

HIGHLAND LICENSING BOARD
GUIDANCE NOTE FOR VOLUNTARY ORGANISATIONS - LICENSING (SCOTLAND)
ACT 2005

This guidance note sets out the position for voluntary organisations in relation to the new **occasional licences**.

The process is rigorous and applicants are encouraged to submit applications as early as possible especially for premises not recently licensed or where there might be public safety issues.

Under the 2005 Act a single voluntary organisation may now hold over a 12 month period:

- Not more than 12 occasional licences of less than 4 days in duration
- Not more than 4 occasional licences of 4 days or more in duration;

Organisations may also note that the total number of days on which an occasional licence has effect must not exceed 56 during any 12 month period. The maximum duration of each occasional licence continues to be 14 days.

Voluntary organisations must submit their applications for occasional licences to the office of the Board with the application fee of £10 at least **28 days** prior to the event taking place, although it is recommended that applications are made as early as possible, and where possible, **at least six weeks before an event**. This is particularly advisable if applicants believe that there is any possibility of objections being received. Early applications are now necessary as the Act dictates that the Licensing Board must allow the Police and the Licensing Standards Officer 21 days to comment on any application. As the consultation period for occasional licences is fixed by statute the Board must strictly adhere to the time limits and cannot exercise discretion to receive late applications in the same way as it has in the past. The standard checks with the Highlands and Islands Fire and Rescue Service and the Council's Environmental Health Section will continue to be carried out as appropriate.

Application forms

The application forms for occasional licences are set by regulation under the 2005 Act and are more detailed than the application forms for occasional permissions. Part of the reason for this is that there is a requirement on licensing boards to include more detailed information on the licences themselves, particularly in relation to the admission of children and young people. The information to be included on application forms for an occasional licence includes the following:

- (a) the name and address of the applicant,
- (b) a description of the premises in respect of which application is made,
- (c) a description of the activities to be carried on in the premises,
- (d) a statement of the period during which the licence is to have effect,
- (e) a statement of the times during which alcohol is to be sold on the premises,
- (f) a statement as to whether alcohol is to be sold for consumption on the premises, off the premises or both,
- (g) a statement of the times at which any other activities in addition to the sale of alcohol are to be carried on in the premises,
- (h) where alcohol is to be sold for consumption on the premises, a statement as to whether children (under 16) or young persons (16 & 17) are to be allowed entry to

the premises and, if they are to be allowed entry, a statement of the terms on which they are allowed entry including, in particular—

- (i) the ages of the children or young persons to be allowed entry,
- (ii) the times at which they are to be allowed entry, and
- (iii) the parts of the premises to which they are to be allowed entry,
- (i) the conditions to which the licence is subject, or, in relation to any such condition, a reference to another document in which details of the condition can be found

Occasional licences are subject to mandatory national licensing conditions set out on the Board's website, <http://www.highland.gov.uk/businessinformation/licensing/lic-cons-2005.htm> **Breach of any of the conditions is a criminal offence. It is recommended that you familiarise yourself with the Mandatory Conditions as it covers the pricing of alcohol, irresponsible drinks promotions to the provisions of non-alcoholic drinks.**

Nature of Event

There is no requirement in the 2005 Act that applications can only be made for particular events "arising from or related to the activities of the voluntary organisation". However, attention is drawn to mandatory condition 5 (Occasional Licences: Schedule IV) which must be attached to occasional licences issued to voluntary organisations under the Licensing (Scotland) Act 2005. This condition says "where a voluntary organisation is the holder of an occasional licence, alcohol can only be sold where the event is connected with the voluntary organisation's activities". As with all licence conditions, breach of the condition could lead to criminal proceedings.

Applications for fund raising dances and other events connected to the activities of the voluntary organisation will be regarded by the Board as a competent type of application. The Board may reject applications as incompetent where the application clearly cannot comply with one or more of the licence conditions. An application may be refused where one of the grounds of refusal referred to below applies.

Public Entertainment/Late Hours Catering Licences

Events may still require a Public Entertainment Licence or a Late Hours Catering Licence under the Civic Government (Scotland) Act 1982. Essentially either of these will be required where an admission fee is charged or food provided for consumption off the premises after 11.00pm. The Clerk's office will be able to clarify the rules where there is any doubt.

