

The Highland Licensing Board

Meeting – 1 October 2013

Agenda Item	6
Report No	HLB/110/13

Adoption of Licensing Policy Statement 2013-16

Report by the Clerk to the Board

Summary

Further to the Board meeting of 27 August 2013, the Board is invited to agree to adopt the Final Draft Licensing Policy Statement attached as **Appendix 1** as its Licensing Policy Statement 2013-16 (subject to the Board's overprovision statement being added to the Licencing Policy Statement when an overprovision statement has been agreed by the Board).

1. Background

- 1.1 On 27 August 2013 the Board considered consultation responses received in respect of its Consultation Draft Policy Statement 2013-16 and heard submissions by respondents present at the meeting. Thereafter, the Board agreed that the amendments detailed below at section 2 of this report be made to the Consultation Draft and that a Final Draft Policy Statement incorporating these amendments be submitted to the Board for adoption.
- 1.2 The amendments agreed have now been incorporated into the text attached at **Appendix 1** as the Final Draft Policy Statement. The amendments have been left as "tracked changes" for members' ease of reference.
- 1.3 There are, however, two matters which have been included in the amendments to the text but in relation to which the Board's further clarification and approval is sought. These are as detailed in sections 2.1 and 2.9 below.

2. Amendments agreed on 27 August 2013

2.1 Section 2.1 Premises Licence Core Hours

Members agreed to extend the policy hours for on-sales on Sundays for all types of on-sales premises (including occasional licences) to 1100 hours to 0100 hours the following day, in line with policy hours for Monday to Saturday.

- Members are asked to clarify, however, whether it is their intention that the core hours for food-led operations on Sundays should also be brought into line with the core hours for food-led operations on Mondays to Saturdays.

The Monday to Saturday hours allow opening at any time from 0900 hours provided that the continuous period during which alcohol may be sold does not exceed 14 hours and provided that alcohol is sold only to persons taking table meals. The text has been amended on the assumption that the Board did intend this alignment between Sundays and the rest of the week at food-led premises. However confirmation of this by the Board is sought.

2.2 Section 2.2 Extended hours applications

Members agreed to support Option 2 in relation to extended hours on Scottish Premier League match days, with the following addition to the text of section 2.2

“Scottish Premier League Match days

The Board will generally not entertain applications for early opening on SPL match days. 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 and the Board is satisfied that the consumption of alcohol will be ancillary to the pre-match dining and entertainment provided.”

2.3 Section 2.3 Festive Period Hours

Members agreed that the text be amended to state that the festive period dates would be fixed annually by the Clerk under delegated powers, in consultation with the Chairman of the Board.

They further agreed that the dates for the 2013-14 festive period should be Friday 13th December 2013 to Thursday 2nd January 2014 (i.e. ending on the morning of Friday 3rd January 2014).

2.4 Section 2.4 Occasional Licences

Members agreed the following amendments:

- Addition of a reminder as to the mandatory condition relating to voluntary organisations;
- Deletion of the first paragraph in the consultation draft after the sub-heading “Application Requirements”;
- Amendment to policy hours for Sundays to 1100 hours to 0100 hours the following day.
- Addition of further information on the training standard to be encouraged for voluntary organisations and on where such training may be sourced.

2.5 Section 2.5 Access to Premises by Children

Members agreed the following amendments:

- Amendment of the wording to clarify that the requirements referred to in the text “may” be imposed by the Board, rather than “will” be imposed (for the reasons stated in the consultation response from the Highland Licensing Forum),
- Addition of a reminder as to the mandatory condition that premises admitting children under five must have baby changing facilities accessible to both genders,
- Addition of a reminder as to the requirement to have an age verification policy in place setting out the steps to be taken to establish the age of someone purchasing alcohol and also provision of a link to a sample age verification policy.

