

THE ABERDEENSHIRE LICENSING BOARD

REPORT TO LICENSING BOARD – 21st April 2021

LICENSING (SCOTLAND) ACT 2005

APPLICATIONS FOR PREMISES/PROVISIONAL PREMISES LICENCES

NON-CONTENTIOUS APPLICATIONS

1 Reason for Report / Summary

- 1.1. This report relates to applications for the grant of premises/provisional premises licences which can only be determined by the Licensing Board.

2. Recommendations

- 2.1. **It is recommended that the Board considers the materials before them and, in respect of each application in turn, –**

- (a) **Determines whether there is enough evidence before the Board to allow a determination to be made, or whether the Board needs to defer consideration of the matter to the next available Board meeting for further material to be made available; and**
- (b) **Where the Board has concluded that there is sufficient evidence before them to allow a determination to be made, to consider in respect of each of the applications made, whether said applications should be granted or refused.**

3 Purpose and Decision-Making Route

- 3.1 The applications referred to in **Appendix 1** to this Report have not been previously considered by the Board.
- 3.2 The Depute Clerk has determined that the applications listed in **Appendix 1** are non-contentious applications and asks that the Board consider the same.

4 Discussion

Consultations

- 4.1 The Depute Clerk examined the applications in detail and the Applicant then addressed any issues requiring to be addressed. Thereafter, the Depute Clerk

forwarded the applications to the following persons or bodies as part of the consultation process:

- a) Police Scotland;
- b) Scottish Fire and Rescue Service;
- c) The Environmental Health, Planning and Building Standards Services of Aberdeenshire Council;
- d) The Licensing Standards Officer;
- e) The appropriate Community Council;
- f) Public Health; and
- g) Neighbouring Occupiers.

4.2 At the same time as the applications were consulted on, the applicants required to display a site notice at the premises, in a location where it could be easily read by members of the public, advertising the fact that an application had been made. The Licensing Standards Officers checked to ensure the site notices had been appropriately displayed, and had been displayed for the correct time period, as part of their consultation exercise for each premises.

4.3 The applications were also advertised on the Council's website.

Objections and Representations

4.4 In relation to each of the applications to be considered by the Board –

- (a) there are no valid objections to the application;
- (b) the size and capacity of the premises, the general nature of the premises, and any entertainment to be provided on the premises are to be substantially the same as at the date of the application; and
- (c) the hours sought in the Operating Plan are within the Licensing Board's general policy on Licensing Hours as set out in its Statement of Licensing Policy.

4.5 In some cases, the Licensing Standards Officers, Police Scotland and Building Standards Officers made representations. These were copied to the applicants who have made the appropriate amendments to their applications in order to satisfy the representations made.

- 4.6 If granted, certain mandatory conditions listed in the Licensing (Scotland) Act 2005 will attach to premises licences. The conditions attaching will depend on the activities listed in the operating plans of the premises.
- 4.7 The Board indicated in its Policy Statement that local conditions would apply to premises licences in certain circumstances. The Depute Clerk has listed the relevant conditions it is recommended that the Board apply to the licence in the table in **Appendix 1**. The Applicant has agreed to the proposed conditions in each case. **Appendix 2** contains the list of available local conditions, as set out in the Board's Policy Statement.
- 4.8 Any applicant who has taken issue with the representations made in respect of their application will have their application considered at a full hearing of the Board, which will be the subject of a separate report.
- 4.9 In line with the decision taken by the Board at their meeting on 12th August 2020, the applicants have not been asked to attend the Board.
- 4.10 If the Board does not consider that this is a sufficient hearing to consider the application, then consideration of the application should be deferred to a future Board Meeting to allow for further information to be provided and/or to allow the applicant to be cited to attend.

Implications

- 4.11 If the Board determines that a licence should be granted, it will take effect from the date of grant and can be traded, where the application is for a full premises licence. Where a provisional premises licence is granted, the licence must be confirmed prior to the licence being able to be traded.

