

THE HIGHLAND LICENSING BOARD

LICENSING POLICY STATEMENT 2023-28¹

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1. INTRODUCTION

1.1 Statutory background

The Licensing (Scotland) Act 2005 (“the Act”) makes provision for regulating the sale of alcohol and licensed premises.

Section 6 of the Act requires every Licensing Board to publish, before the end of the period of 18 months after an ordinary election of councillors for local government areas, a statement of their policy in respect of the exercise of their functions under the Act during the next licensing policy period. Boards may also publish supplementary statements of policy at any point during their current licensing policy period. This current policy statement will apply from 4 November 2023 to 3 November 2028.

In preparing their licensing policy statements, Boards must seek to promote the licensing objectives as set out in Section 4 of the Act. These licensing objectives are:

1. preventing crime and disorder
2. securing public safety
3. preventing public nuisance
4. protecting and improving public health
5. protecting children and young persons from harm

Section 7 of the Act requires Boards also to include in their policy statements a statement as to the extent to which they consider there to be overprovision of (a) licensed premises or (b) licensed premises of a particular description in any locality within their areas. They may determine that the whole of the Board’s area is a “locality” for this purpose.

Scottish Government has also issued Guidance for Licensing Boards as to the exercise of their functions under the Act and this guidance has been taken into account by the Board in the preparation of this policy statement.

1.2 The Board’s area

The Board has responsibility for liquor licensing functions under the Act across the whole of The Highland Council area. This extends to 26,484 square kilometers – one third of the land area of Scotland.

As at mid-2021, the population living in the Board’s area is currently estimated at around 238,060. This is the seventh highest population of the 32 Licensing Board areas in Scotland.

National Records for Scotland mid-2020 figures show population by Highland settlement area approximately as follows:

Settlement	Population	Settlement	Population
Inverness and Culloden	63,730	Kingussie	1,470
Fort William	10,260	Beauly	1,400
Nairn	10,190	Evanton	1,390
Thurso	7,390	Golspie	1,290
Wick	6,870	Dornoch	1,430
Alness	5,950	Brora	1,210
Dingwall	5,360	Ardersier	1,140
Invergordon	3,930	North Kessock	1,290
Tain	3,570	Drumnadrochit	1,130
Aviemore	3,230		
Muir of Ord	2,840	Newtonmore	1,120
Portree	2,310	Broadford	1,170
Grantown-On-Spey	2,510	Strathpeffer	1,040
Fortrose	1,680	Avoch	1,000
Rosemarkie	640		
Conon Bridge and Maryburgh	3,280	Halkirk	950
Ullapool	1,500	Seaboard Villages	1,000

The numbers of premises licensed to sell alcohol in the Board's area varies continually as existing premises close and new premises open. As at 2 November 2023 there were 280 premises licensed to sell alcohol for consumption on the premises only (on sales premises), 306 premises licensed to sell alcohol for consumption off the premises only (off sales premises), and 692 premises licensed to sell alcohol for consumption both on and off the premises (on and off sales premises).

1.3 The Board's responsibilities

- Main functions

The Board is responsible for various functions under the Act, including the grant of

- Premises licences
- Personal licences
- Occasional licences
- Provisional licences
- Temporary licences
- Extensions to licensed hours
- Transfers of premises licences
- Variations to premises licences, and

A public register of licence applications pending and licences granted is available at https://www.highland.gov.uk/info/1125/licences_permits_and_permissions/733/register_of_licences

The Board also has responsibility for conducting reviews of premises licence where a valid ground of review (such as a breach of licence conditions or any other ground relevant to a licensing objective) has been alleged. The Act confers powers on the Board to impose sanctions where, following a review hearing, it is satisfied that the ground is established.

The Board may also impose sanctions in respect of personal licences where the licence holder has been convicted of a relevant or foreign offence or where, either in the course of reviewing a premises licence or following receipt of a report from the Chief Constable or the Licensing Standards Officer, the Board finds that a personal licence holder has acted in a manner inconsistent with the licensing objectives. The Board is also responsible for giving notice to personal licence holders in advance of the five-yearly deadline for undertaking refresher training and in advance of the ten-yearly licence deadline for renewing the personal licence.

- Reporting functions

In 2017, a requirement that Boards publish annual financial reports setting out their income and expenditure in the previous financial year came into effect. The Board published its first financial report in June 2017 and must continue to publish further annual reports within 3 months of the end of each financial year.

An additional requirement for Boards to publish annual functions reports setting out how they have exercised their functions in the previous financial year also came into effect in 2018. The Board published its first functions report in June 2018 and must publish further annual reports within 3 months of the end of each financial year.

The Board's annual financial and annual functions reports are available at:

https://www.highland.gov.uk/info/1126/licences_-_alcohol/729/licensing_meetings_and_policies/4

- Delegation of decision-making

Authority to exercise functions in respect of the grant of certain licences or the making of licence review proposals has, in some circumstances, been delegated to the Clerk to the Board or to the Convener or Vice Convener or, in the absence of the Convener and Vice Convener, to individual members of the Board. The Board's Scheme of Delegation setting out the circumstances in which functions are delegated is appended to this policy statement. **(Appendix 1 – Scheme of Delegation)**

- Other responsibilities

The Board also has responsibility for certain licensing functions under the Gambling Act 2005. The Board's statement of policy in respect of the exercise of its functions under that Act is contained in a separate document available at

https://www.highland.gov.uk/directory_record/738752/gambling/category/496/gambling

1.4 Aim and status of this policy statement

The aim of this policy statement is to promote consistency of decision-making and to give advance notice to applicants of the Board's likely approach to determining applications. Although there is a presumption that the Board will follow the terms of this policy statement in determining individual applications, it is open to applicants to seek the grant of applications which are contrary to the Board's policy statement. In such cases, applicants will have to demonstrate to the Board good reason why the Board's policy statement should not be followed. In particular, they will require to satisfy the Board that the decision sought will not conflict with any of the licensing objectives.

1.5 Supplementary policy statements

This policy statement indicates general policy on a variety of issues but cannot cover every eventuality. Where issues arise which are not fully covered by this statement, or where amendments to the Act or associated secondary legislation so require, the Board may issue further guidance and, subject to further consultation, may publish supplementary licensing policy statements under section 6 of the Act during the lifespan of this policy statement.

1.6 Other regulatory regimes

The Board aims to avoid duplication with other regulatory regimes and agencies. In particular, the Board may not impose conditions on licences which relate to matters (such as planning, buildings standards or food hygiene) which are regulated under other statutory powers.

1.7 “Pub Watch” and “Best Bar None” schemes

The Board recognises and supports the effective partnership working that exists in many Highland “Pub Watch” schemes which actively supports the licensing objectives in providing safe drinking environments for customers and contributing in a meaningful way to the overall community safety in local areas. The Board would welcome and support the introduction of Pub Watch schemes in all sizeable towns and conurbations throughout Highland in support of the five licensing objectives, all of which promote community safety, wellbeing, public protection and crime reduction. The Board also recognises and supports the “Best Bar None” scheme which is supported by Police Scotland and promoted by the Highland Licensing Forum.

1.8 Equalities

- **The Board**

The Board aims at all times to act in accordance with the public sector duties under equality legislation. The Highland Council, Highland Education Authority and Highland Licensing Board operate a joint Equality Outcome report. The first set of equality outcomes were published in 2013 and these are reviewed every four years. A revised set of equality outcomes has been agreed for the period 2021-2025 and can be accessed at:

https://www.highland.gov.uk/info/751/equality_diversity_and_citizenship/313/equal_opportunities

- **The licensed trade**

The Board also expects licence holders to address equalities issues in all aspects of the operation of their premises.

In this regard, it should be noted that since 1 April 2018 applicants for new premises licences have been required by law to include with their licence application a disabled access and facilities statement in a prescribed form. An application cannot be considered by the Board unless accompanied by a completed statement. Guidance on completion of these statements is available at:

https://www.highland.gov.uk/downloads/file/18965/guidance_for_completing_a_disabled_access_and_facilities_statement

1.9 Publication scheme

The Freedom of Information (Scotland) 2002 provides for a duty to be placed on public authorities (of which the Board is one) to publish information on the basic structure of the authority and how it is administered, details of the type of information available to the public and how it can be extracted. The Board’s publication scheme, setting out this information, can be accessed at

https://www.highland.gov.uk/info/1126/licences_-_alcohol/729/licensing_meetings_and_policies/4

2. POLICIES

2.1 Premises licence core hours

The following core hours will generally be the maximum hours permitted by the Board. **Applicants seeking earlier opening hours or later terminal hours, or seeking to open for a continuous period which exceeds 14 hours, will be required to satisfy the Board that these hours are justified (see section 2.2 below) and that they will not conflict with any of the licensing objectives.**

- Off sales

Monday to Sunday: 1000 hours to 2200 hours

- General on sales premises

These are premises such as public houses, hotel bars and members' clubs which offer no significant entertainment facilities and where the consumption of alcohol is the principal activity.

Monday to Sunday: 1100 hours to 0100 hours the following day

- Food-led operations

These are premises at which the sale of alcohol is ancillary to the provision of food and is generally only sold to persons taking table meals. Early opening, from no earlier than **0900 hours**, may be permitted subject to any sale of alcohol before 1100 hours being restricted to sale of alcohol as an accompaniment to food.

Where such early opening is sought, the closing time sought should be such as to restrict the continuous period during which alcohol may be sold to no more than 14 hours, unless a justification for a longer continuous period of sale can be established to the Board's satisfaction.

- Late opening premises

These are premises, or parts of premises, which the Board is satisfied offer, from a certain point on certain evenings, significant entertainment facilities and where the provision of alcohol for consumption on the premises is ancillary to the significant entertainment provided. Nightclubs and discotheques may fall within this category. They may also include "hybrid" premises which operate as a general on sales premises during the day but then offer significant entertainment from a certain point in the evening (and in all cases from no later than 2200 hours).

For the avoidance of doubt, applicants are advised that outwith the festive period (see section 2.3 below) the Board will not permit the sale of alcohol in late opening premises for a continuous period in excess of 14 hours except where the Board is satisfied that

significant entertainment beyond 0100 hours will be provided. Where the Board is so satisfied, late opening may be permitted as follows:

Sunday, Monday, Tuesday and Wednesday:	1100 hours to 0100 hours the following day
Thursday, Friday and Saturday:	1100 hours to 0300 hours the following day

On all nights for which the Board grants late opening (i.e. for a continuous period beginning on one day and ending after 0100 hours the following day) the Board will impose a condition requiring that the significant entertainment must be provided continuously from no later than 2200 hours until such time as alcohol ceases to be sold the following day. The sale of alcohol after 0100 hours on those nights will not be permitted unless the significant entertainment is being provided. Accordingly, where a premises does not provide significant entertainment on the nights for which late opening has been granted, it may operate only until 0100 hours on those nights. Other late opening conditions (see section 3 below) will also apply.

The Board will interpret the phrase “significant entertainment” strictly and will only grant late opening premises hours if the entertainment offered is adequately specified in the operating plan submitted with the application. The Board will require applicants to demonstrate that the entertainment proposed will not be merely ancillary to the consumption of alcohol. In particular, applicants must satisfy the Board that significant facilities within the premises will be dedicated to the provision of the entertainment. Examples would include provision of a significant dance floor area and/or a dedicated stage or performance area. Applicants should also provide evidence that forthcoming entertainment will be pre-advertised.

Where these tests are met, the Board considers that entertainment such as live music, ceilidhs, dances, discos, dinner dances and parties where a disco or band is provided may amount to significant entertainment. Activities such as pool or darts competitions, karaoke evenings, quiz nights or televised sporting events will not be accepted as significant entertainment.

Where significant entertainment is to be provided on only part of the premises, this must be clearly identified in the operating plan submitted with the application. Late opening (i.e. for a continuous period beginning on one day and ending after 0100 hours the following day) will be permitted only for the part of the premises in which the significant entertainment is to be provided.

- Distilleries and alcohol producers

Where the Board is satisfied that a distillery, or other premises where alcohol is produced, is a visitor attraction, the Board may permit on-sales at the premises **from 0900 hours** on any day, provided that such a sale is made only during a formal or tutored tasting session and only to customers taking part in such a tasting session. A condition to this effect may be imposed.

- Specialist off-sales providers

The Board recognises that retail premises which are exclusively or mainly stocked with specialist alcoholic products for sale for consumption off the premises may wish to offer tutored tasting and sampling of products on the premises for an appropriate charge.

Where the Board is satisfied that such premises offer off-sales of specialist alcoholic products, the Board may permit on-sales **from 1000 hours** on any day provided that such a sale is made only during a formal or tutored tasting session and only to customers taking part in such a tasting session. A condition to this effect may be imposed.

Licence holders are, however, encouraged not to offer free samples of alcoholic products prior to 1000 hours, whether or not as part of a formal tasting or sampling session.

Licence holders should also note that weights and measures regulations relating to the sale of certain spirits and other alcoholic products may apply. Guidance on this should be sought from The Highland Council Trading Standards service.

2.2 Extended hours applications for licensed premises

Where the Board is satisfied that it is appropriate to do so in connection with a special event or occasion to be catered for on the premises or a special event of local or national significance, the Board may extend the licensed hours in respect of the premises by such period as is specified in the application or by such other period as the Board considers appropriate.

The applicant will require first to satisfy the Board that the proposed event is either (a) a special event or occasion to be catered for on the premises, or (b) a special event of local or national significance, and that the grant of extended hours will not conflict with any of the licensing objectives.

- **Special events or occasions to be catered for on the premises**

These will typically be events or occasions such as wedding receptions, birthday parties, live performances, etc. within the premises, and the Board will generally grant applications for extended hours for events or occasions of this nature unless there is good reason to refuse the application. (For the Board's policy in respect of extended hours for screenings of televised sporting or other events, see the further policy on "Football matches and televised sporting or other events" below).

- **Special events of local or national significance**

Over the festive period, applications for extended hours coinciding with the festive period hours stated below will generally be granted unless, in any particular case, the Board consider that there is good reason to refuse the application. See section 2.3 for fuller details of the Board's policy on extended hours during the festive period.

In addition to the festive period, the Board has also identified the following as special events of local or national significance for which it will generally grant applications for extended hours unless, in any particular case, the Board considers that there is good reason to refuse the application.

- Halloween (31 October or the Friday or Saturday night immediately before or after 31 October)
- Burns Night (25 January or the Friday or Saturday night immediately before or after 25 January)
- St Andrew's Night (30 November or the Friday or Saturday night immediately before or after 30 November)
- The National Mod (generally eight nights, Friday to Friday)
- Local Highland Games
- Loch Broom Skiff Regatta (Friday and Saturday nights only)
- Scottish Six Day Trials, Lochaber (Friday and Saturday nights only)
- UCI Mountain Bike World Cup, Lochaber (Friday, Saturday and Sunday nights only)
- Royal weddings, for which extended hours to allow on sales of alcohol may be permitted on the day of the wedding before 1100 hours, but only as an accompaniment to food (eg "wedding breakfasts").