Notification and objections

All applications for occasional licences under the 2005 Act will within seven days of being received be forwarded by the relevant Clerk or Depute Clerk to the Chief Constable and the relevant Licensing Standards Officer and to Environmental Health and the Fire Service if appropriate. At the same time as the Board gives notice of an occasional licence application to the Chief Constable and the Licensing Standards Officer the Board must publish details of the application for occasional licence on its website. The Chief Constable and the Licensing Standards Officer within 21 days of receiving an application can submit their views to the Board. For the Licensing Standards Officer this is an opportunity to submit comments which may include recommendations for additional conditions to be attached by the Licensing Board. The Board must consider any representations received from any other interested party provided the representations have been received before the end of the **seven day period** in which the application was advertised on the Board's website. After the seven day period, the Board has discretion as to whether to consider comments received.

Where no objections, representations or notices are received from the police and/or other statutory objectors there is no need for a hearing and applications are delegated to the Clerk. However, where objections and/or representations have been received, the legislation provides that Boards must within seven days of receiving them provide the applicant with any information relevant to their application raised in objections, representations or in a notice provided by the Police and the applicant must be allowed to make comment on the objections or representations before the application is determined.

The Board must grant the application unless it has received one or more of the following:

- a notice from the appropriate chief constable in terms of the Act,
- an adverse report from a Licensing Standards Officer or
- a notice of objection or representation from any other party, relating to the application.

If any adverse comments or objections are received, the Board must consider whether any of the statutory grounds for refusal apply, and in doing so may hold a hearing at which parties can be represented. The hearing must, in terms of the legislation, be held within 42 days of the application having been received. If the Board considers that an application would be inconsistent with any of the following licensing objectives then the Board is obliged to refuse it. The licensing objectives are: preventing crime and disorder, securing public safety, preventing public nuisance, protecting and improving public health, and protecting children from harm. The other grounds for refusal relate to the hours during which alcohol is to be sold, and the suitability of the premises. When considering the suitability of premises, the Board should bear in mind: (i) the nature of the activities proposed to be carried on in the premises to which the application relates, (ii) the location, character and condition of the premises and (iii) the persons likely to frequent the premises.

Determination

If the Board decides that one or more of the grounds for refusal applies, the Board must refuse the application. If the board decides that none of the grounds for refusal applies, the Board must grant the application. In most cases, as at present, consideration of applications will be delegated to the Clerk of the Board or a Depute.

Stewarding

Voluntary organisations should note that from 1st November 2007, when the relevant provisions of the Private Security Industry Act 2001 came into force, there is mandatory licensing of the private security industry. This means that it is an offence to employ unlicensed door stewards or “bouncers” at fundraising events. Volunteers who carry out these roles are exempt from the requirements of the Act but voluntary organisations may wish to take independent advice on the legality of their security arrangements at functions. For further information consult <http://www.the-sia.org.uk/home>.

Personal Licence holders

Representatives of voluntary organisations may wish to give some consideration to making application for personal licences. Personal Licence holders applying for occasional licences will not be constrained by mandatory condition 5 which dictates that where a voluntary organisation is the holder of an occasional licence, alcohol can only be

sold where the event is connected with the voluntary organisation's activities. Further to that condition Personal Licence holders are not limited to the number of Occasional Licences they can apply for in a 12 month period.

Signage

You are required by legislation to display a Section 110 (The Licensing (Scotland) Act 2005) Notice in a position readily visible to any person seeking to buy alcohol. This notice is in a prescribed statutory format and is available on the Highland Council Website <http://www.highland.gov.uk/businessinformation/licensing/liquorlicensing/>

Police & Licensing Standards Officers

The Police and Licensing Standards Officers (LSO's) have the authority to attend and inspect a premises where an Occasional Licence is in force. This authority further extends to premises prior to the granting of an application for the purpose of the likely effect of the grant on the licensing objectives.

Any person who intentionally obstructs a person exercising the above powers of inspection commits an offence.

If you require further guidance or clarification please contact the Local Licensing Standards Officer for your area. Details of the relevant LSO can also be found on The Highland Council website.

Statutory Organisations such as Community Councils or Community Companies cannot themselves apply for occasional licences.

Highland Licensing Board
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