



Licensing (Scotland) Act 2005

2005 asp 16

PART 4

OCCASIONAL LICENCES

56 Occasional licence

- (1) A Licensing Board may, on the application of any of the persons mentioned in subsection (2) made in relation to any premises (other than licensed premises) within the Board's area, issue to the applicant a licence (referred to in this Act as an "occasional licence") authorising the sale of alcohol on the premises.
- (2) Those persons are—
 - (a) the holder of a premises licence,
 - (b) the holder of a personal licence, and
 - (c) a representative of any voluntary organisation.
- (3) An application under subsection (1) must contain details of the information which the applicant proposes should be included in the licence under subsection (7)(b).
- (4) An application under subsection (1) which complies with subsection (3) is referred to in this Act as an "occasional licence application".
- (5) An occasional licence has effect for such period of not more than 14 days as the Licensing Board may determine.
- (6) A Licensing Board may issue under subsection (1) in respect of any one voluntary organisation in any period of 12 months—
 - (a) not more than 4 occasional licences each having effect for a period of 4 days or more, and
 - (b) not more than 12 occasional licences each having effect for a period of less than 4 days,provided that, in any period of 12 months, the total number of days on which occasional licences issued in respect of the organisation have effect does not exceed 56.
- (7) An occasional licence issued by a Licensing Board under subsection (1) must—

Status: This is the original version (as it was originally enacted).

- (a) be in the prescribed form, and
 - (b) contain the information specified in subsection (8).
- (8) That information is—
- (a) the name and address of the holder of the licence,
 - (b) a description of the premises in respect of which it is issued,
 - (c) a description of the activities to be carried on in the premises,
 - (d) a statement of the period during which the licence has effect,
 - (e) a statement of the times during which alcohol may be sold on the premises,
 - (f) a statement as to whether alcohol may be sold for consumption on the premises, off the premises or both,
 - (g) a statement of the times at which any other activities in addition to the sale of alcohol are to be carried on in the premises,
 - (h) where alcohol is to be sold for consumption on the premises, a statement as to whether children or young persons are to be allowed entry to the premises and, if they are to be allowed entry, a statement of the terms on which they are allowed entry including, in particular—
 - (i) the ages of the children or young persons to be allowed entry,
 - (ii) the times at which they are to be allowed entry, and
 - (iii) the parts of the premises to which they are to be allowed entry,
 - (i) the conditions to which the licence is subject, or, in relation to any such condition, a reference to another document in which details of the condition can be found, and
 - (j) such other information as may be prescribed.
- (9) Where alcohol is to be sold both for consumption on and for consumption off the premises, the occasional licence for the premises may, under subsection (8)(e), state different times for—
- (a) the sale of alcohol for consumption on the premises, and
 - (b) the sale of alcohol for consumption off the premises.

57 Notification of application to chief constable and Licensing Standards Officer

- (1) Where a Licensing Board receives an occasional licence application, the Board must give notice of it, together with a copy of the application, to—
- (a) the appropriate chief constable, and
 - (b) any Licensing Standards Officer for the area in which the subject premises are situated.
- (2) If the chief constable considers that it is necessary for the purposes of the crime prevention objective that the application be refused, the chief constable may, by notice to the Licensing Board given within 21 days of the date of receipt of the notice under subsection (1), make a recommendation to that effect.
- (3) A Licensing Standards Officer may, within 21 days of receipt of a notice under subsection (1)(b), prepare and submit to the Licensing Board a report setting out the Officer's comments on the application.

58 Objections and representations

- (1) Where an occasional licence application is made to a Licensing Board, any person may by notice to the Licensing Board—
 - (a) object to the application on any ground relevant to one of the grounds for refusal specified in section 59(6), or
 - (b) make representations to the Board concerning the application, including, in particular, representations—
 - (i) in support of the application, or
 - (ii) as to conditions which the person considers should be imposed.
- (2) Where a Licensing Board receives a notice of objection or representation under subsection (1) relating to any occasional licence application made to the Board, the Board must—
 - (a) give a copy of the notice to the applicant in such manner and by such time as may be prescribed, and
 - (b) have regard to the objection or representation in determining the application, unless the Board rejects the notice under subsection (3).
- (3) A Licensing Board may reject a notice of objection or representation received by the Board under subsection (1) if the objection or representation is frivolous or vexatious.
- (4) Where a Licensing Board rejects a notice of objection or representation under subsection (3), the Board may recover from the person who gave the notice any expenses incurred by the Board in considering the notice.
- (5) In any proceedings by a Licensing Board for the recovery of expenses under subsection (4), a copy of any minute of proceedings of the Licensing Board—
 - (a) recording the Board's rejection of the notice and the grounds for rejection, and
 - (b) certified by the clerk of the Board to be a true copy,is sufficient evidence of the rejection and of the establishment of the ground for rejection.