Extended hours for other special events of local or national significance, including major sporting events taking place in the Highland area, may also be granted by the Board where it is considered that the grant will not conflict with any of the licensing objectives.

For special events of local significance only, the Board will generally permit extended hours only at premises situated within the locality of the event. This will usually be the town or village in which the event takes place.

However, for certain large events such as the National Mod, the Board may consider granting extended hours at premises in surrounding towns or villages where accommodation for attendees is being provided.

- Football matches and televised sporting or other events

The Board will generally not entertain applications for early opening (i.e. before 1100 hours) for football matches earlier than 1000 hours. Exception may be made in the case of applications for football club premises themselves where early opening is sought to accommodate pre-match hospitality packages (comprising dining and entertainment) and the Board is satisfied that the consumption of alcohol will be ancillary to the pre-match dining and entertainment provided.

Applications for extended hours for screenings of televised sporting or other events will only be accepted by the Board as being "special" events to be catered on the premises, or events of "local or national significance", where the Board considers the event being televised to be of significant local, national or international interest. In particular, screenings of sporting events taking place in other countries will not generally be accepted as being "special" events or events of "local or national significance" unless there is some established local link to the event.

- Application requirements

Subject to section 2.3 below, extended hours for any special event or occasion will only be permitted where an application under section 68 of the Act has first been lodged with

and granted by the Board in consultation with Police Scotland and the Licensing Standards Officer.

Exception to this will be made only in the case of extended hours over the festive period and only in the case of premises which have, within the “Seasonal Variations” section of their operating plan, a statement that they will open for such extended hours as the Board may agree each festive period.

In all other cases, an application under section 68 will be required. Any existing “Seasonal Variation” statement which purports to authorise extended opening hours for any special event other than the festive period will not be treated as licence to open for such extended hours.

- Hours

If granting extended hours either for special events or occasions to be catered for on the premises or for special events of local or national significance, the Board will generally permit extension to the following terminal hours unless, in any particular case, the Board considers that there is good reason not to do so.

- **Late opening premises (as defined in section 2.1)** **0400 hours**
- **Other on-sales premises** **0200 hours**

Where the Board is satisfied that early opening (i.e. before 1100 hours Monday to Sunday) is justified for a particular special event, competition or occasion, and where also satisfied that early opening will not conflict with any of the licensing objectives, the Board may grant extended hours to allow such early opening. Additional conditions (for example, a condition requiring the provision of food or a condition requiring additional stewarding) may be applied to any early opening granted where the Board consider such conditions necessary and expedient in the circumstances of the special event and having regard to the location of the premises.

Extended hours which would result in alcohol being sold for a continuous period which exceeds 14 hours will generally not be granted unless the Board is satisfied that these hours are justified and will not conflict with any of the licensing objectives.

The Board also reminds applicants that the Act does not allow for a period of licensed hours which has been extended by application under section 68 to be further extended by further application under that section.

- Conditions

On granting an extended hours application, in respect of the period of extended hours the Board may vary the conditions to which the premises licence is subject if it considers it necessary or expedient for the purposes of any of the licensing objectives. In particular, where hours are extended beyond 0100 hours, the Board may add, as local conditions, such equivalent conditions to the late opening mandatory conditions as the Board considers appropriate.

2.3 Festive period hours²

The Clerk to the Board, in consultation with the Convener of the Board, will fix annually the specific dates between which the festive period extended hours will generally be granted.

These dates will normally cover a period of approximately three weeks over the festive period. The Board will aim each year to notify the dates for the next festive period to premises and to Police Scotland prior to the end of August.

Late opening premises:

These are premises currently licensed for on sales on Sunday, Monday, Tuesday and Wednesday up to 0100 hours the following morning and on Thursday, Friday and Saturday up to 0300 hours the following morning (if significant entertainment is being provided from no later than 2200 hours). These include “hybrid” premises which operate as a general on sales premises during the day but then offer significant entertainment from a certain point on Thursdays, Fridays and/or Saturdays when they open beyond 0100 hours.

These premises will generally be granted the following extended hours on the following days within the festive period dates identified annually by the Board, unless the Board considers that there are material reasons to refuse to grant these hours:

on Thursdays, Fridays and Saturdays, and on Christmas Eve, Christmas Day, Boxing Day, Hogmanay and New Year’s Day (irrespective of which days of the week these fall on) –

- sale of alcohol for consumption on the premises may be permitted up to 0400 hours the following morning if significant entertainment (as defined at section 2.1) is being provided in the premises continuously from no later than 2200 hours on these days, and
- if no significant entertainment (as defined in section 2.1) is being provided in the premises continuously from no later than 2200 hours on these days, sale of alcohol for consumption on the premises may be permitted up to 0200 hours the following morning.

For the avoidance of doubt, the late opening mandatory conditions (see details of these at Appendix 6) which are imposed on late opening premises licences (including “hybrid” premises) will apply to these premises during the festive period, whether they are open to 0400 hours or open to 0200 hours as set out above.

Other on sales premises:

These are premises currently licensed for on sales on Monday to Sunday to 0100 hours the following morning.

These premises will generally be granted the following extended hours on the following days within the festive period identified by the Board, unless the Board considers that there are material reasons to refuse to grant these hours:

- **on Thursdays, Fridays and Saturdays, and on Christmas Eve, Christmas Day, Boxing Day, Hogmanay and New Year's Day** (irrespective of which days of the week these fall on)

- sale of alcohol for consumption on the premises may be permitted up to 0200 hours the following morning.

All on sales premises:

On Sundays, Mondays, Tuesdays and Wednesdays falling within the festive period dates identified annually by the Board, and unless Christmas Eve, Christmas Day, Boxing Day, Hogmanay or New Year's Day fall on any of these days of the week, extended hours sought by reason only of it being the festive season will not generally be granted. Applicants seeking extended hours on any of those days of the week will require to show that the additional hours are required for some other special event or occasion to be catered for on the premises, or for a special event of local or national significance other than just the fact that it is the festive season.

Additional conditions, such as conditions equivalent to the late opening mandatory conditions (set out at Appendix 6), may be imposed by the Board when granting applications to extend hours beyond 0100 hours (at premises to which the mandatory late opening conditions set out in The Licensing Conditions (Late Opening Premises) (Scotland) Regulations 2007 SSI 2007/336 have not already been imposed by the Board) if the Board considers this necessary or expedient for the purposes of any of the licensing objectives.

Equivalent conditions may also be imposed by the Board on premises which are not normally open after 0100 hours but which seek to include, via their operating plans, an entitlement to benefit from such "seasonal variations" as are generally permitted under the Board's Policy Statement and which may therefore be intending to open until later than 0100 hours on the days generally permitted under this supplementary policy statement,

Licence holders who do not have, within the "seasonal variations" section of their policy statement, a statement to the effect that they will open for the festive extended hours on the dates supported by the Board's festive period policy, will continue to require to lodge applications under section 68 of the Licensing (Scotland) Act 2005 requesting these extended hours, but these applications should be restricted to the particular days identified in this supplementary policy statement.

Licence holders who do have such a "seasonal variation" statement in their operating plan will still require only to give notice of their intention to open during the festive period dates for the hours agreed annually by the Board, but the days on which they may open for these hours will be restricted to those identified in this supplementary policy statement.

Given the large number of extended hours applications received each year for the festive period, and the timescales for the Board's statutory consultations on these applications, licence holders should lodge their applications for festive period extended hours by no later than 1 December each year.

- Over the festive period, the Board's policy on festive extended hours will be treated also as the policy on hours for occasional license applications in respect of

unlicensed premises, but only in accordance with the days identified within this supplementary policy statement.

2.4 Occasional licences

- Who may apply?

The Board may grant occasional licences for premises (where no premises licence is in effect) where application is made by:

- A premises licence holder
- A personal licence holder
- A representative of a voluntary organisation

- Application requirements

The Board encourages applicants to lodge applications for occasional licences **at least 28 days before the event** for which the licence is required.

The Board is required to give notice of the application, along with a copy of it, to Police Scotland and the Licensing Standards Officer. The Licensing Standards Officer has a 21 day period to lodge a report setting out their comments. The Board must also publish details of the application on the Board's website for a continuous period of 7 days to coincide with the notification to Police Scotland and the Licensing Standards Officer.

Please note that if an application is submitted 28 days or less before the date the licence is required for the Licensing Board is likely to reject the application.

While the Board has power to grant an occasional licence with less than 21 days' notice if satisfied that the application requires to be dealt with quickly, the Board is likely to exercise this power only for unforeseen events such as funerals. In these circumstances, the Board would expect the applicant to explain the circumstances and each application would be considered on its own merits.

- Duration

An occasional licence may not exceed a period of 14 days.

- Number of occasional licences

The Act restricts the number of occasional licences can be granted to a voluntary organisation in a 12 month period. The restriction is no more than 4 licences for a period of 4 days or more and no more than 12 licences for a period of less than 4 days are permitted.

There is currently no restriction on the number of occasional licence applications which may be lodged by a premises licence holder or a personal licence holder. However, the Board would remind applicants that the occasional licence process should not be used as a means to circumvent the full premises licence process.

- Repeated or consecutive occasional licences

If a premises has been running under consecutive applications for occasional licences regularly **over a period of 3 months**, the Board would expect such premises to be applying for a premises licence.

The degree of scrutiny required for an application for a premises licence is not possible where a premises operates under consecutive occasional licences.

Discretion, however, would be shown in the following circumstances:

- Provisional premises licence holders where confirmation has been delayed for reasons outwith their control
- An applicant who has a premises licence application pending for the unlicensed premises being applied for
- Community halls where different organisations use the same premises

- Premises with a provisional licence – additional requirements

The Board recognises that holders of provisional premises licences are legally entitled to apply for occasional licences for the premises to which the provisional licence applies. In recent years, this mechanism has been used increasingly by provisional licence holders as a means of enabling them to open their premises for the sale of alcohol before they are ready to apply for confirmation of the provisional licence.

The Board is concerned that in circumstances where the provisional licence holder is not yet in a position to apply for confirmation, this may strongly indicate that the condition of the premises themselves is such that they are not yet suitable for use for the sale of alcohol. This in turn may raise issues of public safety for patrons frequenting the premises to consume alcohol or buy alcohol to take away.

Consequently, and in order to verify that there is no risk to public safety as a result of the condition of the premises, the Board will require any holder of a provisional licence who applies for an occasional licence for the premises to which the provisional licence applies to submit, with their application for the occasional licence, either a building standards certificate containing the information prescribed in section 50(6) of the Act, or a permission for the temporary occupation or use of the premises granted under section 21(3) of the Building (Scotland) Act 2003.

It is recognised that in all cases where an occasional licence is sought the Board must satisfy itself, amongst other things, that the condition of the premises is such that they are suitable for the sale of alcohol and that there is no risk to public safety. The Board would normally rely on Police Scotland and the Licensing Standards Officer to verify this when they are consulted on the application.

However, for the reasons given above, it is considered appropriate and reasonable that this additional form of verification (submission of a building standards certificate or a permission for temporary occupation or use) is provided by applicants in the case of premises with a provisional licence but not yet ready for confirmation of the provisional licence.

- Hours

The Board's policy is that occasional licences for on sales or off sales should normally be subject to the same opening/closing times as set out in the Board's core policy hours. These are:

On sales - Monday to Sunday: 1100 hours to 0100 hours the following day

Off sales – Monday to Sunday: 1000 hours to 2200 hours

Over the festive period, however, the policy hours for on-sales premises (other than Late Opening Premises) set out in the Board's festive period hours policy will be treated also as the policy hours for occasional licences on the dates identified each year by the Board. See section 2.3 above for further details.

Outwith the dates identified each year by the Board as the dates between which the festive period hours policy will apply, the Board will grant occasional licences for hours beyond its core policy hours only on cause shown in the case of exceptional special events and only where the applicant satisfies the Board that this will not conflict with any of the licensing objectives.

- Conditions

See section 3 below for details of the mandatory and local conditions which the Board will apply to occasional licences.

Attention is also drawn to the new local condition introduced by this policy statement and which may be applied to occasional licences granted to holders of premises or personal licences. In addition to the existing local condition (see Appendix 8), which requires that all staff employed or engaged to sell or serve alcohol will require to have completed the licensing training prescribed in the Licensing (Training of Staff) Scotland Regulations 2007, the Board may, in the case of outdoor events, also impose a further local condition requiring that a copy of the member of staff's training record be kept on site for the duration of the occasional licence. This is intended to support all of the licensing objectives and to assist Police Scotland and the Licensing Standards Officers when carrying out licensing checks at outdoor events.

See also section 2.9 below for details of the circumstances in which the Board is likely to impose a condition on an occasional licence requiring that alcohol may only be served in cans or in plastic or polycarbonate containers. This condition is likely to be imposed at all large-scale public events in the interest of public safety.

- Voluntary organisations and best practice

In assessing whether an organisation is a voluntary organisation, the Board will have regard to the tests recommended by the Scottish Council for Voluntary Organisations.

Information on these tests is available on the Board's website and is attached at **Appendix 2**.

Voluntary organisations are reminded that the occasional licence limit provided in the Act restricts the number of occasional licences they may be granted in any 12 month period. No more than 4 licences for a period of 4 days or more and no more than 12 licences for a period of less than 4 days are permitted.

In addition, the total number of days for which occasional licences may be granted must not exceed 56 in any 12-month period. They are further reminded of the mandatory condition which applies to occasional licences granted to voluntary organisations which permits alcohol to be sold on the premises to which an occasional licence relates only at an event taking place on the premises in connection with the voluntary organisation's activities.

In addition to imposing mandatory and local conditions, the Board encourages voluntary organisations to ensure that the group of members or volunteers who will run the bar on behalf of the organisation at the event to which the occasional licence relates is trained at least to a standard prescribed in the Licensing (Training of Staff) (Scotland) Regulations 2007. This is a minimum of two hours training, covering the following matters:

1. The legal basis of the requirement for the training of staff under paragraph 6 of schedule 3 to the Act.
2. The licensing objectives.
3. The definition of "alcohol" in the Act.
4. What constitutes an unlicensed sale.
5. The functions of Licensing Standards Officers, including their powers of entry.
6. The nature of an operating plan and its place in the licensing system.
7. The different types of premises licence conditions under section 27 of the Act.
8. Special provision for clubs under section 125 of the Act.
9. Licensed hours under Part 5 of the Act.
10. Offences under the Act, particularly those involving persons under the age of 18.
11. Proof of age under sections 102 and 108 of the Act and the Sale of Alcohol to Children and Young Persons (Scotland) Regulations 2007.
12. Test purchasing of alcohol under section 105(2) of the Act.
13. Best practice as regards standards of service and refusing service.
14. Units of alcohol and the relationship between units and the strength of different alcoholic drinks.
15. The sensible drinking limits for males and females recommended by the British Medical Association.
16. Good practice in managing conflict situations.