Procedure

- 4.12 Each application should be considered on its own merits.
- 4.12 Members' options in disposing of the applications are: -
- (a) To grant the application;
 - (b) Refuse the application;
 - (c) Grant subject to varied hours and/or additional conditions; or

(d) Determine that further evidence is required in which case the application should be referred to the next available Board Meeting in order that the applicant may present their case in full or further information can be obtained in the interim.

4.13 When coming to a decision the Board must consider the evidence provided and the contents of this report. Supplementary advice and information can be made available by Officers, if required.

4.14 The legal test is attached as **Appendix 3** to this report.

5 Priorities, Implications and Risk

5.1 The applications are within the terms of the Board's policy.

5.2 The table below shows whether risks and implications apply if the recommendation(s) is(are) agreed.

Subject	Yes	No	N/A
Financial		X	
Staffing		X	
Equalities			X
Fairer Scotland Duty			X
Town Centre First			X
Sustainability		X	
Children and Young People's Rights and Wellbeing			X

5.3 An Equality Impact Assessment is not needed in this case because the Board is carrying out a quasi-judicial function and there will be no differential impact on the protected characteristics of any party to the proceedings.

5.4 There are no staffing and financial implications arising from this report.

6 Governance

6.1 The Board can consider this application in terms of the paragraph 1.5 of the current Scheme of Delegation which provides that consideration of a premises licences is a matter reserved to the Board.

Karen Wiles

Clerk to the Board

**Report Prepared by Fiona M. Stewart, Senior Solicitor (Democratic Services),
Depute Clerk to the Board**

Date: 12th April 2021

List of Appendices:

Appendix 1 - Details of applications, consultation responses and recommended conditions

Appendix 2 – List of Board's Local Conditions

Appendix 3 – Legal Test

APPENDIX ONE

LIST OF NON-CONTENTIOUS APPLICATIONS

Name of Applicant and IDOX reference	Name and address of Premises	Details of Application	Remarks and Recommended Conditions
<p>1. Louise Grant and Faye Barnes (A Partnership) LAPREM/05025/20/FMS</p>	<p>Netherdale House Netherdale Turriff AB53 4LE</p>	<p>The premises will offer the sale of alcohol, both on and off sales, as well as offering conference facilities, restaurant facilities, bar meals, receptions, club or other groups, recorded music, live performances, dance facilities, theatre, films, indoor/outdoor sport, televised sport, outdoor drinking facilities and adult entertainment (buff butlers).</p> <p>The premises will also allow food and drink picnics and hampers.</p> <p>On sale hours 9.00am – 1.00am 7 days a week</p> <p>Off sale hours 10.00am – 10.00pm 7 days a week</p>	<p>Representations</p> <p><u>Police Scotland</u> Police Scotland recommended several specific conditions which have been accepted by the applicant.</p> <p><u>Licensing Standards Officer</u> The LSO recommended several local conditions be attached to the licence, which have been accepted by the applicant.</p> <p><u>Building Standards</u> Building Standards confirmed the maximum occupancy capacity as 150 persons.</p> <p><u>Firemaster</u> standard observation submitted</p> <p>Certificate of Confirmation The applicant has submitted the certificate of compliance relating to display of the site notice at the premises</p> <p>Recommended Conditions for Licence:</p> <ol style="list-style-type: none"> 1. General Management for All Premises – Conditions 1-4 2. Noise – All Premises – Condition 5 3. Lockfast Store – All Premises – Condition 6 4. Children and Young Persons – Conditions 7-11 5. Adult Entertainment – Condition 18

