirements under section 50(7) of the Licensing (Scotland) Act 2005

3. For the purposes of section 50(7) of the Licensing (Scotland) Act 2005, a food hygiene certificate is a certificate signed on behalf of the appropriate authority, within the meaning of section 50(8)(c) of that Act, stating that the subject premises comply with all relevant requirements of the Specified Community provisions.

St Andrew's House,
Edinburgh
17th February 2011

KENNY MACASKILL
A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Order)

Section 39 of the Civic Government (Scotland) Act 1982 relates to street traders' licences. Section 39(4), as amended by section 175 of the Criminal Justice and Licensing (Scotland) Act 2010, provides that a street trader's licence cannot be granted by the licensing authority unless there is produced to them a certificate by the food authority (which, under section 5(2) of the Food Safety Act 1990, means, in Scotland, a local authority) stating that the vehicle, kiosk or moveable stall complies with such requirements as the Scottish Ministers may specify.

Article 2 of this Order specifies that the food authority must state that the vehicle, kiosk or moveable stall complies with all relevant requirements of certain EU provisions which are listed in Schedule 2 to the Food Hygiene (Scotland) Regulations 2006 (S.S.I. 2006/3).

Section 50 of the Licensing (Scotland) Act provides what certificates must accompany a premises licence application. Section 50(7), as amended by section 186 of the Criminal Justice and Licensing (Scotland) Act 2010, specifies that a food hygiene certificate is a certificate signed on behalf of the appropriate authority (as defined in section 50(8)) stating that the subject premises (that is the premises which are the subject of the application for a premises licence) comply with such requirements as the Scottish Ministers may specify.

Article 3 of this Order specifies that a food hygiene certificate is a certificate signed by the appropriate authority which states that the subject premises comply with all relevant requirements of certain EU provisions which are listed in Schedule 2 to the Food Hygiene (Scotland) Regulations 2006 (S.S.I. 2006/3).

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