This training must be provided by the holder of a personal licence or a qualification accredited for the purpose of the 2007 Regulations by the Scottish Qualifications Authority. Further information on training providers can be accessed at <http://www.sqa.org.uk/sqa/66469.html>.

The Board also recognises that many voluntary organisations use occasional licences to generate funds from events. This is often on a recurring basis. The Board would encourage voluntary organisations in this position, and who regularly use most or all of their quota of occasional licences, to consider designating one or more of their members to undertake personal licence holder training and obtain a personal licence.

Please note it is at the Licensing Standard Officer's discretion to insist that a personal licence holder is available at the proposed event at all times. This will largely depend on the nature of the event and the number of people attending.

As a personal licence holder, this member of the voluntary organisation would then be entitled to apply for an unlimited number of occasional licences for events the voluntary organisation wishes to hold. The personal licence holder would also be able, in turn, to train the other members and volunteers who will regularly run the bar at such events.

Such best practice should ensure that regular bars run by voluntary organisations are run in accordance with the licensing objectives and to a standard on a par with standards applicable in the licensed trade.

2.5 Access to premises by children and young persons

The Board may impose the following requirements in relation to access to licensed premises by children and young persons where considered appropriate.

General requirements

- Children under the age of 16 must be excluded from any room where there is a bar counter after 2200 hours except during private functions or for the purpose of viewing live entertainment or where the child is in the room for the purpose of taking a meal. This will not apply to any child who is in the bar solely for the purpose of passing to or from some other part of the premises being a part to or from which there is no other convenient means of access or egress. Nor will it apply to children who are resident in the premises.
- Secondly, and subject to possible exception in the case of family and youth friendly restaurants (see below), the Board will require that whilst in any room with a bar counter all children must be in the company of, or supervised by, an appropriate responsible adult. This will not apply to children of the licence holder or children who are resident in the premises.
- Lastly, the Board will stipulate that children must not sit or remain at the bar counter at any time.

Requirements at family and youth-friendly restaurants

The Board recognises the growing trend in family and youth-friendly restaurants, many of which are a safe environment for children of secondary school age to enter, unaccompanied by an adult, to purchase food and soft drinks without conflicting with the licensing objective of protecting children and young persons from harm.

- At appropriate premises, the Board may therefore consider permitting children aged 12 or over to access the premises unaccompanied by an adult. However, the Board will permit this only at food-led premises which either (a) have no bar counter (so that customers are served by table service only), or (b) have arrangements in place to ensure that unaccompanied children aged 12 or over, having placed their order for food and soft drinks at a designated area of the bar counter, are then seated in a designated

area distanced away from, and preferably separated from, the bar counter or from any “vertical” drinking area where customers stand while consuming alcohol.

Mandatory requirements

Separately, the Board reminds licence holders that it is a mandatory condition that premises admitting children under five have baby changing facilities accessible to both genders.

The Board further reminds licence holders of the requirement to have an age verification policy in place setting out the steps which are to be taken to establish the age of a person attempting to buy alcohol if it appears to the person selling the alcohol that the customer may be under the age of 25 (or such older age as may be specified in the policy). A sample age verification policy can be accessed at

https://www.highland.gov.uk/downloads/file/3739/age_verification_policy_style

2.6 Adult entertainment

Where considered necessary and appropriate the Board will expect applicants who include adult entertainment as an activity in their operating plans also to include in their operating plans a statement that they will operate only in accordance with their operating code which shall include all of the provisions set out in the Adult Entertainment Local Conditions set out at Appendix 9 of this Policy Statement.

The Board may also impose these provisions directly as local conditions and may, in addition, include further local conditions requiring the licence holder to notify Police Scotland of all forthcoming adult entertainment events and requiring that a personal licence holder be present for the duration of any adult entertainment event.

Please note that as of 1 January 2023, licensed premises which provide adult entertainment on more than 3 occasions which fall wholly or partly within the period of 12 months may require to apply for a sexual entertainment venue licence. Further information on this can be found at:

https://www.highland.gov.uk/directory_record/1936629/sexual_entertainment_venue_sev_licence

2.7 Home deliveries

Premises which intend to provide home deliveries of alcohol are reminded that they must include home deliveries as a specific activity on their operating plan. The Board will also encourage submission of details of how the deliveries will operate. These details should include the hours of delivery, the steps which will be taken to verify the age of the person ordering, payment arrangements and arrangements to protect the safety of those delivering alcohol.

Premises licence holders should also ensure that any person engaged to make the home delivery (be they an employee of the licence holder or an independent courier) operates a “Challenge 25” policy at the point of delivery to verify the age of the person taking delivery and ensure that no delivery is made if there is no adult present to take the delivery.

Deliveries should not simply be left on doorsteps or in porches, garages, sheds or other outbuildings to which children or young persons might have access.

It is also the Board's expectation that any person engaged to make home deliveries of alcohol will have received training of at least 2 hours' duration from a personal licence holder or qualified trainer covering the matters specified in the Licensing (Training of Staff) (Scotland) Regulations 2007.

Licence holders are further reminded that where alcohol is being delivered from a vehicle (other than to a trader for the purposes of that person's trade), a day book requires to be kept on the premises from which the alcohol is despatched and a delivery book or invoice requires to be carried by the person delivering the alcohol. The quantity, description and price of the alcohol and the name and address of the person to whom it is to be delivered require to be entered in both the day book and the delivery book or invoice. A failure to adhere to these requirements is a criminal offence. Delivery other than as specified in the details entered in the day book and delivery book or invoice is also an offence.

The Board also reminds licence holders and premises managers that the Act prohibits the delivery of alcohol to any premises other than licensed premises between the hours of midnight and 0600 hours.

2.8 Clubs

The Board would encourage members' clubs to ensure via their constitutions that a limit is placed on the number of non-members who can be signed in by a club member and that this limit is observed.

The Board would emphasise that members' clubs exist primarily for the use of members only and their bona fide guests. The Board will ensure that appropriate action is taken in circumstances where members' clubs openly advertise, through any medium whatsoever, that the club facilities are freely available to non-members.

If members' clubs wish to allow general admission to non-members of the club without being invited, signed in and accompanied by a member of the club, they will require to lodge an application for a major variation of their licence. They will also be required to appoint a premises manager, to have the sale of alcohol authorised by a premises manager or personal licence holder and will no longer be able to benefit from the reduced annual fee for clubs.

Clubs are further reminded that where they agree to host functions (such as weddings, parties etc) at which non-members are to be supplied with alcohol on the club premises at a time when they are not the guest of a member and are accompanied by that member, alcohol may only be sold to those non-members if an occasional licence has first been obtained.

Clubs are asked to note that these statements reflect mandatory legal requirements (The Licensing (Clubs) (Scotland) Regulations 2007 and Section 125 of the Act) rather than Board policy.

2.9 Plastic/polycarbonate glasses

Where a premises licence review hearing takes place the Board may consider varying the licence to include a plastic/polycarbonate glasses condition, if satisfied that the ground for review is established and that it is necessary and appropriate for the purposes of any of the licensing objectives for such a condition to be imposed. The condition would require that, from such hour as the Board considers appropriate, drinks may only be served in plastic or polycarbonate glasses.

Where considering varying a licence to impose such a requirement, the Board will take advice from Police Scotland and the Licensing Standards Officer as to their assessment of any risk to public safety which may arise as a result of the continued serving of drinks in glassware at that premises from any particular hour.

In addition, certain occasional licences may be issued subject to a condition that alcohol may only be served in cans or in plastic or polycarbonate containers. This will particularly apply to large scale public events. The Highland area hosts many large-scale public events where alcohol provision is licensed by way of occasional licences. Events such as the Groove and Belladrum music festivals and large-scale Highland Games and agricultural shows attract many thousands of people and, in the interest of public safety, it is clearly impractical and unsafe for alcohol to be dispensed in glassware at such events.

2.10 Outdoor drinking

Depending on the location of the premises, the Board may impose a condition restricting the hours during which drinks may be consumed in any outdoor drinking area identified in the operating plan. The Board will assess the appropriate hours on a case by case basis, having regard to the nature of the locality and any other relevant factors.

A further condition may be applied to restrict or prohibit the playing of any live or recorded music in any outside drinking area.

The Board may also apply a condition requiring that the licence holder ensures that the consumption of drinks (alcoholic or otherwise) in any outside drinking area is permitted only by customers seated at the tables and chairs provided and not by customers standing in the outside area.

The Board may also require that all tables, chairs, parasols and other moveable furniture must be removed from any outdoor drinking area which is situated on a public footway within 15 minutes of the conclusion of the permitted hours applicable to that outdoor drinking area. In addition, tables used in any such outdoor drinking area must be regularly cleared of all used glassware and crockery.

Where a proposed outdoor drinking area is not on land for which a pavement permit would require to be obtained from the Council's Community Services before the area could be used as an outside drinking area, the Board may require that the boundary of any outdoor drinking area situated must be effectively demarcated to the satisfaction of the Licensing Standards Officer.

Licence holders are reminded that planning permission for change of use may be required for new outdoor drinking areas (in addition to variation of the premises licence). Roads

Authority consent (a “pavement permit”) may also be required under Section 59 of the Roads (Scotland) Act 1984 if the proposed outdoor drinking area is situated on a public footway. Additional conditions may apply to any planning permission and/or pavement permit granted. Guidance on The Highland Council’s technical requirements in relation to occupation of a pavement as “street café” can be accessed at

<http://www.highland.gov.uk/yourenvironment/roadsandtransport/roads/Applicationformsforroadoccupation.htm>

2.11 Capacity

The Act requires applicants to include, in their operating plan, information on the proposed capacity of the premises.

For premises in which alcohol is to be sold for consumption on the premises, applicants should state the maximum number of customers which can be accommodated in the premises at any one time. This will be verified by the Board by reference to Building Standards Regulations. Applicants should therefore consult with the Highland Council’s Building Standards Service if they are in doubt as to the capacity of their premises.

For premises in which alcohol is to be sold for consumption off the premises, applicants should state the amount of space on the premises given over to the display of alcohol for sale. The Board requires this figure to be expressed as the number of linear metres and the area (in square metres) of shelving given over to display.

For premises in which alcohol is to be sold for consumption both on and off the premises, details of both the maximum number of customers for on sales purposes and the amount of space (if any) given over to display of alcohol for off sales purposes must be detailed.

For on sales premises, applicants will also require to satisfy the Board that they will have sufficient measures in place to monitor the number of persons on the premises to ensure that the maximum capacity is not exceeded.

2.12 Personal licences

The Board has no specific policies in relation to personal licences.

Personal licence holders are reminded, however, that they are required by law to undertake prescribed training every five years and to provide the Board, within three months of the expiry of each five year period, with evidence that they have undertaken this training. The Board will issue notice of this requirement to each personal licence holder by no later than three months prior to expiry of the relevant five year period. Should a licence holder fail timeously to exhibit to the Board satisfactory evidence that they have undertaken prescribed training the Board is required by law to revoke the licence.

Personal licence holders are further reminded that they are also required by law to notify the Board if they are convicted of a relevant or foreign offence. Notice must be given by **no later than one month after the date of conviction**. Failure to do so, without reasonable excuse, is itself a criminal offence. Further information on what constitutes a relevant offence (for the purposes of the Act) can be found on the Board’s website and is attached at **Appendix 3**.

There is a further statutory requirement that personal licence holders notify the Board of any change in the licence holder's name or address. Again, notice must be given by **no later than one month after the date of the change** and failure to give such notice, without reasonable excuse, is a criminal offence.

2.13 Overprovision statement

The 2013 overprovision assessment

The Board first considered the question of whether there was overprovision of licensed premises in its area in 2013, prior to adopting an overprovision statement for inclusion in its policy statement, as required by section 7 of the Act.

At that time, the Board considered evidence and views in relation to overprovision submitted by the Public Health Directorate of NHS Highland, Police Scotland, the Highland Licensing Forum, the Highland Alcohol and Drugs Partnership, Inverness Highlands and Islands Licensed Trade Association, the Highland Violence Against Women Partnership, and the various community councils and members of the public who responded to the Board's 2013 overprovision consultation.

The evidence submitted, particularly that submitted by the NHS and Police Scotland, related to various aspects of alcohol-related harm by reference to the five licensing objectives. It demonstrated widespread alcohol-related health harm in Highland and indicated that alcohol was commonly involved in incidents of crime and disorder in the area.

The evidence also indicated that off sales account for over two thirds of the volume of pure alcohol purchased and that the majority of off sales purchases are made in larger-capacity off sales premises, particularly large multiple grocery stores. These are the premises which tend to offer the greatest availability, accessibility and affordability of alcohol in single locations. These are recognised to be key factors affecting patterns of alcohol consumption.

NHS Highland further advised that the most common location for drinking alcohol in the Highland area is in private homes, consuming alcohol bought in off-licensed premises.

This was to an extent corroborated by Police Scotland statistics for the Highland area which showed that a far higher number of alcohol-related incidents occurred in dwelling houses than in licensed premises.

Having had regard to all of the information submitted, to the views expressed by respondents to the consultation and to the number and capacity of off-sales premises in the then 22 Highland Council wards, the Board concluded in October 2013 that there was sufficient evidence to indicate a causal link between the number and capacity of off sales premises and alcohol-related harm throughout Highland, particularly in terms of harm to public health.

The evidence on which the Board reached that view can be accessed at <http://www.highland.gov.uk/yourcouncil/committees/highlandlicbrd/2013-08-27-hlc-min.htm>, and <http://www.highland.gov.uk/yourcouncil/committees/highlandlicbrd/2013-11-12-hlb-ag.htm>

- Smaller-capacity off sales premises (display area of 40 square metres or less)

The Board also considered details of the range and types of off sales premises in Highland and recognised that smaller-capacity off sales premises (generally with an alcohol display capacity not exceeding 40 square metres), such as local convenience stores, distillery shops and other tourist shops were necessary to sustain local communities, particularly in remote areas, and to sustain the tourist industry which is a vital source of income for many in Highland. These are positive community benefits which the Board considered outweighed any health harm through alcohol consumption to which smaller-capacity premises may contribute.

Having had regard to the capacities typical of the existing local convenience stores and tourist shops in Highland, the Board then went on to consider premises with off sales capacity of no more than 40 square metres to be smaller-capacity off sales premises providing positive community benefits which outweighed any contribution to health harm they may make. The Board accordingly made no finding of overprovision in respect of premises with off sales capacity of no more than 40 square metres in any locality in Highland.

Although this meant that applications for such premises would not be refused on grounds of overprovision under section 23(5)(e) or section 30(5)(d) of the Act, they still require to be considered on their merits and the Board has still to consider whether any of the other grounds of refusal set out in the Act applied.

- Larger-capacity off sales premises (display area exceeding 40 square metres)

The Board did, however, consider that, in the interest of protecting and improving public health, there was a need to restrict the grant of further larger-capacity off sales premises (being premises with alcohol display areas exceeding 40 square metres). This was not intended to restrict trade but was considered necessary and proportionate to mitigate the adverse health effects of increased alcohol consumption resulting from further growth in numbers of larger-capacity off sales premises.