2.6 Section 2.6 Adult Entertainment

Members agreed the following amendments:

- While it was agreed that the adult entertainment local conditions referred to in Appendix 9 should still be imposed where appropriate, Section 2.6 should be amended to state that, where considered necessary and appropriate, the Board will expect applicants who include adult entertainment as an activity in the operating plans also to include in their operating plans a statement that they will operate only in accordance with their operating code, which should in turn include all of the protective measures set out in the Board’s adult entertainment local conditions,
- Addition of a requirement that the code of conduct referred to in adult entertainment local condition 1. should not only be in place and “made available” to staff and customers but should be clearly displayed within the premises,
- Addition of the additional conditions requested by Police Scotland in their consultation response 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, and
- Amendment to adult entertainment local condition 7 to state that children and young persons will not be permitted on the premises on any day on which adult entertainment takes place or, in the case of a hotel which has children or young persons resident, that they must be excluded from any part of the hotel used for adult entertainment on any day on which that entertainment takes place..

2.7 Section 2.7 Home Deliveries

No amendments were considered necessary.

2.8 Section 2.8 Members' Clubs

Members agreed to substitute the alternative wording proposed by the Inverness, Highlands and Islands Licensed Trade Association in its consultation response for the wording set out at section 2.8 of the Consultation Draft.

They further agreed that there be added to the text statements as to the Board's expectations of clubs, encouraging clubs to limit, via their constitutions, the number of non-members who could be signed in by a club member and encouraging clubs to ensure observance of their constitutions, be taken on board and that these statements be added to the final text.

2.9 Section 2.9 Plastic Glasses

Members agreed to adopt Option 4, whereby a condition requiring use of plastic or polycarbonate glasses would be imposed on an on-sales premises (of any description) only where considered appropriate on the basis of individual risk assessment at that premises, with the hour from which the requirement would be in effect being determined also on a case by case basis.

They further agreed to include in the text explanation that imposition of this condition would be one of the steps which the Board might take in relation to particular premises on a review of the existing licence for that premises and a statement that when considering imposing the condition following a premises licence review, the Board would take advice from Police Scotland and the Licensing Standards Officer as to their assessment of any risk to public safety which might arise as a result of the continued serving of drinks in glassware at that premises.

- Advice was subsequently received from Licensing Standards Officers that certain occasional licences are 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 such as music festivals, Highland games and agricultural shows which attract many thousands of people and where, in the interest of public safety, it is clearly impractical and unsafe for alcohol to be dispensed in glassware. An additional statement advising of the possibility of this condition being imposed in occasional licences for large-scale public events has accordingly been added to the text. The Board's approval of this additional statement is sought.

2.10 Section 2.10 Outdoor Drinking

The Board agreed the following amendments:

- Amendment of the third paragraph to require LSO approval of the boundary of an outside drinking area only where a pavement permit from TEC Services was not already required.

- Inclusion of wording to clarify that the hours during which drinking will be allowed in outside drinking areas will be determined on a case by case basis having regard to the nature of the locality in which the premises are situated and any other relevant factors.

2.11 Section 2.11 Capacity

No amendments were considered necessary.

2.12 Section 2.12 Personal Licences

No amendments were considered necessary.

2.13 Local Conditions

Members agreed that the wording of local conditions set out in the appendices be amended in the final Draft Policy Statement to correspond with the Board's decisions in relation to the policies as detailed above. It was agreed that any further adjustment/improvement considered necessary to the wording of the local conditions should also be made. This has been done.

3. Equalities

Screening of the Final Draft Policy Statement 2013-16 has not indicated a need for a full equalities impact assessment

Recommendation

The Board is invited to agree the terms of the Final Draft Policy Statement attached at **Appendix 1** and to agree to adopt this as the Board's Licensing Policy Statement 2013-16 with effect from 1 December 2013. The Board is also invited to agree that the Board's overprovision statement be added to the Licensing Policy Statement 2013-16 when the terms of an overprovision statement have been adopted by the Board.

Date: 19 September 2013

Author: Susan Blease

Appendices:

Appendix 1 – Final Draft Policy Statement

THE HIGHLAND LICENSING BOARD

**CONSULTATION—FINAL DRAFT REVISED LICENSING POLICY STATEMENT
2013-16**

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2.13 Overprovision - ~~Overprovision is currently subject to a separate evidence gathering process and overprovision statement proposals will therefore go out to statutory and public consultation separately from the main Consultation Draft Policy Statement. Public consultation on options for the Board's overprovision statement is currently taking place. The Board will consider consultation responses at a special meeting on 12 November 2013 and will then agree the terms of an overprovision statement to be included in this Licensing Policy Statement.~~

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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, every three years, a statement of their policy in respect of the exercise of their functions under the Act. 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 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.