Name of Applicant and IDOX reference	Name and address of Premises	Details of Application	Remarks and Recommended Conditions
			<p>6. Vulnerability – All Premises – Condition 19 7. CCTV – All Premises – Condition 21 8. Beer Gardens and outside Drinking Areas – Conditions 31 – 33 **Condition 31 to have a terminal hour of 10.00pm</p> <p>Conditions specific to the application</p> <p>9. Adult Entertainment is to be defined as “Buff Butlers” only at the current time. 10. In respect of the Beer Garden/outside drinking areas, the Licence Holder shall ensure that:</p> <ul style="list-style-type: none"> a. Where there is no existing delineation or boundary, the area shall be delineated by barrier or similar; b. Children and young persons shall be accompanied by a responsible adult at all times; c. No amplified music is played therein (when music is permissible)
<p>2. Gary Alexander Patterson</p> <p>LAPREM/05097/20/PR</p>	<p>Kinnaird Head Whiskies 10 Alexandra Terrace Fraserburgh AB43 9PP</p>	<p>Premises licence for off sales (online) where selection, packaging and distribution of products will take place. (Capacity for off sales –38.61sq m.)</p> <p>Off sale hours 10.00am – 10.00pm 7 days a week</p>	<p>Representations</p> <p><u>Police Scotland</u> Police Scotland recommended specific conditions which have been accepted by the applicant.</p> <p><u>Licensing Standards Officer</u> The LSO recommended several local and additional specific conditions be attached to the</p>

Name of Applicant and IDOX reference	Name and address of Premises	Details of Application	Remarks and Recommended Conditions
			<p>licence, which have been accepted by the applicant. The LSO also noted the capacity for alcohol in the Operating Plan should be '38.61 square metres', rather than '30'. This amendment has been accepted by the applicant.</p> <p>Certificate of Confirmation The applicant has submitted the certificate of compliance relating to display of the site notice at the premises.</p> <p>Recommended Conditions for Licence:</p> <ol style="list-style-type: none"> 1. General Management for All Premises – Conditions 1-4 2. Noise – All Premises – Condition 5 3. Lockfast Store – All Premises – Condition 6 4. Vulnerability – All Premises – Condition 19 5. CCTV – All Premises – Condition 21 <p>Conditions specific to the application:</p> <ol style="list-style-type: none"> 6. The Licence Holder shall ensure that <ol style="list-style-type: none"> a. there is no sale of alcohol to passing trade, b. no external advertisement to be displayed or overt signage indicating that the premises is licensed under the Licensing (Scotland) Act 2005 for the purpose of selling alcohol products from the premises.

Name of Applicant and IDOX reference	Name and address of Premises	Details of Application	Remarks and Recommended Conditions
			<ol style="list-style-type: none">7. The Licence holder shall ensure there is an age verification system in place in respect of on-line sales of alcohol8. The Licence Holder shall ensure there is an age verification policy in place for delivery drives where the recipient of the alcohol is believed to be under the age of 25.9. The Licence holder shall ensure that delivery drivers keep refusal registers10. The Licence Holder shall ensure that customers sign on receipt of delivery of alcohol(requirement suspended during Covid restrictions)11. The Licence Holder shall ensure that orders are not left in nominated safe places.12. The Licence Holder shall ensure that delivery drivers are trained to the same level as staff who sell or supply alcohol within licensed premises.13. The Licence Holder must acknowledge and implement procedures to comply with Section 119 of the Act, requires for Delivery of alcohol from Vehicles:<ol style="list-style-type: none">a. a daybook kept on the premises from which the alcohol is dispatched; andb. a delivery book or invoice carried by the person delivering the alcohol. <p>Information referred in above must include:</p>

Name of Applicant and IDOX reference	Name and address of Premises	Details of Application	Remarks and Recommended Conditions
			<ul style="list-style-type: none"> • the quantity, description, and price of the alcohol, and • the name and address of the person to whom it is to be delivered to.
<p>3. Ellon Spirit Company LAPREM/05099/20/JJ</p>	<p>Ellon Spirit Company 4 Lomond Crescent Ellon AB41 9GE</p>	<p>The Premises is a residential property situated in Ellon. The application for this licence is solely for the sale of alcohol online . Sales will purely be made on-line and delivered to the buyer’s home address. There will be no display of alcohol in the building and no customers will ever enter the building</p> <p>Off sale hours 10.00am – 10.00pm 7 days a week .</p>	<p>Representations</p> <p><u>Police Scotland</u> Police Scotland recommended two specific conditions which have been accepted by the applicant.</p> <p><u>Licensing Standards Officer</u> The LSO queried details in the application form in relation to the applicant and description of the premises. These were clarified by the Applicant to the satisfaction of the LSO. The LSO also recommended several local conditions be attached to the licence, which have been accepted by the applicant.</p> <p><u>Certificate of Confirmation</u> The applicant has submitted the certificate of compliance relating to display of the site notice at the premises</p> <p>Recommended Conditions for Licence:</p> <ol style="list-style-type: none"> 1. General Management for All Premises – Conditions 1-4 2. Noise – All Premises – Condition 5 3. Lockfast Store – All Premises – Condition 6 4. Vulnerability – All Premises – Condition 19