Numbers of larger-capacity off sales premises varied between wards and still do. In some wards, there are several larger-capacity off sales premises yet there is evidence that alcohol-related health harm is below the Scottish average. In others, there are no, or few, larger-capacity off sales premises yet there is evidence of high levels of alcohol-related health harm in those wards.

However, from NHS Highland's advice and from the Board's own local knowledge, the Board was, and continues to be, aware that many people in Highland commonly travel between wards, and large distances, to purchase alcohol in larger-capacity outlets. This is particularly so given the geography of the area and the location of amenities. In any event, it is not reasonable to assume that the residents of particular wards are purchasing alcohol only in that ward. The mobility of consumers cannot be ignored.

The Board ultimately took the view that people throughout Highland had sufficient access to larger-capacity off sales premises and that it was the Board's area as a whole which should accordingly be considered to be overprovided with larger-capacity off-sales premises.

The Board was nevertheless aware that, at that time, there was a view that the "localities" for the purposes of assessment of overprovision which require to be determined by the Board under section 7 of the Act should each be areas smaller than the Board's entire area. The Board accordingly found there to be overprovision of larger-capacity off-sales in two localities within the Board's area. These were

- The northern locality (comprising The Highland Council wards 1 to 11)
- The southern locality (comprising The Highland Council wards 12 to 22)

The effect of this overprovision assessment was to create, in each of these two localities, a rebuttable presumption against the grant of an application for a premises licence, a provisional premises licence or a variation of a premises licence (in terms of the ground of refusal set out in section 23(5)(e) or section 30(5)(d) of the Act) where (a) the grant of the application would result in the premises having an off sales capacity in excess of 40 square metres, or (b) in the case of licensed premises with existing off sales capacity in excess of 40 square metres, the grant of any variation sought would result in an increase in that off sales capacity.

The 2018 overprovision assessment

On reassessment of numbers and capacities of licensed premises (on sales, off sales and on and off sales premises) in 2017-18, it was apparent that these had not changed significantly since the initial assessment in 2013. No new licences for premises with display capacities in excess of 40 square metres, or variations to licences which would result in a display capacity in excess of 40 square metres, had been granted since the Board adopted its first overprovision policy in October 2013. Details of numbers and capacities of on and off sales premises are available at

https://www.highland.gov.uk/downloads/file/19446/2018-23_ps_-_on-sales

https://www.highland.gov.uk/downloads/file/19445/2018-23_ps_-_off-sales_capacities

On the advice of, and statistics presented by, NHS Highland in May 2018, it was apparent, however, that the levels of alcohol-related health harm in the Board's area remain of serious concern. Details are available at

https://www.highland.gov.uk/downloads/file/19444/nhs_highland_overprovision_assessment_may_2018

Latest (2016) statistics for Scotland also showed a continuing downward trend in on sales and upward trend in off sales, with 73% of all alcohol sold in Scotland having been sold through off sales premises compared with 27% sold through on sales premises. Although sales data specific to the Board's area are not available, there is no reason to believe that the on sales and off sales trends observed for Scotland do not also reflect the Highland trend.

It also remains the case that the majority of off sales purchases are made in larger multiple grocery stores which tend to offer the greatest availability, accessibility and affordability of

alcohol in single locations. These remain key factors affecting patterns of alcohol consumption.

Following a full statutory and public consultation on a number of overprovision policy options, on 24 September 2018 the Board agreed that there remained overprovision of larger-capacity off sales premises (i.e. premises with an off sales display area exceeding 40 square metres) throughout the whole of the Board's area, which it determined was a "locality" for the purposes of section 7 of the Act. The Board accordingly agreed to retain its existing overprovision policy, the only amendment being to treat the whole Highland area as one locality, as now permitted under section 7 of the Act as amended.

The 2023 overprovision assessment

On reassessment of numbers and capacities of licensed premises (on sales, off sales and on and off sales premises) in 2023, it is apparent that these had not changed significantly since the initial assessment in 2013.

No new licences for premises with display capacities in excess of 40 square metres, or variations to licences which would result in a display capacity in excess of 40 square metres, had been granted since the Board adopted its first overprovision policy in October 2013.

Details of numbers and capacities of on and off sales premises are available at:

https://www.highland.gov.uk/downloads/file/19446/2018-23_ps_-_on-sales

https://www.highland.gov.uk/downloads/file/19445/2018-23_ps_-_off-sales_capacities

On the advice of, and statistics presented by, NHS Highland in May 2023, it is apparent, however, that the levels of alcohol-related health harm in the Board's area remain of serious concern. Details are available at:

https://www.highland.gov.uk/downloads/file/27136/nhs_submission_on_overprovision_2023

Latest (2021) statistics for Scotland also showed a continuing downward trend in on sales and upward trend in off sales, with 85% of all alcohol sold in Scotland having been sold through off sales premises compared with 15% sold through on sales premises. Although sales data specific to the Board's area are not available, there is no reason to believe that the on sales and off sales trends observed for Scotland do not also reflect the Highland trend.

It also seems to remain the case that the majority of off sales purchases are made in larger multiple grocery stores which tend to offer the greatest availability, accessibility and affordability of alcohol in single locations. These remain key factors affecting patterns of alcohol consumption.

Overprovision Policy

The effect of this overprovision assessment is to create, throughout the whole of the Highland Licensing Board's area, a rebuttable presumption against the grant of an application for a premises licence, a provisional premises licence or a variation of a premises licence (in terms of the ground of refusal set out in section 23(5)(e) or section 30(5)(d) of the Act) where (a) the grant of the application would result in the premises having an off sales capacity in excess of 30 square metres, or (b) in the case of licensed premises with existing off sales capacity in excess of 30 square metres, the grant of any variation sought would result in an increase in that off-sales capacity.

Each such application will still require to be determined on its merits and the Board accordingly reserves the right to grant such an application where it considers that the licensing objectives would not be undermined by the specific proposals set out in the application, or that those objectives would not be undermined if the applicant's operating plan were to be modified or the grant of the licence made subject to appropriate conditions, and that no ground of refusal other than overprovision would apply. However, it will be for the applicant to demonstrate to the Board, by providing robust and reliable evidence, that the grant of the application would not undermine the licensing objectives or that the benefits in granting the application outweigh the Board's overprovision policy.

It should be noted also that the aim of the Board's overprovision policy is to promote the licensing objective of protecting and improving public health. To that end, the policy aims to reduce the number of premises with larger-scale off sales display areas, and not simply to prevent their further proliferation in the Board's area. Consequently, in the event of an existing licence for a larger-capacity off sales premises ceasing to have effect, this will not necessarily mean that there is capacity for a new licence for a larger capacity off sales premises, either at or in the vicinity of the formerly licensed premises or elsewhere in the Board's area. The Board may continue to regard its whole area as overprovided notwithstanding that the number of larger-capacity off sales premises in any part of the Board's area has been reduced since the publication of this overprovision statement.

2.14 Premises licence annual fees

In terms of the Licensing (Scotland) Act 2005, Schedule 3, mandatory condition 10, an annual premises fee must be paid in accordance with the regulations. In terms of the Licensing (Fees) (Scotland) Regulations 2007, payment of the annual premises licence fee is due on 1 October each year.

An invoice in respect of the annual fee due on 1 October each year is issued to premises licence holders by the Licensing Board in accordance with the Regulations. Historically, two subsequent reminders have been issued by the Council's Finance/Licensing Team together with numerous telephone calls and follow up visits from Licensing Standards Officer's to chase late payments before review proposals are taken to the Highland Licensing Board.

This is a heavily bureaucratic approach. Consequently, from 2023, two reminder letters for late payments will be issued by the Council's Finance/Licensing Team before review proposals will be taken to the Highland Licensing Board.

Review proposals will be heard at the February meeting of the Highland Licensing Board following the 1 October deadline with review hearings then held at the following meeting in March.

3 LICENCE CONDITIONS AND OTHER RECOMMENDED CONTROL MEASURES

3.1 Mandatory conditions

In the interest of promoting the licensing objectives, the Act and associated secondary legislation stipulate certain mandatory conditions which the Board must impose on premises licences, occasional licences and licences for late opening premises, i.e. premises open for a continuous period beginning on one day and ending after 0100 hours on the following day. These mandatory conditions are appended to this Policy Statement.

- **Appendix 4 – Premises licence mandatory conditions**
- **Appendix 5 – Occasional licence mandatory conditions**
- **Appendix 6 – Late opening mandatory conditions**

3.2 Local conditions

The Board may also attach such further conditions as it considers necessary or expedient for the purposes of the licensing objectives. To that end, the Board has agreed core lists of further conditions known as “local conditions”, which largely reflect the Board’s policies as set out at section 2 above.

In determining which of the local conditions are to apply to a particular licence, the Board will have regard to the recommendations of the Licensing Standards Officers as to which of the local conditions are appropriate. The lists of local conditions (some or all of which the Board is likely to impose), and details of the particular licensing objectives to which they are considered relevant, are appended to this Statement.

- **Appendix 7 – Premises licence local conditions**
- **Appendix 8 – Occasional licence local conditions**
- **Appendix 9 – Adult entertainment conditions**

It should be noted that this 2018-2023 Policy Statement includes additional local conditions in Appendix 7 (Premises licence local conditions), not previously contained in the Board’s policy. These additional conditions relate to:

- In relation to grants of early on-sale hours at distilleries, alcohol producers and specialist off-sales premises:
 - a requirement that any such sales be made only during a formal or tutored tasting session and only to customers taking part in such tasting sessions.
- In relation to outdoor drinking areas:
 - a reduction in the time given for removal of furniture from public pavements from 30 minutes to 15 minutes after the end of the permitted hours for the outdoor drinking area,

- a requirement that the licence holder ensures that consumption of alcohol is permitted only by customers seated at the tables and chairs provided in the outdoor drinking area, and not by customers standing in that area,
- a restriction or prohibition on the playing of live or recorded music in the outdoor drinking area.

Additional local conditions have also been introduced in Appendices 7 (Premises licence local conditions), 8 (Occasional licenced local conditions) and 9 (Adult entertainment local conditions), requiring the licence holder to have in place a staff policy for the prevention of the misuse of drugs on the premises. This is already a mandatory requirement at late opening premises (see Appendix 6).

➤ **A specimen drugs policy is also now provided at Appendix 10.**

In addition, each of Appendices 7, 8, and 9 now include a local condition requiring the licence holder to have in place a staff “**duty of care policy**” aimed at reducing customer vulnerability through intoxication, however attained.

3.3 Special conditions

From time to time, Licensing Standards Officers may recommend that in the specific circumstances of a particular premises or licence, additional conditions are necessary and expedient for the purposes of the licensing objectives. The Board will have regard to any such recommendation in determining whether to apply such additional conditions.

These additional conditions are known as “special conditions” to distinguish them from the “local conditions” which are more routinely imposed. Examples of special conditions which the Board has previously imposed, and the circumstances in which they were considered necessary, are appended to this Statement.

➤ **Appendix 11 – Examples of special conditions**

3.4 Other recommended control measures

In seeking to promote each of the licensing objectives, the Board and the Licensing Standards Officers encourage licence holders to have in place other control measures which it may not be possible to impose as licence conditions but which are likely to assist in preventing crime and disorder, securing public safety, preventing public nuisance, protecting and improving public health and protecting children and young persons from harm. Advice and recommendations on appropriate measures can be sought by licence holders from the Licensing Standards Officers. The following are examples of such further control measures.

In the interest of preventing crime and disorder:

- Ongoing training of staff in addition to statutory requirements
- Installation of a CCTV system of a standard acceptable to the police, including at display areas and till points
- Suitable external lighting
- Employment of door stewards at times of peak demand (in addition to statutory requirements)
- Membership of Pub Watch or similar scheme
- Display of notices setting out management’s policy on illegal substances

- Participation in in-house responsible purchase schemes for under-age sales
- Locating off-sales displays where they can be monitored by staff
- Keeping an alcohol refusals/incidents log

In the interest of securing public safety, measures as listed above, together with:

- Carrying out risk assessments
- Regular testing of procedures and equipment
- Ensuring a personal licence holder and a sufficient number of staff are on the premises during times of peak demand or during special events or events of local or national significance
- First aid training for staff

In the interest of preventing public nuisance:

- Management of people entering and leaving the premises, including arrangements to prevent patrons taking glassware or bottles off the premises
- Installation of sound-proofing and sound limiting devices
- Locating smoking areas in suitable areas, providing ashtrays or litter bins and having measures in place to keep those areas tidy
- Control of operating hours for different parts of the premises
- Restricting use of outside drinking areas at night
- Ensuring litter left outside the premises is cleared regularly
- Supporting local schemes which encourage safe dispersal of patrons at closing time (e.g. taxi marshalling)

In the interest of protecting and improving public health:

- Making available information promoting moderate drinking, awareness of units of alcohol and recommended guidelines
- Displaying anti-drunk driving materials and promoting awareness of schemes such as designated driver schemes
- Having a policy to deal with patrons who have consumed excessive alcohol (where not already required by the local condition on staff duty of care).
- Ensuring staff awareness of offences such as sale of alcohol to a drunk person
- Maintaining toilet facilities in a high standard of cleanliness, including provision of hot water, soap and hand-drying facilities

In the interest of protecting children and young persons from harm:

- Having child protection policies in place, particularly where unaccompanied children or young persons may be present
- Monitoring and recording of Challenge 25 compliance
- Staff training in spotting counterfeit or forged identity documents
- Keeping plug caps on electrical sockets in areas to which children have access
- Ensuring open fires or electrical or gas fires in areas to which children have access have secure fire guards
- Locating play areas in suitable areas and prohibiting glassware or glass bottles being taken into those areas

APPENDIX 1 – SCHEME OF DELEGATION

THE HIGHLAND LICENSING BOARD SCHEME OF DELEGATION

APPROVED AT A MEETING ON 7 AUGUST 2012 (and as amended by the Board at a meeting on 27 August 2013 with additional delegation on 1 October 2013 and on 2 August 2017)

It was resolved that the Clerk be authorised to exercise on behalf of the Board the following functions:

1. *Premises licences*

- a) The granting of a minor variation, that is
 - i) any variation of the layout plan provided there is no inconsistency with the operating plan;
 - ii) any variation restricting the terms on which children or young persons are allowed entry;
 - iii) any variation of information relating to the premises manager (including the substitution of a new premises manager);
 - iv) any other variation as may be prescribed by the Government.
- b) The substitution of a new premises manager.
- c) The transfer of a premises licence where the applicant has not been convicted of a relevant or foreign offence.
- d) Confirming a provisional premises licence.
- e) Updating changes to name and address of premises licence holder or premises manager.
- f) A variation under s 54(6)
- g) Certification under s 55(a)
- h) Rejecting a premises licence review application in terms of s 36 after consultation with the Convener whom failing the Vice Convener.
- i) Granting a temporary premises licence in terms of s 47 after consultation with the Convener whom failing the Vice Convener, subject to such variation (if any) of the existing conditions to which the principal premises licence is subject as is considered appropriate.