Scottish Government also issued Guidance for Licensing Boards as to the exercise of their functions under the Act in April 2007 and this guidance has been taken into account by the Board in the preparation of this Licensing 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.

The 2011 Census figures (published December 2012 rounded to the nearest thousand) indicate a population of 232,000 in the Board’s area (following a previous 2011 mid-year estimate of 222,370). This is the seventh highest population of the 32 licensing board areas in Scotland.

Population by settlement (main towns plus selected smaller settlements providing locally important services) is approximately as follows:

Settlement	Population	Settlement	Population
Inverness	67,960	Portree	2,220
Fort William	9,823	Ullapool	1,498

Nairn	9,203	Golspie	1,413
Thurso	7,337	Kingussie	1,360
Wick	6,770	Dornoch	1,310
Alness	5,313	Brora	1,210
Dingwall	5,076	Mallaig	792
Invergordon	3,969	Broadford	753
Tain	3,396	Fort Augustus	720
Conon Bridge and Maryburgh	2,791	Kyle of Lochalsh	645
Aviemore	2,734	Gairloch	641
Grantown-on-Spey	2,400	Lochinver	353
Muir of Ord	2,358	Kinlochbervie	182

Population by ward (based on 2011 mid-year estimate) and current numbers of licensed premises are approximately as follows.

Ward	Population	Off sales licences	On sales licences	<u>On/off sales licences</u>
01 North West and Central Sutherland	5,568	<u>20</u>	<u>13</u>	<u>30</u>
02 Thurso	7,218	<u>9</u>	<u>10</u>	<u>17</u>
03 Wick	6,587	<u>9</u>	<u>9</u>	<u>11</u>
04 Landward Caithness	11,355	<u>10</u>	<u>7</u>	<u>15</u>
05 East Sutherland and Edderton	7,952	<u>14</u>	<u>13</u>	<u>32</u>
06 Wester Ross, Strathpeffer and Lochalsh	11,372	<u>32</u>	<u>25</u>	<u>60</u>
07 Cromarty Firth	11,748	<u>14</u>	<u>11</u>	<u>16</u>

08 Tain and Easter Ross	8,860	<u>10</u>	<u>10</u>	<u>13</u>
09 Dingwall and Seaforth	12,399	<u>12</u>	<u>13</u>	<u>13</u>
10 Black Isle	9,639	<u>11</u>	<u>6</u>	<u>11</u>
11 Eilean a' Cheo	10,114	<u>16</u>	<u>31</u>	<u>47</u>
12 Caol and Mallaig	7,882	<u>15</u>	<u>21</u>	<u>30</u>
13 Aird and Loch Ness	10,658	<u>15</u>	<u>17</u>	<u>35</u>
14 Inverness West	8,204	<u>5</u>	<u>3</u>	<u>7</u>
15 Inverness Central	13,654	<u>28</u>	<u>50</u>	<u>46</u>
16 Inverness Ness-side	10,008	<u>8</u>	<u>3</u>	<u>4</u>
17 Inverness Millburn	8,050	<u>11</u>	<u>7</u>	<u>9</u>
18 Culloden and Ardersier	11,030	<u>7</u>	<u>5</u>	<u>8</u>
19 Nairn	11,593	<u>9</u>	<u>14</u>	<u>24</u>
20 Inverness South	14,092	<u>7</u>	<u>3</u>	<u>9</u>
21 Badenoch and Strathspey	12,983	<u>26</u>	<u>46</u>	<u>56</u>
22 Fort William and Ardnamurchan	11,404	<u>25</u>	<u>42</u>	<u>54</u>

1.3 The Board's Responsibilities

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

The Board also has responsibility for conducting reviews of premises licence where a valid ground of review (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, 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.