59 Determination of application

- (1) An occasional licence application received by a Licensing Board is to be determined in accordance with this section.
- (2) If the Board has not received any—
 - (a) notice from the appropriate chief constable under section 57(2),
 - (b) report from a Licensing Standards Officer under section 57(3), or
 - (c) notice of objection or representation under section 58(1),relating to the application, the Board must grant the application.
- (3) In any other case, the Board must consider whether any of the grounds for refusal applies and—
 - (a) if none of them applies, the Board must grant the application, or
 - (b) if any of them applies, the Board must refuse the application.
- (4) The Board may hold a hearing for the purposes of determining any application which is to be determined in accordance with subsection (3).

Status: This is the original version (as it was originally enacted).

- (5) Where the Board does not hold a hearing for that purpose, the Board must ensure that, before determining the application, the applicant is given an opportunity to comment on any such notice or report as is referred to in subsection (2).
- (6) The grounds for refusal are—
- (a) that the premises to which the application relates are excluded premises,
 - (b) that the application must be refused under section 64(2) or 65(3),
 - (c) that the Licensing Board considers the granting of the application would be inconsistent with one or more of the licensing objectives,
 - (d) that, having regard to—
 - (i) the nature of the activities proposed to be carried on in the premises to which the application relates,
 - (ii) the location, character and condition of the premises, and
 - (iii) the persons likely to frequent the premises,
 the Board considers that the premises are unsuitable for use for the sale of alcohol.
- (7) In considering, for the purposes of the ground for refusal specified in subsection (6) (c), whether the granting of the application would be inconsistent with the crime prevention objective, the Licensing Board must, in particular, take into account any notice given by the appropriate chief constable under section 57(2).
- (8) In determining any application which is to be determined in accordance with subsection (3), the Board must take into account any report from a Licensing Standards Officer under section 57(3).

60 Conditions of occasional licence

- (1) Except to the extent that schedule 4 provides otherwise, every occasional licence is subject to the conditions specified in that schedule.
- (2) The Scottish Ministers may by regulations modify schedule 4 so as—
- (a) to add such further conditions as they consider necessary or expedient for the purposes of any of the licensing objectives, or
 - (b) to extend the application of any condition specified in the schedule.
- (3) The Scottish Ministers may by regulations prescribe further conditions as conditions which Licensing Boards may, at their discretion, impose on the granting by them of occasional licences.
- (4) Without prejudice to subsection (3), where a Licensing Board grants an occasional licence, the Board may impose such other conditions (in addition to those to which the licence is subject by virtue of subsection (1)) as they consider necessary or expedient for the purposes of any of the licensing objectives.
- (5) A Licensing Board may not impose a condition under subsection (4) which—
- (a) is inconsistent with any condition—
 - (i) to which the occasional licence is subject by virtue of subsection (1),
 - or
 - (ii) prescribed under subsection (3),
 - (b) would have the effect of making any such condition more onerous or more restrictive, or

- (c) relates to a matter (such as planning, building control or food hygiene) which is regulated under another enactment.
- (6) The conditions which may be—
 - (a) added under subsection (2)(a),
 - (b) prescribed under subsection (3), or
 - (c) imposed under subsection (4),include, in particular, conditions of the kind described in subsection (7).
- (7) Those are conditions requiring anything to be done, or prohibiting or restricting the doing of anything, in connection with—
 - (a) the sale of alcohol on the premises in respect of which an occasional licence has effect, or
 - (b) any other activity carried on in such premises.

61 Notification of determinations

- (1) Where a Licensing Board grants or refuses an occasional licence application, the Board must give notice of the grant or refusal to—
 - (a) the applicant,
 - (b) the appropriate chief constable,
 - (c) any Licensing Standards Officer for the area in which the subject premises are situated, and
 - (d) any person who gave a notice of objection or representation under section 58(1) in respect of the application.
- (2) A person to whom notice is given under subsection (1) may, by notice to the clerk of the Board, require the Board to give a statement of reasons for the grant or refusal of the application.
- (3) Where the clerk of a Licensing Board receives a notice under subsection (2), the Board must issue a statement of the reasons for the grant or refusal of the application to—
 - (a) the person giving the notice, and
 - (b) each other person to whom the Board gave notice under subsection (1).
- (4) A statement of reasons under subsection (3) must be issued—
 - (a) by such time, and
 - (b) in such form and manner,as may be prescribed.