- j) To make a premises licence review proposal under section 44(7) where the Board receives a notice from the Chief Constable under section 44(4)(b) confirming a conviction for a relevant or foreign offence and including a recommendation that the premises licence be varied, suspended or revoked and thereafter to fix a review hearing before the Board under section 83.
- k) Where the Board has received a notice from the Chief Constable under section 44(4)(b) confirming a conviction for a relevant or foreign offence but not including a recommendation that the premises licence be varied, suspended or revoked, (a) to make a premises licence review proposal under section 44(7A)(a) and to thereafter fix a review hearing before the Board, or (b) to decide to take no further action in relation to the conviction, but in either case only after consultation with the Convener, whom failing the Vice-Convener, whom failing any other member of the Board, and only with their agreement.

2. Occasional licences (see also 3. c) below)

- a) Granting for an event where the hours applied for are within policy and there is no notice of objection or representation, subject to such local conditions and/or special conditions as are considered appropriate.
- b) If the hours of the event applied for are outwith policy or there is a notice of objection or representation, then the application will be referred to Convener of the Board whom failing the Vice Convener whom failing any member of the Board, provided that in the period between the election of Highland Councillors and members of the Board producing evidence of compliance with the prescribed requirements as to training, there will be no requirement to refer the application as detailed in this sub-paragraph.

3. Extended hours

- a) Granting where the hours applied for are within policy and there is no notice of objection from the Chief Constable.
- b) If the hours applied for are outwith policy or there is a notice of objection from the Chief Constable, then the application will be referred to the Convener whom failing the Vice Convener whom failing any member of the Board, provided that in the period between the election of Highland Councillors and members of the Board producing evidence of compliance with the prescribed requirements as to training, there will be no requirement to refer the application as detailed in this sub-paragraph.
- c) Festive period hours: The Clerk to the Board, in consultation with the Convener, will fix annually the specific dates over the Christmas and New Year period between which the Board's adopted festive period hours may be permitted, both as extended hours at licensed premises and as hours permitted under occasional licences. *(These dates will normally cover a period of approximately three weeks over the festive period. The Board will aim each year to notify the dates for the next festive period to premises and to Police Scotland prior to end August.)*

4. Personal licences

- a) Granting a personal licence application or renewal where the applicant has not been convicted of a relevant or foreign offence.
- b) Updating changes in the licence holder's name and address.
- c) Issuing a replacement licence in terms of S.92.
- d) Where the Board has received a notice from the Chief Constable under section 83(4)(b) confirming a conviction and that it is a conviction for a relevant or foreign offence but not including a recommendation that the personal licence be revoked, suspended or endorsed, (a) to fix a hearing before the Board under section 83(7A)(a), or (b) to decide to take no further action in relation to the conviction, but in either case only after consultation with the Convener, whom failing the Vice-Convener, whom failing any other member of the Board, and only with their agreement.
- e) To fix a hearing where a Licensing Standards Officer submits a report to the Board under section 84B advising that the LSO considers that a personal licence holder who is or was working in licensed premises in the Board's area has acted in a manner which is inconsistent with any of the licensing objectives.

5. Competency of applications

- a) Prior to a hearing where there is the issue of the competency of any application the Clerk shall determine the matter.

In any case falling under the aforementioned delegated powers, where the Clerk considers it appropriate the Clerk may refer the decision to the Board.

In this scheme

"*Act*" means the Licensing (Scotland) Act 2005

"*Convener*" means the Convener appointed in terms of Schedule 1 Paragraph 6 of the Act.

"*Clerk*" means the person appointed under Schedule 1 Paragraph 8 of the Act or any member of staff provided under that paragraph and authorised by the Clerk to act on the Clerk's behalf.

"*Vice-Convener*" means any member appointed by the Board to that office.

APPENDIX 2 – SCVO DEFINITION OF VOLUNTARY ORGANISATIONS

The following text is extracted from guidance produced by the Scottish Council for Voluntary Organisations:

“Defining Voluntary Organisations

What is a voluntary organisation?

SCVO defines voluntary organisations as non-profit driven, non-statutory, autonomous and run by individuals who do not get paid for running the organisation. Some voluntary organisations are recognised by the Inland Revenue as charities.

There are no agreed hard and fast rules for distinguishing the boundary line between voluntary and other organisations. However, the following exclusions are based on the notion that the voluntary sector represents a unique value system. Even within the set of organisations that hold to this value system, there are particular exclusions made for pragmatic reasons.

Exclusions

There are two key tests that we have used to distinguish voluntary organisations from other organisations:

1. Does the organisation represent a for-profit driven rather than public benefit motivation?
2. Does the organisation aim to satisfy an exclusive and private objective (or conviction) rather than a shared benefit?

The first test excludes the following:

- Private sector organisations - A key feature of voluntary organisations is that they are ultimately directed by individuals who do not make their living from their involvement in running the organisation. This naturally excludes most private sector businesses.
- Financial institutions - such as large building societies and friendly societies (eg Standard Life). These organisations are mutuals, but their overriding aim is to generate profit, rather than address a social need.

The second test excludes the following:

- Political parties and groups campaigning on a method of governance rather than to address a particular social need. It can be argued that at the grand level of things, political groups set up to address social need in its widest sense and are thus voluntary associations. However, public opinion has long determined that political activity is not seen as a public, rather than private, objective, and as such political parties are conventionally considered distinct to the voluntary sector. Nevertheless, certain civic participation groups and pressure groups campaigning on a specific social need, on behalf of excluded groups are included.
- Note that there are a significant number of Scottish charities set up as quangos or quasi non-governmental organisations. These organisations are essentially controlled by the public sector and set up by statute. Consequently, they also cannot be regarded as voluntary sector.
- Academic sector, such as universities and colleges are also excluded. It is argued that these organisations are predominantly funded by the public sector (UK Almanac 2002 – see bibliography).
- Faith based organisations, such as churches which are charitable, have a primarily religious motivation. Some faith-based organisations also set up projects that are separately constituted to address specific social needs, and these are included as voluntary sector. However, religious activity in isolation is not regarded as voluntary sector as it is an exclusive and private objective, similar to political motivation.
- Organisations officially recognised as trade unions are excluded from our definition on pragmatic grounds. The main trade unions have their own voice as a sector and are often politically motivated. However, some smaller unions of individuals, such as professional associations or business support groups are included in this voluntary sector definition.
- Private independent schools – some private schools are financially exclusive. Even if they redirect all their profit back into the school, they are arguably not driven for public benefit. Those schools which are clearly not aimed at public benefit are excluded from our voluntary sector definition.

Other terms used to describe the sector

The 'social economy' is a term increasingly used in relation to the voluntary sector. The phrase social economy is used to describe the economic dimension of voluntary sector activity. But while it can lead to a policy focus on some specific parts of the sector, it is not limited to those organisations that most closely emulate private sector operations known as social enterprises.

The 'Third Sector' is another term used to refer to the voluntary sector. A perspective based on work carried out by the CBS Network (2002) defines the Third Sector as all constituted organisations, plus the family economy, as set apart from the statutory and private sectors, and as such voluntary organisations are predominant within it.

Regulated voluntary sector

The 'regulated voluntary sector' is a subset of the voluntary sector, that comprises voluntary sector charities, housing associations and credit unions. Each of these type of organisation is subject to regulation and their presence is thus recorded by the UK Inland Revenue, Communities Scotland or the UK Financial Services Authority respectively. This makes it possible to carry out a more detailed statistical analysis of this part of the sector. All statistics in this almanac specifically relate to the regulated voluntary sector, unless otherwise indicated."

APPENDIX 3 – LIST OF RELEVANT OFFENCES

Relevant offences for the purposes of the Act are the offences specified in the Licensing (Relevant Offences) (Scotland) Regulations 2007/513 (Scottish SI).

They include all of the offences listed in paragraphs 1 – 50 below together with:

- Any offence which was provided for in an enactment which is no longer in force and which was similar in nature to any of the offences listed in paragraphs 1 – 50 below,
- Any offence in respect of aiding and abetting, inciting, counselling or procuring any of the offences listed in paragraphs 1 - 50 below, and
- Any other offence in respect of which a sentence of imprisonment was imposed.

1. Any offence inferring personal violence.
2. Any offence which is a “sexual offence” within the meaning of [subsection \(10\) of section 210A](#) of the [Criminal Procedure \(Scotland\) Act 1995 \(c.46\)](#), as read with [subsection \(11\)](#) of that section.
3. An offence under [article 38](#) of the [Pharmacy Order 2010](#).
4. An offence under the [Betting, Gaming and Lotteries Act 1963 \(c.2\)](#).
5. An offence under the [Firearms Act 1968 \(c.27\)](#).
6. An offence under [section 1](#) of the [Trade Descriptions Act 1968 \(c.29\)](#) (false trade description of goods) in circumstances where the goods in question are or include alcohol.
7. An offence under [section 13](#) of the [Theatres Act 1968 \(c.54\)](#) (performance of play in unlicensed premises).
8. An offence under [section 7\(2\)](#) of the [Gaming Act 1968 \(c.65\)](#) (allowing child to take part in gaming on premises licensed for the sale of alcohol).
9. An offence under any of the following provisions of the [Misuse of Drugs Act 1971 \(c.38\)](#)–
 - (a) [section 4\(2\)](#) (production of a controlled drug);
 - (b) [section 4\(3\)](#) (supply of a controlled drug);
 - (c) [section 5\(2\)](#) (possession of a controlled drug);
 - (d) [section 5\(3\)](#) (possession of a controlled drug with intent to supply);
 - (e) [section 8](#) (permitting activities to take place on premises);
 - (f) [section 23\(4\)](#) (offence in connection with powers to search and obtain evidence).
10. An offence under the [Immigration Act 1971 \(c.77\)](#).
11. An offence under the [Poisons Act 1972 \(c.66\)](#).
12. An offence under the [Health and Safety at Work etc. Act 1974 \(c.37\)](#).
13. An offence under the [Lotteries and Amusements Act 1976 \(c.32\)](#).
14. An offence under the [Licensing \(Scotland\) Act 1976 \(c.66\)](#).

15. An offence under either of the following provisions of the [Customs and Excise Management Act 1979 \(c.2\)](#)–
 - (a) [section 170](#) (disregarding [subsection \(1\)\(a\)](#)) (fraudulent evasion of duty etc.);
 - (b) [section 170B](#) (taking preparatory steps for evasion of duty).
16. An offence under the [Alcoholic Liquor Duties Act 1979 \(c.4\)](#).
17. An offence under either of the following provisions of the [Tobacco Products Duty Act 1979 \(c.7\)](#)–
 - (a) [section 8G](#) (possession and sale of unmarked tobacco);
 - (b) [section 8H](#) (use of premises for sale of unmarked tobacco).
18. An offence under [Part II](#) of the [Forgery and Counterfeiting Act 1981 \(c.45\)](#).
19. An offence under any of the following provisions of the [Civic Government \(Scotland\) Act 1982 \(c.45\)](#)–
 - (a) [section 7](#) (offences), so far as relating to public entertainment licences under [section 41](#);
 - (b) [section 21\(1\), \(4\), \(5\) or \(6\)](#) (offences in relation to taxis and private hire cars);
 - (c) [section 27D](#) (provision of information to holder of knife dealer's licence);
 - (d) [section 27F](#) (powers of constables and authorised officers);
 - (e) [section 27G](#) (power to inspect documents);
 - (f) [section 50](#) (drunkenness);
 - (g) [section 57](#) (being in or on buildings etc. with intent to commit theft);
 - (h) [Part V](#) (public processions).
20. An offence under the [Cinemas Act 1985 \(c.13\)](#).
21. An offence under [Part I](#) of the [Food and Environment Protection Act 1985 \(c.48\)](#).
22. An offence under either of the following provisions of [Schedule 2B](#) to the [Gas Act 1986 \(c.44\)](#)–
 - (a) [paragraph 10](#) (injury to gas fittings and interference with meters);
 - (b) [paragraph 11](#) (restoration of supply without consent).
23. An offence under the [Company Directors Disqualification Act 1986 \(c.46\)](#).
24. An offence under the [Public Order Act 1986 \(c.64\)](#).
25. An offence under the [Crossbows Act 1987 \(c.32\)](#).
26. An offence under the [Firearms \(Amendment\) Act 1988 \(c.45\)](#).

27. An offence under any of the following provisions of the [Copyright, Designs and Patents Act 1988 \(c.48\)](#)–
- (a) [section 107\(1\)\(d\)\(iii\)](#) (public exhibition in the course of a business of article infringing copyright);
 - (b) [section 107\(3\)](#) (infringement of copyright by public performance of work etc.);
 - (c) [section 198\(2\)](#) (broadcast etc. of recording of performance made without sufficient consent);
 - (d) [section 297\(1\)](#) (fraudulent reception of transmission).
28. An offence under any of the following provisions of the [Road Traffic Act 1988 \(c.52\)](#)–
- (a) [section 3A](#) (causing death by careless driving while under the influence of drink or drugs);
 - (b) [section 4](#) (driving etc. a vehicle when under the influence of drink or drugs);
 - (c) [section 5](#) (driving etc. a vehicle with alcohol concentration above prescribed limit);
 - (d) [section 178](#) (taking motor vehicle without authority, etc.).
29. An offence under either of the following provisions of the [Electricity Act 1989 \(c.29\)](#)–
- (a) [paragraph 3 of Schedule 6](#) (restoration of supply without consent);
 - (b) [paragraph 8 of Schedule 6](#) (provision as to power of entry);
 - (c) [paragraph 11 of Schedule 7](#) (interference with meters).
30. An offence under either of the following provisions of the [Food Safety Act 1990 \(c.16\)](#) in circumstances where the food in question is or includes alcohol–
- (a) [section 14](#) (selling food or drink not of the nature, substance or quality demanded);
 - (b) [section 15](#) (falsely describing or presenting food or drink).
31. An offence under the [National Lottery Etc. Act 1993 \(c.39\)](#).
32. An offence under [section 92\(1\) or \(2\)](#) of the [Trade Marks Act 1994 \(c.26\)](#) (unauthorised use of trade mark, etc. in relation to goods) in circumstances where the goods in question are or include alcohol.
33. An offence under any of the following provisions of the [Criminal Law \(Consolidation\) \(Scotland\) Act 1995 \(c.39\)](#)–
- (a) [section 19](#) (alcohol on vehicles);
 - (b) [section 20](#) (sporting events: control);
 - (c) [section 44](#) (false statements and declarations);
 - (d) [section 47](#) (prohibition of the carrying of offensive weapons);
 - (e) [section 49](#) (offence of having in public place article with blade or point);
 - (f) [section 49A](#) (offence of having article with blade or point (or offensive weapon) on school premises).
34. An offence under [section 3](#) of the [Private Security Industry Act 2001 \(c.12\)](#) (conduct prohibited without a licence).