Authority to exercise functions in respect of the grant of certain licences 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**)

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 <http://www.highland.gov.uk/NR/rdonlyres/91E9BE64-A54B-4884-B3E7-9B23A5330A77/0/GAMBLINGACTPOLICYSTATEMENTFINALJUNE2007revsd10910.pdf>

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 be required 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 Equalities

The Board aims at all times to act in accordance with the Public Sector Equalities Duties. The Board's Equality Strategy, which was agreed on 2 April 2013, can be accessed at

<http://www.highland.gov.uk/NR/ronlyres/797578EC-9803-4063-9752-0738C2E57695/0/HLBEqualityStrategy.pdf>

This will be subject to continuous review.

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

1.8 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 Board and how it is administered and 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

<http://www.highland.gov.uk/NR/ronlyres/3FC23D54-4A7E-4CB1-8978-EA7ED5810E61/0/HIGHLANDLICENSINGBOARDPUBLICATIONSCHEME19Aug2010.pdf>

2. PROPOSED 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 will require to satisfy the Board that these 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 ~~Saturday~~ Sunday: 1100 hours to 0100 hours the following day
~~Sunday: 1200 hours to 2400 hours~~

Food-led operations :

These are premises at which the sale of alcohol is ancillary to the provision of food and is only sold to persons taking table meals. ~~On Mondays to Saturdays, e~~Early opening from **0900 hours** will be permitted provided that on any one day the terminal hour is such that the continuous period during which alcohol may be sold does not exceed 14 hours. Subject to appropriate adjustment where opening is sought after 0900 hours but before 1000 hours, or after 1000 hours but before 1100 hours, the permitted hours will accordingly be as follows :

**Monday to ~~Saturday~~ Sunday: 0900 hours to 2300 hours,
1000 hours to 2400 hours, or
1100 hours to 0100 hours the following day**

~~Sunday: 1200 hours to 2400 hours~~

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.

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 on any 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 will be permitted as follows:

Monday to Wednesday: 1100 hours to 0100 hours the following day
Thursday to Saturday: 1100 hours to 0300 hours the following day
Sunday: ~~1200-1100~~ hours to ~~2400~~0100 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 or quiz nights 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.

2.2 Extended Hours Applications

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 a special event or occasion and that the grant of extended hours will not conflict with any of the licensing objectives.

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 are material reasons to refuse the application. See section 2.3 for fuller details of the Board's policy on hours during the Festive Period.

The Board 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.

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 ~~will~~ may add, as Local Conditions, such equivalent conditions to the Late Opening Mandatory Conditions ~~and such Local Conditions as the Board~~ considered ~~sed~~ appropriate.

Where the Board is satisfied that early opening (i.e. before 1100 hours Monday to ~~Sunday~~ Saturday or before 1200 hours on 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.

Options for Scottish Premier League Match days:

~~In the case of Scottish Premier League football matches in Highland, evidence supplied by Police Scotland has indicated an increasing number of incidents and crowd control issues arising as a result of excessive pre-match drinking. In response to these concerns, the Board is currently considering whether it should introduce a new policy presuming against the grant of extended hours applications for early opening on these SPL match days. The following are three options for the position the Board might take on this issue following consultation.~~

~~Option 1: The Board will generally not entertain applications for early opening on SPL match days at any premises.~~

Option 2: The Board will generally not entertain applications for early opening (i.e. before 1100 hours) on SPL match days. 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 and the Board is satisfied that the consumption of alcohol will be ancillary to the pre-match dining and entertainment provided.

~~Option 3: The Board will consider SPL matches in Highland to be special events and will grant applications for early opening on SPL match days where satisfied that such~~

~~early opening will not conflict with any of the licensing objectives. Additional conditions requiring the provision of food and additional stewarding will be applied.~~

2.3 Festive Period Hours

The Clerk to the Board, in consultation with the Chairman of the Board, will agree ~~fix~~ annually the specific dates over the Christmas and New Year period between which ~~the Board~~ will consider applications to extend on-sales licensed hours generally acceptable. 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.

During each festive period, applications to extend licensed hours to the following terminal hours will generally be granted unless, in any particular case, the Board consider that there are material reasons to refuse the application:

Late opening premises (as defined in section 2.1) : 0400 hours

Other on-sales premises : 0200 hours

The additional conditions ~~s~~ stated at section 2.2 above ~~will~~ may apply together with such other Late Opening Conditions as the Board may consider necessary or expedient for the purposes of the licensing objectives.