Name of Applicant and IDOX reference	Name and address of Premises	Details of Application	Remarks and Recommended Conditions
			<p>5. CCTV – All Premises – Condition 21</p> <p>Conditions specific to the application</p> <p>6. The Licence Holder shall ensure that</p> <ol style="list-style-type: none"> a. there is no sale of alcohol to passing trade, b. no external advertisement to be displayed or overt signage indicating that the premises is licensed under the Licensing (Scotland) Act 2005 for the purpose of selling alcohol products from the premises. <p>7. The Licence holder shall ensure there is an age verification system in place in respect of on-line sales of alcohol</p>
<p>4. Terence John Blair LAPREM/05056/20/AdC</p>	<p>TJs Pizza, Unit 3, Colpy Road, Oldmeldrum, Aberdeenshire, AB51 0NT</p>	<p>Premises licence for a pizza takeaway/restaurant, (On- and Off-sales), in a single storey industrial unit, with car parking outside the premises. There are no display cabinets or shelving for alcohol in the premises – alcohol will be offered for sale in the premises (for Off- and On-Sales) by way of a menu card. There will also be remote sales and deliveries of alcohol.</p>	<p>Representations</p> <p><u>Police Scotland</u> Police Scotland recommended specific conditions which have been accepted by the applicant.</p> <p><u>Licensing Standards Officer</u> The LSO recommended several local and additional specific conditions be attached to the licence, which have been accepted by the applicant. The LSO also noted the capacity for alcohol in the Operating Plan should be ‘38.61</p>

Name of Applicant and IDOX reference	Name and address of Premises	Details of Application	Remarks and Recommended Conditions
		<p>1. The premises will offer the sale of alcohol both on sales (in the restaurant) and off sales (from the takeaway shop front) as well as offering conference facilities, restaurant facilities, bar meals, receptions, club or other groups, recorded music, televised sport.</p> <p>2. Premises will offer sit down meals as well as take-aways and an online/delivery service for food and alcohol.</p> <p>On-sales hours: 11:00 to 23:00 hours 7 days a week</p> <p>Off-sales hours: 11:00 to 22:00 hours 7 days a week</p>	<p>square metres', rather than '30'. This amendment has been accepted by the applicant.</p> <p>Certificate of Confirmation The applicant has submitted the certificate of compliance relating to display of the site notice at the premises.</p> <p>Recommended Conditions for Licence:</p> <p>8. General Management for All Premises – Conditions 1-4</p> <p>9. Noise – All Premises – Condition 5</p> <p>10. Lockfast Store – All Premises – Condition 6</p> <p>11. Vulnerability – All Premises – Condition 19</p> <p>12. CCTV – All Premises – Condition 21</p> <p>Conditions specific to the application:</p> <p>13. The Licence Holder shall ensure that</p> <p style="padding-left: 20px;">c. there is no sale of alcohol to passing trade,</p> <p style="padding-left: 20px;">d. no external advertisement to be displayed or overt signage indicating that the premises is licensed under the Licensing (Scotland) Act 2005 for the purpose of selling alcohol products from the premises.</p> <p>14. The Licence holder shall ensure there is an age verification system in place in respect of on-line sales of alcohol</p> <p>15. The Licence Holder shall ensure there is an age verification policy in place for</p>