35. An offence under the [Proceeds of Crime Act 2002 \(c.29\)](#).
36. An offence under the [Building \(Scotland\) Act 2003 \(asp 8\)](#).
37. An offence under the [Antisocial Behaviour etc. \(Scotland\) Act 2004 \(asp 8\)](#).
38. An offence under the [Breastfeeding etc. \(Scotland\) Act 2005 \(asp 1\)](#).
39. An offence under the [Fire \(Scotland\) Act 2005 \(asp 5\)](#).
40. An offence under either of the following provisions of the [Smoking, Health and Social Care \(Scotland\) Act 2005 \(asp 13\)](#)—
 - (a) [section 1](#) (offence of permitting others to smoke in no-smoking premises);
 - (b) [section 2](#) (offence of smoking in no-smoking premises).
41. An offence under the [Licensing \(Scotland\) Act 2005 \(asp 16\)](#).
42. An offence under the [Prevention of Terrorism Act 2005 \(c.2\)](#).
43. An offence under [section 46](#) of the [Gambling Act 2005 \(c.19\)](#) (invitation to gamble).
44. An offence under the [Terrorism Act 2006 \(c.11\)](#).
45. The offences at common law of—
 - (a) theft;
 - (b) theft by housebreaking;
 - (c) fraud;
 - (d) uttering;
 - (e) fraud and uttering;
 - (f) extortion;
 - (g) abduction;
 - (h) reset; and
 - (i) conspiracy to defraud.
46. The offences at common law of—
 - (a) wilful fireraising;
 - (b) culpable and reckless fireraising;
 - (c) culpable and reckless conduct; and
 - (d) bestiality.
47. The offences at common law of—
 - (a) perjury;
 - (b) subornation of perjury;
 - (c) attempting to pervert the course of justice;
 - (d) attempting to defeat the ends of justice;
 - (e) prevarication on oath;
 - (f) contempt of court; and
 - (g) prison breaking.
48. The offences at common law of—
 - (a) breach of the peace; and

(b) mobbing and rioting.

49. An offence under [regulation 6](#) of the [Business Protection from Misleading Marketing Regulations 2008](#) (offence of misleading advertising) in circumstances where the advertising in question relates to alcohol or to goods that include alcohol.
50. An offence under [regulation 8, 9, 10, 11 or 12](#) of the [Consumer Protection from Unfair Trading Regulations 2008](#) (offences relating to unfair commercial practices) in circumstances where the commercial practice in question is directly connected with the promotion, sale or supply of alcohol or of a product that includes alcohol.

APPENDIX 4 – PREMISES LICENCE MANDATORY CONDITIONS

The following mandatory conditions will be applied to all premises licences pursuant to section 27(1) and schedule 3 of the Licensing (Scotland) Act 2005, as amended by the Alcohol etc. (Scotland) Act 2010

Interpretation

1. Premises means, in relation to any premises licence, the premises specified in the licence.

Compliance with the Operating Plan

2. (1) Alcohol is to be sold on premises only in accordance with the operating plan contained in the licence.
(2) Nothing in sub-paragraph (1) is to be read as preventing or restricting the doing of anything referred to in section 63(2).
3. Any other activity to be carried on in the premises is to be carried on only in accordance with the operating plan contained in the licence.

The premises manager

4. (1) Alcohol is not to be sold on the premises at any time when—
 - (a) there is no premises manager in respect of the premises
 - (b) the premises manager does not hold a personal licence
 - (c) the personal licence held by the premises manager is suspended, or
 - (d) the licensing qualification held by the premises manager is not the appropriate licensing qualification in relation to the premises.
- (2) In sub-paragraph (1), “appropriate licensing qualification” in relation to any licensed premises means any licensing qualification prescribed as such in relation to licensed premises of that description in regulations under section 91(2)(d).
- (3) Nothing in sub-paragraph (1) or paragraph 5 is to be read as requiring the premises manager to be present on the premises at the time any sale of alcohol is made.

Authorisation of sales of alcohol

5. Every sale of alcohol made on the premises must be authorised (whether generally or specifically) by:-
 - (a) the premises manager, or
 - (b) another person who holds a personal licence.

Training of Staff

6. (1) No person (other than a person who holds a personal licence) is to work in the premises in the capacity mentioned in sub-paragraph (2) unless that person has complied with such requirements as to the training of staff as may be prescribed for the purposes of this paragraph.
- (2) That is a capacity (whether paid or unpaid) which involves the person—
- (a) making the sales of alcohol, or
 - (b) where alcohol is sold on the premises for consumption on the premises, serving such alcohol to any person.
- (2A) At any time when a person (other than a person who holds a personal licence) is working in the premises in a capacity mentioned in sub-paragraph (2), there must be kept on the premises a training record which relates to that person and is in the form set out in the Schedule to the Licensing (Mandatory Conditions No. 2) (Scotland) Regulations 2007.
- (2B) A record kept on the premises under sub-paragraph (2A) must be produced to a Licensing Standards Officer on request.
- (3) Regulations under sub-paragraph (1) prescribing training requirements may, in particular:-
- (a) provide for the accreditation by the Scottish Ministers of –
 - (i) courses of training, and
 - (ii) persons providing such courses,for the purposes of the regulations,
 - (b) prescribe different training requirements in relation to different descriptions of persons,
 - (c) require that any person providing training or any particular description of training in accordance with the regulations hold a personal licence or such other qualification as may be prescribed in the regulations, and
 - (d) require training to be undergone again at such intervals as may be prescribed in the regulations.

Pricing of Alcohol

- 6A** (1) Alcohol must not be sold on the premises at a price below its minimum price.
- (2) Where alcohol is supplied together with other products or services for a single price, sub-paragraph (1) applies as if the alcohol were supplied on its own for that price.
- (3) The minimum price of alcohol is to be calculated according to the following formula-
- $$\text{MPU} \times \text{S} \times \text{V} \times 100$$
- Where-
- MPU is the minimum price per unit,
S is the strength of the alcohol, and
V is the volume of the alcohol in litres.
- (4) The Scottish Ministers are to specify by order the minimum price per unit for the purposes of sub-paragraph (3).
- (5) For the purposes of sub-paragraph (3), where-
- (a) the alcohol is contained in a bottle or other container, and
(b) the bottle or other container is marked or labelled in accordance with relevant labelling provisions
The strength is taken to be the alcoholic strength by volume as indicated by the mark or label.
- (6) The Scottish Ministers are to specify by order the enactments which are relevant labelling provisions for the purposes of sub-paragraph (5)
- 6B.** (1) A package containing two or more alcoholic products (whether of the same or different kinds) may only be sold on the premises at a price equal to or greater than the sum of the prices at which each alcoholic product is for sale on the premises.
- (2) Sub-paragraph (1) applies-
- (a) only where each of the alcoholic products is for sale on the premises separately, and
- (b) regardless of whether or not the package also contains any item which is not an alcoholic product.
- (3) In this paragraph, 'alcoholic product' means a product containing alcohol and includes the container in which alcohol is for sale.
- 7.** Where the price at which any alcohol sold on the premises for consumption on the premises is varied-
- (a) the variation (referred to in this paragraph as "the earlier price variation") may be brought into effect only at the beginning of a period of licensed hours, and

- (b) no further variation of the price at which that or any other alcohol is sold on the premises for consumption on the premises may be brought into effect before the expiry of the period of 72 hours beginning with the coming into effect of the earlier price variation.

7A. Where the price at which any alcohol sold on the premises for consumption off the premises is varied–

- (a) the variation (referred to in this paragraph as ‘the earlier price variation’) may be brought into effect only at the beginning of a period of licensed hours, and
- (b) no further variation in the price at which that alcohol is sold on the premises may be brought into effect before the expiry of the period of 72 hours beginning with the coming into effect of the earlier price variation.

Irresponsible drinks promotions

8. (1) An irresponsible drinks promotion must not be carried on in or in connection with the premises.
- (2) Subject to sub-paragraph (3), a drinks promotion is irresponsible if it-
- (a) relates specifically to an alcoholic drink likely to appeal largely to persons under the age of 18,
 - (b) involves the supply of an alcoholic drink free of charge or at a reduced price on the purchase of one or more drinks (whether or not alcoholic drinks),
 - (c) involves the supply free of charge or at a reduced price of one or more extra measures of an alcoholic drink on the purchase of one or more measures of the drink,
 - (d) involves the supply of unlimited amounts of alcohol for a fixed charge (including any charge for entry to the premises),
 - (e) encourages, or seeks to encourage, a person to buy or consume a larger measure of alcohol than the person had otherwise intended to buy or consume,
 - (f) is based on the strength of any alcohol,
 - (g) rewards or encourages, or seeks to reward or encourage, drinking alcohol quickly, or,
 - (h) offers alcohol as a reward or prize, unless the alcohol is in a sealed container and consumed off the premises.
- (3) Paragraphs (c) to (e) of sub-paragraph (2) apply only to a drinks promotion carried on in relation to alcohol sold for consumption on the premises.
- (4) The Scottish Ministers may by regulations modify sub-paragraph (2) or (3) so as to-
- (a) add further descriptions of drinks promotions,
 - (b) modify any of the descriptions of drinks promotions for the time being listed in it, or
 - (c) extend or restrict the application of any of those descriptions of drinks promotions.
- (5) In this paragraph, "drinks promotion" means, in relation to any premises, any activity which promotes, or seeks to promote, the buying or consumption of any alcohol on the premises.

Provision of non-alcoholic drinks

- 9.** (1) The conditions specified in this paragraph apply only to the extent that the premises licence authorises the sale of alcohol for consumption on the premises.
- (2) Tap water fit for drinking must be supplied free of charge on request.
- (3) Other non-alcoholic drinks must be available for purchase at a reasonable price.

Requirement for Age Verification Policy

- 9A.** (1) There must be an age verification policy in relation to the sale of alcohol on the premises.
- (2) An 'age verification policy' is a policy that steps are to be taken to establish the age of a person attempting to buy alcohol on the premises ('the customer') if it appears to the person selling the alcohol that the customer may be less than 25 years of age (or such older age as may be specified in the policy).
- (3) The condition specified in this paragraph does not apply in relation to any sale of alcohol which takes place on the premises merely by virtue of being treated, by section 139, as taking place on the premises.

Payment of annual or recurring fees

- 10.** (1) The condition specified in sub-paragraph (2) applies only in relation to a premises licence in respect of which an annual or other recurring fee is to be paid by virtue of regulations under section 136(1).
- (2) The fee must be paid as required by the regulations.

Notices – admission of persons under 18

- 11.** (1) The condition specified in this paragraph applies only in the case of premises on which alcohol is sold for consumption on the premises.
- (2) There is to be displayed so that it is reasonably visible to customers entering the premises a sign of at least A4 size which –
- (a) states that persons under the age of 18 are not permitted; or
- (b) states that such persons are permitted on the premises or on such parts of the premises as are specified on the sign.

Baby changing facilities

- 12.** (1) The condition specified in this paragraph applies only in the case of premises -
- (a) which are not–
 - (i) a vehicle;
 - (ii) a vessel;
 - (iii) a moveable structure; or
 - (iv) used wholly or mainly for the purposes referred to in section 125(1);
 - (b) on which alcohol is sold for consumption on the premises; and
 - (c) to which children under the age of 5 are to be admitted.
- (2) There are to be on the premises facilities for baby changing which are to be accessible to persons of either gender.

Display, or promotion of the sale, of alcohol for consumption off the premises

- 13.** (1) Alcohol which is for sale only for consumption off the premises may be displayed only in one or both of the following-
- (a) a single area of the premises agreed between the Licensing Board and the holder of the licence; or
 - (b) a single area of the premises which is inaccessible to the public.
- (1A) Sub-paragraphs (1B) to (1D) apply where the premises, in so far as they are used for the sale of alcohol, are so used only or primarily for the sale of alcohol for consumption off the premises.
- (1B) Any drinks promotion on the premises may take place only in any one or more of the following –
- (a) an area referred to in sub-paragraph (1)(a) and (b),
 - (b) a room on the premises which is used for offering the tasting of any alcohol sold on the premises (for consumption off the premises) and the resulting tasting is separate from those areas.
- (1C) A drinks promotion in connection with the premises may not take place in the vicinity of the premises.
- (1D) For the purposes of sub-paragraph (1C), the ‘vicinity’ means the area extending 200 metres from the boundary of the premises (as shown on the layout plan).

- (2) In an area agreed in terms of sub-paragraph (1)(a), a product other than alcohol may be displayed only if it is-
- (a) a non-alcoholic drink,
 - (b) packaged with, and may be purchased only along with, alcohol,
 - (c) a branded non-alcoholic product, or
 - (d) a newspaper, magazine or other publication.
- (2A) Sub-paragraph (2) is without prejudice to sub-paragraph (1B).
- (3) This paragraph does not apply in respect of premises-
- (a) whose main function is to provide a visitor attraction, and
 - (b) where
 - (i) the premises form part of a larger site which is used principally for the production of alcoholic drinks, or
 - (ii) the visitor attraction is used principally to provide information about and promote the history and attributes of a particular alcoholic drink or a particular category of alcoholic drink.
- (4) In this paragraph-
- 'branded non-alcoholic product' means a product which does not consist of or contain alcohol and which –
 - (a) bears a name or image of, or
 - (b) is an image of,
 - an alcoholic product (namely, a product consisting of or containing alcohol)
 - 'drinks promotion' means any activity which promotes, or seeks to promote, the buying of any alcohol sold on the premises for consumption off the premises but does not include the display of any product which is –
 - (a) a branded non-alcoholic product for sale on the premises, or
 - (b) a newspaper, magazine or other publication –
 - (i) for sale on the premises, or
 - (ii) if not for sale on the premises, which does not relate only or primarily to alcohol.

APPENDIX 5 – OCCASIONAL LICENCE MANDATORY CONDITIONS

The following mandatory conditions will apply to all occasional licences pursuant to section 60(1) and schedule 4 of the Licensing (Scotland) Act 2005, as amended by the Alcohol etc. (Scotland) Act 2010

Interpretation

1. “The premises” means, in relation to any occasional licence, the premises specified in the licence.

Compliance with the Operating Plan

2. (1) Alcohol may be sold on the premises only in accordance with the terms of the licence.

(2) Nothing in sub-paragraph (1) is to be read as preventing or restricting the doing of anything referred to in section 63(2).
3. Any other activity to be carried on in the premises may be carried on only in accordance with the description of the activity contained in the licence.

Authorisation of sales of alcohol

4. (1) The condition specified in sub-paragraph (2) applies only to an occasional licence issued to the holder of a premises licence or personal licence.

(2) Every sale of alcohol made on the premises to which the licence relates must be authorised (whether generally or specifically) by the holder of a personal licence.

Voluntary Organisations

5. (1) The condition specified in sub-paragraph (2) applies only to an occasional licence issued to a representative of a voluntary organisation.