Premises wishing to extend their licensed hours to these terminal hours over the festive period will require to lodge an application under section 68 of the Act requesting these hours on all or any of the dates annually agreed.

Premises which have, within the “Seasonal Variations” section of their operating plan, a statement to the effect that they will open for such extended hours as the Board may agree each festive period will not require to lodge applications for festive period terminal hours. Premises licences which include such statements in their operating plan will, however, be subject to a condition requiring the licence holder to 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 open until the festive period terminal hour for that category of premises. The additional local conditions ~~s~~ stated at section 2.2 above ~~will~~may also apply on any nights on which the premises will be open until after 0100 hours. A large number of applications for extended hours are received for the festive period. These cannot be determined until they have been referred by the Board to Police Scotland and to the Licensing Standards Officer who have up to 10 days in which to respond. Licence holders are therefore advised to lodge their festive hours applications by 1 December each year.
Applications received after 1 December may not be processed on time.

2.4 Occasional licences

Who may apply?

The Board may grant occasional licences for premises other than licensed premises where application is made by the holder of a premises licence or personal licence or

by a representative of a voluntary organisation. 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.

Application requirements

~~The Board requires that a separate occasional licence application is made for each separate occasion. For example, if a premises were to be used for a quiz night on a Friday evening, a birthday party on the following Saturday evening and a live band on the Sunday evening, three separate occasional licences will be required. This reflects the fact that the nature of the events is different, raising different considerations and requiring different conditions. Where, however, similar events are taking place over a number of days/nights, the Board may treat these as one event and grant a single occasional licence to cover the whole period of the events. Examples would include golf tournaments, regattas and music festivals. The Board may not, however, grant an occasional licence for a period of more than 14 days.~~

The Board encourages applicants to lodge applications for occasional licences at least 28 days before the event for which the licence is required so that the requisite notice (21 days) can be given to the Chief Constable and Licensing Standards Officer. The Board cannot guarantee that applications lodged fewer than 28 days before the event will be granted in time. 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.

Hours

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

Monday to ~~Saturday~~ Sunday: 1100 hours to 0100 hours the following day
~~Sunday:~~ 1200 hours to 2400 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.

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.

In respect of applications by voluntary organisations, in addition to imposing Mandatory and Local conditions, the Board encourages voluntary organisations to ensure that at least one member present 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.
- 1-16. 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>.

2.5 Access to Premises by Children

The Board ~~will~~may impose the following requirements in relation to access to licensed premises by children where considered appropriate.

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.

Secondly, 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 on the premises.

Lastly, the Board will stipulate that children must not sit or remain at the bar counter at any time.

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 <http://www.highland.gov.uk/NR/rdonlyres/554E6D50-1C1C-4B7D-8BEC-84A7B7485AD3/0/AGEVERIFICATIONPOLICY.doc>

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 10 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.

~~The Board will impose the following requirements in relation to adult entertainment in licenced premises.~~

~~The licence holder will require to have in place a code of conduct for behaviour of staff and customers, a copy of which will be available to staff and customers. 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.~~

~~The licence holder will require to 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 photographic proof of 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.~~

~~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 will be of a standard to be approved by the Chief Constable.~~

~~No dance entertainment should take place in private booths and performers' genitalia should be covered 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.~~

~~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 may only depict performers suitably clothed as aforesaid. Performances involving the removal of clothes should not be visible from outwith the premises.~~

~~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.~~

~~Where in terms of the operating plan, children and young persons are permitted on the premises, children and young persons will not be permitted on the premises for the period from one hour before any adult entertainment commences, until thirty minutes after it ceases.~~

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.

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 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 reminds clubs that if they 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 non-members are to be supplied with alcohol at any function 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.~~

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 Rockness 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.