Name of Applicant and IDOX reference	Name and address of Premises	Details of Application	Remarks and Recommended Conditions
			<p>delivery drives where the recipient of the alcohol is believed to be under the age of 25.</p> <p>16. The Licence holder shall ensure that delivery drivers keep refusal registers</p> <p>17. The Licence Holder shall ensure that customers sign on receipt of delivery of alcohol(requirement suspended during Covid restrictions)</p> <p>18. The Licence Holder shall ensure that orders are not left in nominated safe places.</p> <p>19. The Licence Holder shall ensure that delivery drivers are trained to the same level as staff who sell or supply alcohol within licensed premises.</p> <p>20. The Licence Holder must acknowledge and implement procedures to comply with Section 119 of the Act, requires for Delivery of alcohol from Vehicles:</p> <ul style="list-style-type: none"> e. a daybook kept on the premises from which the alcohol is dispatched; and f. a delivery book or invoice carried by the person delivering the alcohol. <p>Information referred in above must include:</p> <ul style="list-style-type: none"> • the quantity, description, and price of the alcohol, and • the name and address of the person to whom it is to be delivered to.



























Name of Applicant and IDOX reference	Name and address of Premises	Details of Application	Remarks and Recommended Conditions
			<p>21. The Licence Holder shall ensure that the licensing objectives risk assessment is updated to reflect the above specific conditions.</p> <p>**It is recommended that this application is granted in principle subject to receipt of the certificate of confirmation relating to display of the site notice at the premises</p>


APPENDIX 2

LOCAL CONDITIONS: PREMISES LICENCES




A. THE ABERDEENSHIRE LICENSING BOARD









Local Conditions		Objective
General Management for All Premises		
1	The provisions relating to management of licensed premises contained within the Board's current policy statement, particularly Appendix 1 thereto, must be complied with.	PCD, SPS, PPN PIPH, PCYPFH 
2	Premises Licence Holders must ensure that the premises, internally and externally, are maintained in good, clean and tidy condition at all times.	SPS, PPN 
3	Premises Licence Holders must ensure that Refusal Registers and Daily Incident logs are accessible for inspection by Police and Licensing Standards Officers	PCD, SPS 
4	The Licence Holder must ensure that any general authorisation for the sale of alcohol required within the premises is – <ul style="list-style-type: none"> • in writing • available for inspections by Police and Licensing Standards Officers • brought to the attention of and signed by all parties; and • enforced by the premises manager 	PCD, SPS, PPN, PIPH, PCYPFH 
Noise – All Premises		
5	Noise from amplified and non-amplified music, singing and speech sourced from licensed premises shall not be audible in adjoining properties after 11.00 p.m.	PPN 
Lockfast Store – All Premises		
6	All alcohol not on display within the premises must be kept within a designated lockfast store on the premises, and shown on the layout plan attached to the premises licence.	PCD, SPS 
Children and Young Persons – On Sale Premises		
7	Children under the age of twelve years, shall not have direct access to pool tables, darts boards or gaming machines in any part of the premises to which they have access or are allowed entry.	PCYPFH 
8	The Licence Holder shall provide safe high chairs for the use of young children	SPS, PCYPFH 
9	The Licence Holder shall provide heating facilities for baby/toddler's food at no cost to the customer.	SPS, PCYPFH 










































10	The Licence Holder shall provide containers for the disposal of soiled nappies	SPS, PPN, PCYPFH   
11	The Licence Holder shall ensure that heating sources are adequately protected.	SPS, PCYPFH  
Premises Providing Late Night Entertainment – On Sale Premises		
12	Alcohol shall be provided for consumption on the premises only.	PCD, SPS, PPN   
13	The entertainment to be provided shall be:XXX to be defined by the Board on a case-by-case basis	PCD, SPS, PPN   
14	The entertainment provided shall be on a continuous basis with breaks of not more than 15 minutes in any one hour.	PCD, SPS, PPN   
15	All public notices or advertisements including social media shall contain the following information:- a. The name and address of the premises b. The entertainment to be provided on the premises c. The commencement time of the entertainment d. The price of entry e. The terminal hour for the premises. f. The time of the curfew, where operated, must be advertised.	PCD, SPS, PPN   
16	The Licence Holder shall display a notice at the entrances to the venue clearly defining the policy of the venue relating to the use of illegal substances and weapons within the venue and stating that criminal offences will be reported to Police Scotland	PCD, SPS, PPN, PIPH    
17	The premises shall have a dispersal policy to ensure patrons are not put in vulnerable situations after leaving the premises. The policy must be in writing. All members of staff shall be informed of the policy. The policy shall be made available to customers, and for inspection. The policy shall be reviewed regularly and a detailed record of reviews kept.	PCD, SPS, PPN, PIPH    
Adult Entertainment – On Sale Premises		
18	Children and young persons are not permitted to attend any event involving adult entertainment.	PCYPFH 
Vulnerability – All Premises		