(2) Alcohol may be sold on the premises only at an event taking place on the premises in connection with the voluntary organisation’s activities.

Pricing of Alcohol

- 5B. (1) A package containing two or more alcoholic products (whether of the same or different kinds) may only be sold on the premises at a price equal to or greater than the sum of the prices at which each alcoholic product is for sale.

(2) Sub-paragraph (1) applies-
 - (a) only where each of the alcoholic products is for sale on the premises separately, and
 - (b) regardless of whether or not the package also contains any item which is not an alcoholic product.

(3) In this paragraph 'alcoholic product' means a product containing alcohol and includes the container in which alcohol is for sale'.

6. Where the price at which any alcohol sold for consumption on the premises is varied

-

(a) the variation (referred to in this paragraph as "the earlier price variation") may be brought into effect only at the beginning of a period of licensed hours, and

(b) no further variation of the price at which that or any other alcohol is sold for consumption on the premises may be brought into effect before the expiry of the period of 72 hours beginning with the coming into effect of the earlier price variation.

6A. Where the price at which any alcohol sold on the premises for consumption off the premises is varied –

(a) the variation (referred to in this paragraph as 'the earlier price variation') may be brought into effect only at the beginning of a period of licensed hours, and

(b) no further variation in the price at which that alcohol is sold on the premises may be brought into effect before the expiry of the period of 72 hours beginning with the coming into effect of the earlier price variation'.

Irresponsible drinks promotions

7. (1) An irresponsible drinks promotion must not be carried on in or in connection with the premises.

(2) Subject to sub-paragraph (3), a drinks promotion is irresponsible if it -

(a) relates specifically to an alcoholic drink likely to appeal largely to persons under the age of 18,

(b) involves the supply of an alcoholic drink free of charge or at a reduced price on the purchase of one or more drinks (whether or not alcoholic drinks).

(c) involves the supply free of charge or at a reduced price of one or more extra measures of an alcoholic drink on the purchase of one or more measures of the drink,

(d) involves the supply of unlimited amounts of alcohol for a fixed charge (including any charge for entry to the premises),

(e) encourages, or seeks to encourage, a person to buy or consume a larger measure of alcohol than the person had otherwise intended to buy or consume,

(f) is based on the strength of any alcohol,

(g) rewards or encourages, or seeks to reward or encourage, drinking alcohol quickly, or

(h) offers alcohol as a reward or prize, unless the alcohol is in a sealed container and consumed off the premises.

(3) Paragraphs (b) to (d) of sub-paragraph (2) apply only to a drinks promotion carried on in relation to alcohol sold for consumption on the premises.

(4) The Scottish Ministers may by regulations modify sub-paragraph (2) or (3) so as to -

(a) add further descriptions of drinks promotions,

(b) modify any of the descriptions of drinks promotions for the time being listed in it, or

(c) extend or restrict the application of any of those descriptions of drinks promotions.

(5) In this paragraph, “drinks promotion” means, in relation to any premises, any activity which promotes, or seeks to promote, the buying or consumption of any alcohol on the premises.

Provision of non-alcoholic drinks

8. (1) The conditions specified in this paragraph apply only to the extent that the occasional licence authorises the sale of alcohol for consumption on the premises.

(2) Tap water fit for drinking must be provided free of charge on request.

(3) Other non-alcoholic drinks must be available for purchase at a reasonable price.

Requirement for Age Verification Policy

9. (1) There must be an age verification policy in relation to the sale of alcohol on the premises.

(2) An ‘age verification policy’ is a policy that steps are to be taken to establish the age of a person attempting to buy alcohol on the premises (‘the customer’) if it appears to the person selling the alcohol that the customer may be less than 25 years of age (or such older age as may be specified in the policy).

(3) The condition specified in this paragraph does not apply in relation to any sale of alcohol which takes place on the premises merely by virtue of being treated, by section 139, as taking place on the premises.

APPENDIX 6 – LATE OPENING MANDATORY CONDITIONS

The following mandatory conditions apply to late opening premises pursuant to the Licensing Conditions (Late Opening Premises) (Scotland) Regulations 2007. These premises are defined in the Regulations as premises the capacity of which is at least 250 people and which—

(a) will regularly provide at any time in the period between 1:00 am and 5:00 am—

- (i) live or recorded music with a decibel level exceeding 85dB;
- (ii) facilities for dancing; or
- (iii) adult entertainment, or

(b) when fully occupied, are likely to have more customers standing than seated.

They do not include, however, premises which have as their primary function the service of food, or which include, or are part of larger premises which include, at least 6 letting bedrooms, or in respect of which a licence under section 12 of the Theatres Act 1968(1) or section 1 of the Cinemas Act 1985(2) is in force, or which are, or are part of, an art gallery.

Although imposition of the late opening mandatory conditions is not mandatory where extended hours are granted to a premises (other than a late opening premises) to permit the sale of alcohol after 0100 hours for a particular special event or occasion, the Board may impose similar conditions as local conditions applicable to such premises during the period for which extended hours have been granted.

Mandatory conditions:

1. A person trained to the satisfaction of the Licensing Board in administering First Aid³ must be present on the premises from 0100 hours (on any day when the premises are open at 0100 hours) until whichever is the earlier of:-
 - (a) the time at which the premises next close; and
 - (b) 0500 hours

³ Until such time as the amendment to the Health and Safety (First Aid) Regulations 1981 is brought in to remove the requirement for HSE approval of first aid training and qualifications (which it is anticipated will take place with effect from 6 October 2013), the minimum level of first aid training which the Board will generally accept as satisfactory for the purposes of this mandatory condition is Emergency First Aid at Work (EFAW) training approved by the HSE. Guidance on the training which the Board will accept as satisfactory for Late Opening Premises applications lodged after that amendment takes effect will be prepared to coincide with the date on which the amendment comes into effect.

2. A designated person who is the holder of a personal licence must be present on the premises from 0100 hours (on any day when the premises are open at 0100 hours) until whichever is the earlier of:-
 - (a) the time at which the premises next close; and
 - (b) 0500 hours or such other time as the Licensing Board may specify.
3. There must be written policies in existence concerning:-
 - (a) the evacuation of the premises; and
 - (b) the prevention of the misuse of drugs on the premises
4. A CCTV system must be installed on the premises to the satisfaction of the appropriate Chief Constable and must be kept in good working order.
5. There must be persons responsible for checking on the safety and wellbeing of persons using any toilet facilities on the premises.
6. A person who holds a licence granted under Section 8 of the Private Security Industry Act 2001 must be positioned at every entrance to the premises from 0100 hours (on any day when the premises are open at 0100 hours) until whichever is the earlier of:-
 - (a) the time at which the premises next close; and
 - (b) 0500 hours or such other time as the Licensing Board may specify.

APPENDIX 7 – PREMISES LICENCE LOCAL CONDITIONS

Any of the following local conditions may be applied to premises licences for the purposes of one or more of the licensing objectives. These objectives are:

1. Preventing crime and disorder
2. Securing public safety
3. Preventing public nuisance
4. Protecting and improving public health
5. Protecting children and young persons from harm

	Condition	Licensing objective
Children		
a.	Children under the age of 16 are excluded from any room where there is a bar counter after 2200 hours except during private functions or for the purpose of viewing live entertainment or where the child is in the room for the purpose of taking a meal. This condition does not apply to any child who is in the bar solely for the purpose of passing to or from some other part of the premises being a part to or from which there is no other convenient means of access or egress.	5
b.	Whilst in any room with a bar counter all children must be in the company of, or supervised by an appropriate responsible adult. This condition does not apply to children of the licence holder or children who are resident on the premises.	5
c.	Notwithstanding conditions (a) and (b) children must not sit or remain at the bar counter at any time.	5
d.	Children aged 12 or over who are permitted to enter the premises unaccompanied by an adult must be seated in a designated area of the premises distanced away from, and/or separated from, any bar counter and any "vertical" drinking area where customers stand while consuming alcohol. <i>(This condition may be applied at youth-friendly restaurants where the Board have expressly permitted entry by children aged 12 or over unaccompanied by an adult for the purpose of buying food or soft drinks)</i>	5
Early opening		
e.	Premises opening for the sale of alcohol for consumption on the premises prior to 1100 hours shall have available a selection of hot and cold food and shall advertise this within the premises. <i>(This condition may be applied when early opening is being permitted on an application for extended hours for a particular special event or occasion.)</i>	4

f.	Alcohol may be sold on the premises prior to 1100 hours only to persons taking table meals. <i>(This condition may be applied when early opening is being permitted on a permanent basis to premises which are food-led operations.)</i>	4
g.	Alcohol may be sold prior to 1100 hours for consumption on the premises only during a formal or tutored tasting session and only to customers taking part in such a tasting sessions. <i>(This condition may be applied when early opening is being permitted on a permanent basis at distilleries or other alcohol producing premises which are also visitor attractions and at specialist off-sales premises)</i>	4
Late opening		
h.	Premises open for the sale of alcohol after 0100 hours shall have available a selection of hot and cold foods and shall advertise this within the premises.	4
i.	On any day for which the terminal hour specified in this licence is later than 0100 hours the following day, alcohol may be sold on the premises after 0100 hours only while entertainment as detailed in the operating plan is being provided in the premises and has been provided continuously from no later than 2200 hours.	4
j.	On any day for which the terminal hour specified in this licence is later than 0100 hours the following day, alcohol may be sold and consumed on the premises after 0100 hours (a) only in that part of the premises identified in the operating plan as the part of the premises in which significant entertainment is to be provided, (b) only while such entertainment is being provided in that part of the premises, and (c) only where the entertainment has been provided continuously from no later than 2200 hours. <i>(This condition may be applied where significant entertainment is provided only in part of the premises and late opening beyond 0100 hours is permitted only in that part of the premises)</i>	4
k.	The licence holder shall submit to the Board and to Police Scotland, prior to 1 December each year, notice of the dates within the festive period on which it is intended that the premises remain open until the festive period terminal hour stated for that category of premises in the Board's Policy Statement. The premises may remain open until the festive period terminal hour only on those dates for which notice has been given by the licence holder to the Board and to Police Scotland in accordance with this condition. <i>(This condition will apply only where the operating plan includes a statement that the premises will open during the festive period for the hours agreed under the Board's festive period policy)</i>	1 & 2

Outdoor drinking areas		
i.	The boundaries of any outside area will be effectively demarcated to the satisfaction of the Licensing Standards Officer. <i>(This condition will not be applied if the outdoor area requires a pavement permit from The Highland Council or if the LSO advises it is unnecessary)</i>	2 & 3
m.	After hours, alcoholic or non-alcoholic drinks shall not be consumed in any outdoor drinking area <i>(Appropriate hour to be determined on a case by case basis)</i>	3
n(i).	No live or recorded music shall be played in any outdoor drinking area. <i>or</i>	3
n(ii).	The playing of live or recorded music in any outdoor drinking area shall be restricted to between the hours of and <i>(Appropriate hours to be determined on a case by case basis)</i>	
o.	The licence holder shall ensure that consumption of drinks (alcoholic or non-alcoholic) in any outside drinking area is permitted only by customers seated at the tables and chairs provided in the outside drinking area and not by customers standing in that area.	1, 2 & 3
p.	The licence holder shall ensure that all outdoor tables are regularly cleared of all used glassware, crockery, cutlery and refuse.	1, 2 & 3
q.	Within 15 minutes of the conclusion of permitted hours for any outside drinking area situated on a public footpath, all tables, chairs, parasols and other moveable furniture will be removed.	1, 2 & 3
Prevention of misuse of drugs		
r.	The licence holder shall have in place and ensure that all staff working in the premises are aware of, understand and adhere to, a written policy for the prevention of misuse of drugs on the premises. This policy must accord with the terms of the specimen policy set out at Appendix 11 of the Board's Policy Statement, unless otherwise agreed in writing by the Licensing Standards Officer.	1, 2, 3 & 4

Duty of care		
s.	The licence holder shall have in place and ensure that all staff working in the premises are aware of, understand and adhere to, a duty of care policy to reduce the vulnerability of patrons on the premises through intoxication, however and wherever attained. The aim of this policy should be to ensure that a standard approach is taken by staff when any patron appears to be displaying signs of excessive intoxication. All staff must receive training in identifying signs of excessive intoxication and advancing their awareness of vulnerability through intoxication. This training should include material such as the “Who are you?” video www.whoareyou.co.nz or similar. All related training should be recorded and records kept available for inspection by Police Scotland and the Licensing Standards Officers.	1, 2 & 4
Miscellaneous		
t.	After hours, alcoholic and non-alcoholic drinks may only be sold or served in plastic or polycarbonate glasses. <i>(This condition may be applied where considered appropriate following a review of a premises licence)</i>	1, 2, 3 & 4
u.	Any music or live performance in the premises will cease at hours. <i>(Appropriate hour to be determined on a case by case basis)</i>	3
v.	After hours, the licence holder shall ensure that there is adequate stewarding at all relevant entrances and egresses to the premises and within the premises.	1, 2 & 3
w.	The licence holder shall ensure the provision of an effective means of recording the number of patrons on the premises during the premises hours of operation to ensure that the capacity stated in the operating plan for the premises is not exceeded.	2
x.	Dartboards and any pool table will be situated in a location of the premises approved by the Licensing Standards Officer.	2

APPENDIX 8 – OCCASIONAL LICENCE LOCAL CONDITIONS

Any of the following local conditions may be applied to occasional licences for the purposes of one or more of the licensing objectives. These objectives are:

1. Preventing crime and disorder
2. Securing public safety
3. Preventing public nuisance
4. Protecting and improving public health
5. Protecting children and young persons from harm