~~In response to concerns raised by the police in relation to glassing attacks, the Board has for a number of years had a policy of requiring (by local condition) that at any premises entitled to trade after 0100 am (Late Opening Premises), on nights on which the premises will be open until after 0100 hours the following day, all drinks served after 2100 hours must be served in plastic or polycarbonate glasses.~~

~~Representations have been received from some parties, however, inviting the Board to consider removing this policy when revising its existing Policy Statement. Further representations from other parties have invited the Board to consider extending the policy to other types of on sales premises as well as to Late Opening Premises.~~

~~The following are options for the position the Board might take on this issue following consultation:~~

~~Option 1: Retain the existing policy of requiring only Late Opening Premises to serve drinks in plastic or polycarbonate glasses from 2100 hours (or amend start time to 2200 hours).~~

~~Option 2: Retain the existing policy in relation to all Late Opening Premises and extend it to specify other types of on sales premises (public houses, hotel bars, members' clubs or restaurants) to which it will apply (whether from 2100 hours or 2200 hours).~~

~~Option 3: Retain the existing policy in relation to all Late Opening Premises and apply it also to other individual on-sales premises (whether from 2100 hours or 2200 hours) but only where considered appropriate on the basis of individual risk assessment at that premises.~~

~~Option 4: Apply the policy and the condition to Late Opening and other on-sales premises in each case only where considered appropriate on the basis of individual risk assessment at that premises.~~

~~Option 5: Remove the policy entirely.~~

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.

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 30 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 TEC Services before the area could be used as an outside drinking area, the Board may will also require that the boundary of any outdoor drinking area situated on a public footway must be effectively demarcated to the satisfaction of the Licensing Standards Officer, to separate it from the general pedestrian area.

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 area (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 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

~~Overprovision is currently subject to a separate evidence gathering process and overprovision statement proposals will therefore go out to consultation separately from the main Consultation Draft Policy Statement.~~

~~The Board is currently consulting on options in relation to its overprovision statement for 2013-16. The Board will determine the content of its overprovision statement following consideration of consultation responses. The consultation period ends 18 October 2013 and it is hoped that the Board will therefore be in a position to conclude its overprovision statement, for inclusion in the Licensing Policy Statement, by end November 2013.~~

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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**

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”. 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 10 – 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 may not have been required by conditions imposed on the licence 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 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 Pubwatch 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, as 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 (eg 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-drink driving materials and promoting awareness of schemes such as designated driver schemes
- Having a policy to deal with patrons who have consumed excessive alcohol
- 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 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)

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

1. Premises Licence

- 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.

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.

b)c) Annually fixing the dates in December and January 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.

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.

In all cases where a Clerk considers it appropriate the decision may be referred to the Board.

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 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.

“*Vice Convener*” means any member appointed by the Board to that office.

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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.

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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

- 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 of 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.

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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.

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APPENDIX 6 – LATE OPENING MANDATORY CONDITIONS

The following mandatory conditions apply to late opening premises (~~premises which will on any occasion be open for a continuous period beginning on one day and ending after 0100 hours the following day~~) 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 Aid¹ 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
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

¹ 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.

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.

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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 from harm

	Condition	Licensing Objective
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.	After <u>2100 (appropriate hour to be determined on a case by case basis)</u> hours alcoholic and non alcoholic drinks shall be sold or served in plastic or polycarbonate glasses. <u>(This condition may be applied where considered appropriate following a review of a premises licence.)</u> See section 2.9 above for the options as to the circumstances in which the Board may consider applying this local condition. Consultees views on those options are invited. The condition currently applies only to premises opening after 0100.	1, 2, 3 & 4
e.	After <u>2200 (appropriate hour to be determined on a case by case basis)</u> hours alcoholic or non-alcoholic drinks shall not be consumed in an outdoor drinking area.	3
<u>f(1).</u>	Premises opening for the sale of alcohol for consumption on the premises prior to 1100 hours shall have available a	4

