

The Scottish Government

Licensing Scotland

Act 2005

Section 142: Guidance for Licensing Boards & Local Authorities

Occasional Licencing Concerns

137. This chapter concerns the system for administering the arrangements in the 2005 Act for the temporary sale or supply of alcohol which is not authorised by a premises licence.

Occasional Licences

Procedure

138. The procedures for handling occasional licences are set out in sections 56 to 61 of the Act. Those persons eligible to apply for an occasional licence are: -

The holder of a premises licence;

The holder of a personal licence; and

A representative of any voluntary organisation.

139. Occasional licences are subject to mandatory national licensing conditions set out in schedule 4 to the 2005 Act. An example of where occasional licences might arise would be where a licensee wished to make provision for the sale of alcohol at a wedding reception or other social event held outwith their licensed premises.

Voluntary organisations may also apply for an occasional licence authorising the sale of alcohol at an event connected with the organisation's activities. When an occasional licence is in force it will not negate the requirement for a public entertainment licence and late night catering licence issued under the Civic Government (Scotland) Act 1982 where appropriate.

140. Occasional licences may be given in respect of a premises licence covering a members' club. This means, for example that a members' club which under its licence is normally only permitted to supply alcohol to its members and their guests may during the period covered by an occasional licence admit members of the public and sell alcohol to them. This is to enable such premises to be used for community events and if it was found to be a regular occurrence the licensing board should consider reviewing the licence to ensure it fulfilled the licensing principles.

141. The maximum duration of each occasional licence is 14 days.

142. Under the 2005 Act applications for occasional licences will, for the first time, be subject to a statutory procedure for notification and determination. This is intended to ensure there is appropriate notification of applications and the ability to object and make representations.

Notification & objections

143. The 1976 Act required all applications to be intimated by the applicant to the chief constable. Such applications will now be forwarded to the chief constable and the relevant Licensing Standards Officer by the Licensing Board. Both of whom within 21 days of receiving an application can submit their views to the Board. For the Licensing Standards Officer this is an opportunity to submit comments which

may include recommendations for additional conditions to be attached by the Licensing Board.

144. Where no objections, representations or notices are received from the police and/or other statutory objectors there is no need for a hearing and applications can be delegated to the Clerk. However, where objections and/or representations have been received and a hearing is proposed, the Act provides that Boards must provide the applicant with any information relevant to their application raised in objections, representations or in a notice provided by the Police.

145. This new regime benefits voluntary organisations with an increase from the 1976 Act position of 4 occasional permissions per year. Under the 2005 Act a single voluntary organisation may now hold over a 12 month period:

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

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

146. However the total number of days on which an occasional licence has effect must not exceed 56 during any 12 month period.

147. Many voluntary organisations will not have commercial backgrounds or ready access to legal advice. They will include, for example, individuals acting on behalf of charities, community and voluntary groups, schools, churches and hospitals all of

which may stage public events at which the sale of alcohol may take place.

Licensing Boards should therefore ensure that local publicity about the system of occasional licences is clear and should strive to keep the arrangements manageable and user-friendly for these groups.

Police Intervention

148. The notification requirement provides the police with an opportunity to consider whether they should object to the event taking place for reasons of preventing crime and disorder. Such cases might arise because of concerns about the scale, location or timing of the event. The general run of cases where alcohol is supplied away from licensed premises at a temporary bar under the control of a personal licence holder (e.g. at weddings or small social, community, charitable or sporting events) should not give rise to the use of these police powers. The 2005 Act provides that the police may issue an objection notice because they believe the event would undermine the crime prevention objective set out in the Act. The police must issue any objection notice within 21 days of being notified, but they can subsequently withdraw their objection notice. If the police do not intervene, they will still be able to rely on their powers of closure under section 97 of the 2005 Act should disorder subsequently arise. The issuing of such an objection notice requires the consideration of the objection by the licensing Board at a hearing. Consideration by the Licensing Board of an objection made by the police to an occasional licence application is confined to the crime prevention objective. It may not, for example, uphold a police objection notice on grounds of public nuisance. At the hearing, the police and the premises

user may be heard by the relevant licensing committee. A hearing would not be necessary if the objection notice is withdrawn by the police.

149. The possibility of police intervention is another reason why event organisers should be encouraged by local publicity not to rely on giving the minimum amount of notice and to contact local police licensing officers at the earliest possible opportunity about their proposals.

150. The police may withdraw their objection notice at any stage if the proposed premises user agrees to modify his proposal to meet their concerns. The Licensing Board will then be sent or delivered a copy of the modified notice by the police as proof of their agreement.

Occasional Extensions

Extended hour applications

151. An occasional extension enables for ad hoc occasions the sale of alcohol for a period beyond the normal hours during which alcohol may be sold at a premises under its premises licence. It should normally be possible for applicants for premises licences to anticipate special occasions which occur regularly each year, such as bank holidays and incorporate appropriate opening hours for these occasions in their operating plans. Where it is not and specific premises are asked to handle or wish to

provide for an event at short notice, Sections 68 to 70 enable Licensing Boards to process such extensions hours where there is no provision for the extended hours in the operating plan. The application must relate to a special event or occasion to be catered for on the premises, for example a wedding.

152. The relevant chief constable and Licensing Standards Officer must be notified by the Licensing Board of an application by the premises licence holder. Within 10 day of the receipt of the application, the Police may choose to object and the Licensing Standards Officer must submit a report to the Licensing Board. Since these applications are likely to arise at short notice a detailed determination procedure is impractical but the Board should be able to gather sufficient information from the LSO report and from the Police.

153. The Board will have complete discretion as to whether to grant the application taking into account any Police objections and LSO comments and having regard to the licensing objectives. The Board may hold a hearing for the purposes of determining any application, but this is not mandatory. Where the Board does not hold a Hearing, the Board must ensure that before determining the application, the applicant is given an opportunity to comment on any objections from the Police or adverse comments from the Licensing Standards Officer.

154. No extension can be granted to operate for a period of more than one month and such an extension cannot be further extended. If a Licensing Board receives

continual requests for applications consideration should be given to whether a premises licence should look to vary its operating plan.

// END //