	Condition	Licensing Objective
a.	The occasional licence must be prominently displayed on the premises.	1
b.	The licence holder must be familiar with the legal requirements of selling alcohol under the occasional licence and shall ensure that all persons selling or serving alcohol are aware of their duties and responsibilities.	1, 2 & 5
c.	The number of persons permitted entry to the premises shall not exceed the approved capacity limit for the premises.	2
d.	The occasional licence Holder or, in his/her absence, a nominated personal licence holder must be present in person within the premises during the period covered by the occasional licence. <i>(This condition is likely to be applied to personal licence holder and premises licence holder applications only).</i>	1 & 2
e.	A designated member of a voluntary group granted an occasional licence must be present on the premises during the period the licence has effect.	1 & 2
f.	Whilst on the premises referred to in this occasional licence, all persons under 18 years of age must be in the care of a responsible adult.	5
g.	Whilst on the premises referred to in this occasional licence, all children must be in the care of a responsible adult.	5
h.	A notice must be displayed so as to be reasonably visible which states that persons under the age of [age] are not permitted on the premises.	5
i.	The licence holder must provide [insert number] stewards who hold a Licence granted under Section 8 of the Private Security Industry Act 2001. <i>(Appropriate number to be determined on a case by case basis)</i>	1 & 2

j.	The licence holder must provide [<i>insert number</i>] stewards. If these stewards are working in a voluntary capacity they do not require to hold an SIA Licence. <i>(Appropriate number to be determined on a case by case basis)</i>	1 & 2
k.	Stewards must be clearly identified by badges, armbands or a recognisable uniform.	1 & 2
l.	All stewards must remain in the premises until all patrons have left the premises.	1, 2 & 3
m.	All alcoholic and non-alcoholic drinks shall only be sold and served in cans or in plastic or polycarbonate containers. <i>(This condition is likely to be applied at all large-scale public events such as music festivals, Highland Games and large agricultural shows, but may also be applied to other occasional licences where considered appropriate in the interest of public safety)</i>	1 & 2
n.	No person is to be permitted to leave the premises with alcohol in an open container.	1 & 2
o.	The licence holder shall ensure that immediately following the end of the period covered by the Occasional Licence, all litter within the immediate environs of the premises is collected and placed in a refuse bin.	2 & 3
p.	Any music or live performance must cease by ... hours or such other time as may be specified by the Licensing Board. <i>(Appropriate hours to be determined on a case by case basis)</i>	3
q.	All staff employed or engaged to sell or serve alcohol will require to have completed mandatory licensing training as prescribed in the Licensing (Training of Staff) Scotland Regulations 2007. <i>(This condition is likely to be applied at large-scale public events)</i>	1 & 2
r.	A copy of the training records of all members of staff employed or engaged to sell or serve alcohol shall be kept on site at the premises to which this licence applies for the duration of the licence and made available for inspection by Police Scotland or a Licensing Standards Officer on site if they so request. <i>(This condition is likely to be applied for outdoor events)</i>	All
s.	Only guests/ticket holders attending the function shall be allowed to be present on the premises during the permitted hours. The licence holder shall undertake such checks as are necessary to ensure compliance with this condition and shall provide sufficient staff for this.	2

t.	Where children under the age of five are to be admitted to the premises during the currency of this Occasional Licence, baby changing facilities accessible to both genders shall be provided at the premises.	5
u.	The licence holder shall have in place and ensure that all persons working in the premises (including any outdoor area or the site of any marquee or other temporary structure to which the occasional licence applies) during the occasional licence are aware of, understand and adhere to, a written policy for the prevention of misuse of drugs on the premises. This policy must accord with the terms of the specimen policy set out at Appendix 11 of the Board's Policy Statement, unless otherwise agreed in writing by the Licensing Standards Officer.	1, 2, 3 & 4
v.	The licence holder shall have in place and ensure that all persons working in the premises (including any outdoor area or the site of any marquee or other temporary structure to which the occasional licence applies) are aware of, understand and adhere to, a duty of care policy to reduce the vulnerability of patrons on the premises through intoxication, however and wherever attained. The aim of this policy should be to ensure that a standard approach is taken by staff when any patron appears to be displaying signs of excessive intoxication. All staff must receive training in identifying signs of excessive intoxication and advancing their awareness of vulnerability through intoxication. This training should include material such as the "Who are you?" video www.whoareyou.co.nz or similar. All related training should be recorded and records kept available for inspection by Police Scotland and the Licensing Standards Officers.	1, 2 & 4

APPENDIX 9 – ADULT ENTERTAINMENT LOCAL CONDITIONS

These adult entertainment local conditions are additional to the premises licence local conditions which the Board may impose.

The Board may require that the provisions contained in the local conditions below are incorporated also as an operating code in the operating plans of premises which include adult entertainment as an activity in their operating plan. Any of the following local conditions may also be applied as licence conditions to premises providing adult entertainment. They will be applied for the purposes of one or more of the licensing objectives. These objectives are:

1. Preventing crime and disorder
2. Securing public safety
3. Preventing public nuisance
4. Protecting and improving public health
5. Protecting children and young persons from harm

a.	The licence holder shall have in place a code of conduct for behaviour of staff and customers. A copy of this code will be made available to staff and customers and be displayed prominently within each public area of the premises. The code will deal with matters such as information for performers, on distance to be maintained from customers during a dance, prohibitions on sexual behaviour and propositioning, and what to do if a customer breaches the rules.	1,2 & 3
b.	The licence holder will maintain a register of performers engaged to perform in the licensed premises. The register will show the name, age and current address of the performer. The licence holder will require to obtain photographic proof of each performer's identity. Foreign nationals must be asked to exhibit their passport and the licence holder should take appropriate steps to ensure that there are no restrictions on the performer's entitlement to work in the United Kingdom.	1,2 & 3
c.	Performers should only perform in open public areas of the licensed premises, which should at all times be appropriately stewarded and covered by CCTV cameras which are of a standard approved by the Chief Constable.	1,2,3 & 4
d.	No dance entertainment should take place in private booths and performers' breasts and genitalia should be covered and not visible at all times. There should be no touching between performers and patrons at any time during the performance, the only contact allowed being the hand-to-hand payment of money at the conclusion of the performance.	1,2,3 & 4

e.	Performers remaining in the public area before, following or between performances should be suitably clothed at all times with no exposure of breasts or genitalia. Any advertising of performances outwith the licensed premises, whether by way of newspaper advertisement or any other public notices within or without the premises, including on-line advertisement, may only depict performers suitably clothed as aforesaid. Performances involving the removal of clothes should not be visible from outwith the premises.	1,2 & 3
f.	The licensed premises shall have stewards in all public areas in addition to at least one steward positioned at each entrance to and/or exit from the premises. All public dance areas, entrances and exits should be monitored constantly while the premises are open to the public with the use of CCTV.	1,2 & 3
g.	Where in terms of the operating plan, children and young persons are permitted on the premises, they will not be permitted on the premises on any day on which adult entertainment takes place. Where the premises is an hotel which has children or young persons resident, children and young persons shall be excluded from any part of the hotel used for adult entertainment on any day on which adult entertainment takes place.	1,2,3 & 5
h.	The licence holder must notify Police Scotland of any forthcoming adult entertainment event at least 24 hours in advance of the event taking place.	1, 2 & 3
i.	A personal licence holder must be present in the area of the premises in which adult entertainment is taking place for the duration of the adult entertainment.	1, 2 & 3

APPENDIX 10 – EXAMPLES OF SPECIAL CONDITIONS

The following are examples of special conditions which the Board may apply, on the recommendation of the Licensing Standards Officers, to particular types of event or premises or premises in a particular type of location. The list is illustrative only and it is open to the Board to apply further special conditions where considered necessary or expedient for the purposes of any of the licensing objectives. These objectives are:

1. Preventing crime and disorder
2. Securing public safety
3. Preventing public nuisance
4. Protecting and improving public health
5. Protecting children from harm

Special Condition	Circumstances applied	Licensing objective
Any alcohol sold on the premises is to be consumed on the premises only by guests being accommodated there.	Category 1 applications for premises formerly classed as restricted Hotels under 1976 Act	1
Alcohol may only be sold or supplied on the premises to persons taking table meals for consumption by such a person as an accompaniment to a meal.	Food-led operation at which general on-sales are not considered appropriate. Also assists in assessing compliance with “Early Opening“ policy.	4
Alcohol for consumption off the premises to which this licence refers may only be sold and despatched pursuant to an order originating off the premises.	Telephone sales for “Beer and Pizza” deliveries.	1
During the hours of operation of any under 18 event on the premises, a personal licence holder shall be present on the premises for the duration of the event.	Under 18s Disco	1, 2, 3, 4, 5
During the hours of operation of any under 18 event adequate stewarding by SIA registered personnel will be at all relevant entrances and egresses to the premises and within the premises.	Under 18s Disco	1, 2, 3, 4, 5
Any under 18 event will be run according to the rules and conventions of Blue Light Disco’s and with the approval of Police Scotland.	Under 18s Disco	1, 2, 3, 4, 5

During the course of any under 18 event all drinks shall be sold or served in plastic or polycarbonate glasses.	Under 18s Disco	1, 2, 4, 5
The CCTV system installed on the premises shall be used during the duration of any under 18 event.	Under 18s Disco	1, 2, 4, 5
All glass disposal operations shall cease between the hours of 11pm and 8am.	Premises in residential area	3
All live vocals or amplified music will be so controlled after 11pm that it shall be inaudible in nearby residential property.	Premises in residential area	3
Live entertainment shall conclude at 11.45pm (or such other time as the Board may require).	Premises in residential area	3
A personal licence holder is required to be personally present on the premises between 7pm and 10pm.	Off sales premises known where evidence has been presented of anti-social behaviour/attempts to purchase by children or young persons.	1, 3, 5
A CCTV system of a standard approved by the Chief Constable shall be installed and cover the point of sale.	Off sales premises known where evidence has been presented of anti-social behaviour/attempts to purchase by children or young persons.	1, 3, 5

APPENDIX 11 – SPECIMEN POLICY FOR THE PREVENTION OF MISUSE OF DRUGS WITHIN LICENSED PREMISES

The following is a recommended specimen policy which the Board will accept as satisfying any premises licence or occasional licence local condition which requires the licence holder to have in place a policy for the prevention of misuse of drugs

These premises operate a zero tolerance approach to drugs.

Everyone in every community has a part to play in tackling drug misuse. It is important to tackle the 'drug problem' and to ensure that licensed premises within the Highland Area remain 'drug free'. Illegal substance must not be allowed to be supplied or consumed within licensed premises.

The contents of this Drug Policy should allow all staff employed in licensed premises to have a better understanding of the law in relation to drugs and drug related incidents. It will provide systems and procedures to ensure that all drugs related incidents are dealt with consistently and safely.

We will work towards achieving this through:

- communication with our customers;
- providing our employees with guidance, information, training and procedures to assist them in identifying drugs, the effects of taking them and appropriate action;
- complying with our legal responsibilities;
- working closely with local authorities and Police Scotland.

Classes of drugs

The Misuse of Drugs Act 1971, classifies drugs as follows:

- Class 'A'

Includes Cocaine, Crack Cocaine, Heroin, Ecstasy (powdered and crystal MDMA), Cannabis Oil (Class B) and LSD

- Class 'B'

Includes Cannabis, Cannabis resin, Cannabis Shatter (Honey Butane Oil), Amphetamine, M-Kat and Ketamine.

- Class 'C'

Generally tend to be prescribed drugs which are abused, the most popular include Temazepam, Diazepam, Steroids, Etizolam, Alprazolam (Xanax).

The Law

The Misuse of Drugs Act 1971 creates a number of offences to control the misuse of illegal drugs. It is not an offence to possess Steroids, Dihydrocodeine or NPS. Common offences include:

- Possession

It is an offence for a person to have a controlled drug in his/her possession.

- Possession with intent to supply

It is an offence for a person to have a controlled drug in his/her possession whether lawfully or not with intent to supply it to another.

- Supply

It is an offence for a person to supply or offer to supply a controlled drug to another person.

- Concerned in the supply

It is an offence for a person to be concerned in the supply of a controlled drug to another person.

- Section 8 of the Misuse of Drugs Act 1971

It is the responsibility of the licensee and staff of licensed premises to prevent drug dealing and the use of controlled drugs within licensed premises.

To knowingly permit or suffer any drug related activity on the premises is an offence.

Searching

All licensees should introduce the use of searches as a condition of entry to their premises.

Signs required to be clearly displayed regarding this and a 'Zero Tolerance' Policy in relation to drugs within licensed premises.

Power of Search

Only the Police have power to search people without their consent.

- Can a customer wishing to enter the premises be searched?

Yes, if it is clearly advertised as a condition of entry that customers are required to allow a search of their person.

Searches can only take place with the permission of the person concerned. A witness should always be present during any search to provide corroboration and prevent any allegations. If they decline to be searched, entry can be refused.

Always remember your rights to refuse entry or to ask someone to leave your licensed premises. If an individual refuses, the Police should be contacted for assistance.

- What can be searched?

The search should be restricted to outer clothing or pockets and should include bags etc. Great care must be taken whenever you are searching a person in relation to drugs. Never put your hand straight into someone's pocket without first asking the person if they have any sharp objects and patting the outside of the pocket. It may be preferable to ask the person to empty their own pockets and show you the contents. You should then ask if the pocket is empty and pat it from the outside. This may be sufficient to establish if there is anything in the pocket. Great care must be taken so that an exposed needle for example, does not cause injury. You should also ask the individual to empty any bags and watch carefully whilst this is done. Again this may be sufficient to establish whether any drugs are present. Obviously if the premises in which you are, are particularly busy, you do not want to take too long to carry out your search. Thoroughness should not however be sacrificed for speed. You should attempt to put your customer at ease and make them as comfortable as possible in these circumstances.

- Can a customer within the premises be searched?

Yes, however, it is not recommended. If a customer is searched prior to entry, there should be no need to do a further search. However, if it is still felt necessary to carry out a further search once on your premises, a sign should be clearly displayed setting out the Search Policy. It is of vital importance that licensees and staff are aware of the limitations on their power of search. Searches can only take place with the permission of the person concerned to be searched. The search should not take place in a public area of the premises. Again, corroboration during searches is essential.

If the individual does not agree to a search, you have no legal powers to do it. If a subject withdraws consent during a search, you have no legal powers to continue, you must stop immediately and consider contacting the Police. Again you also have the right to require someone to leave your licensed premises.

- Can a male search a female and vice versa?

No. A male should only search a male and a female should only search a female to prevent allegations of indecency/sexual assault. A witness should always be present to provide corroboration and help to prevent any allegations. The witness

can be either male or female. If possible, carry out the search within the range of CCTV cameras if you have them.

- What to do if drugs are found whilst searching a customer?

The person who has agreed to being searched and who has agreed to remain with you must be handed over to the Police as soon as possible. However, you have no power to force them to remain with you. If you find something which you think is a controlled substance, you should keep this safe and contact the Police immediately.

- Can force be used to search a customer?

No. The customer must always grant permission to be searched. There are no circumstances in which force may be used to carry out the search.

Power of detention

You have no power to detain a person for offences under the Misuse of Drugs Act 1971. The person(s) must agree to remain with you and must be handed over to the Police as soon as possible. If a person commits a Common Law offence such as an assault on a customer or member of staff, or is committing a Breach of the Peace on the premises, then he/she can be detained but only for the Common Law offence. Again the Police should be notified as soon as possible.

Drugs seized or found on the premises

If you find anything that appears to be an illegal drug, put it in a plastic bag or envelope and seal it: This must be signed by the finder and witnessed by another member of staff; Enter the details of the drugs found in the appropriate drugs register; If any member of staff or management finds drugs on the premises, they must immediately inform the most Senior Manager on duty. The Police must be advised at the earliest opportunity (be cognisant of the statutory defence under MDA 1971 and the requirements to comply).

Drugs information

Do not automatically think that because you know, the Police will know too. The Police can only act if they have information/intelligence to act upon. YOUR information may be the key to success. If you have any information about drug activities, you should notify the Police immediately.

Be aware of NPS (new psychoactive substances, formerly known as “legal highs”, which it is not an offence to possess). Persons might use NPS packaging to hold controlled drugs therefore any such item recovered/seized should be treated as if it were a controlled substance.