	<p>selection of hot and cold food and shall advertise this within the premises.</p> <p><u>(This condition may be applied when early opening is being permitted on an application for extended hours for a particular special event or occasion.)</u></p>	
f(2).	<p><u>Alcohol may be sold on the premises prior to 1100 hours only to persons taking table meals.</u></p> <p><u>(This condition may be applied when early opening is being permitted on a permanent basis to premises which are food-led operations.)</u></p>	<u>4</u>
g.	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
h.	Dartboards and any pool table will be situated in a location to be approved by the Licensing Standards Officer.	2 & 5
i.	Any music or live performance will cease at <u>0245(time to be specified on a case by case basis)</u> hours. (or any other such time as specified by the board)	3
j.	After <u>2100 (time to be specified on a case by case basis)</u> hours (or any other such time as may be specified by the Licensing Board) , the premises 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
k.	Within 30 minutes of the conclusion of permitted hours for any outside area governed by a Pavement Permit, all tables and chairs, parasols and other moveable furniture will be removed.	1,2 & 3
l.	<p>The boundaries of any outside area covered by a Pavement Permit will be effectively demarcated to the satisfaction of the Licensing Standards Officer. to separate it from general pedestrian access</p> <p><u>(This condition will not be applied if the area requires a Pavement Permit from The Highland Council or if the LSO advises it is unnecessary)</u></p>	2, & 3
m.	The licence holder shall ensure that all outdoor tables covered by a Pavement Permit are regularly cleared of all used glassware and crockery.	2
n.	The licence holder shall ensure the provision of an effective means of recording the capacity during the premises hours of operation.	2

o.	<p>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 and has been provided continuously from no later than 2200 hours.</p> <p><u>(This condition will apply at late opening premises only)</u></p>	4
p.	<p>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 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.</p> <p><u>(This condition will apply at late opening premises only)</u></p>	4.
q.	<p>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.</p> <p><u>(This condition will apply</u>Applies<u> only to premises which have a statement in their operating plan to the effect that they will open during the festive period for the hours agreed by the Board under their Festive Period policy.)</u></p>	1 & 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 from harm

	Condition	Licensing Objective
a.	A notice must be displayed so as to be reasonably visible which states that persons under the age of 18 are not permitted on the premises.	5
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 Occasional Licence must be prominently displayed on the premises .	1
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.	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
f.	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
g.	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.	1 & 2
h.	Stewards must be clearly identified by badges, armbands or a recognisable uniform.	1 & 2

i.	All Stewards must remain in the premises until all patrons have left the premises.	1, 2 & 3
j.	The Licence Holder must provide [<i>insert number</i>] Stewards who hold a Licence granted under Section 8 of the Private Security Industry Act 2001.	1 & 2
k.	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
l.	All alcoholic and non-alcoholic drinks shall only be sold and served in cans <u>or in</u> plastic or polycarbonate containers. <u>(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)</u>	1 & 2
m.	The number of persons permitted entry to the premises shall not exceed the approval capacity limit for the premises.	2
n.	No person is to be permitted to leave the premises with alcohol in an open container.	1 & 2
o.	Any music or live performance must cease by 0245 hours or such other time as may be specified by the Licensing Board.	3
p.	Whilst on the premises referred to in this Occasional Licence, all children must be in the care of a responsible adult.	5
q.	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
r.	<u>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.</u>	<u>5</u>
s.	<u>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.</u> <u>(This condition is likely to be applied at large-scale public events.)</u>	<u>1 & 2</u>

APPENDIX 9 – ADULT ENTERTAINMENT LOCAL CONDITIONS

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 from harm

1.	The licence holder shall have in place a code of conduct for behaviour of staff and customers. A copy of <u>this codewhich</u> will be <u>made</u> available to staff and customers <u>and be displayed prominently within each public area of the premises</u> . 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
2.	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 <u>to obtain</u> photographic proof of <u>each performer's</u> identity. Foreign nationals must be asked <u>for to exhibit</u> 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
3.	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 <u>will beare</u> of a standard <u>to be</u> approved by the Chief Constable.	1,2,3 & 4
4.	No dance entertainment should take place in private booths and performers' genitalia should be covered 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

5.	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, <u>including on-line advertisement</u> , 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
6.	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
7.	Where in terms of the operating plan, children and young persons are permitted on the premises, they will not be permitted on the premises <u>on any day on which adult entertainment takes place for the period from one hour before the adult entertainment commences until thirty minutes after it ceases. 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.</u>	1,2,3 & 5
8.	<u>The licence holder must notify Police Scotland of any forthcoming adult entertainment event at least 24 hours in advance of the event taking place.</u>	<u>1, 2 & 3</u>
9.	<u>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.</u>	<u>1, 2 & 3</u>

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	Under 18s Disco	1, 2, 3, 4, 5

conventions of Blue Light Disco's and with the approval of Police Scotland.		
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