19	<p>The Licence Holder must have in place a duty of care policy to ensure a standard approach is taken when any patron appears to be displaying signs of excessive intoxication.</p> <p>The Licence Holder must ensure that all staff have additional training in identifying signs of excessive intoxication and an enhanced awareness of vulnerability through intoxication.</p> <p>The Licence Holder shall ensure that staff training records are made accessible for inspection by Police Scotland and Licensing Standards Officers.</p>	<p>PCD, SPS, PPN PIPH, PCYPFH</p> 
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Door Supervisors – On Sale Premises




20	<p>The Premises Licence Holder must ensure that sufficient numbers of Security Industry Authority licensed stewards are on duty to ensure a safe and responsibly run premises. Such persons must be easily identifiable as such to persons present, display the appropriate identification, and should be made aware of their duties, policies and practices, by the Premises Licence Holder. They must be responsible, capable, aware of their duties and not drink alcoholic liquor for the duration of their active employment. Their duties are to:</p> <ol style="list-style-type: none"> a. Confirm that persons who seek access to the premises have paid for admission or have appropriate passes/invitations; b. Identify and refuse entry to drunken persons c. Identify and refuse entry to any persons banned through pubwatch or by any other means; d. Actively police the premises and to perform all activities in line with their role under the Private Security Act 2001; e. Supervise entrance doors/access points at all times to ensure that no fire or other exits are blocked; f. Be aware of the fire safety precautions and procedures and all other policies and practices; g. Be aware of the premise's drug prevention policy; h. Provide assistance to patrons, including customer care, directions to facilities and health and safety; i. Ensure that no patron removes glasses, or open or closed vessels from the premises when exiting for any reason. j. Remain on the premises until the end of permitted hours and all patrons have vacated the premises, including patrolling the vicinity outside the premises to assist dispersal from the premises after the premises close; k. Be aware of the provisions of the Licensing (Scotland) Act 2005 which impact on the running of the premises; 	<p>PCD, SPS, PPN PIPH</p> 
CCTV – All Premises		
21	<p>Where a CCTV system is installed this must comply with the required standard and be maintained in working order and staff must be able to operate the system.</p> <p>Images recorded on CCTV must be kept for at least seven days and must be made available to Police Scotland on request</p>	<p>PCD, SPS, PPN</p> 
Members Clubs		
22	<p>Members Clubs must comply with the provisions of Supplementary Policy Statement 7 of the Board's current policy statement.</p>	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 

23	Members Clubs shall adhere to the terms of the Club's constitution or rules attached to their premises licence	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
24	Where the Club has submitted draft constitution or rules with their application for a premises licence, they shall submit a copy of the approved constitution or rules to the Clerk to the Board within 28 calendar days of the draft constitution/rules being approved by the Club's governing body.	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
25	Where the Club revises its constitution or rules in the future, the Club must submit a copy of the proposed revisions to the Board for approval and thereafter submit a copy of the approved revised constitution or rules to the Clerk to the Board, within 28 calendar days of the draft constitution/rules being approved by the Club's governing body.	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
26	Where there are any changes to the list of connected persons in relation to the Club, the Club must submit details of the names, addresses, postcodes, dates and places of birth of the new connected persons and an updated list of all connected persons, to the Clerk to the Board, within 28 calendar days of the changes to connected persons being approved by the Club's governing body.	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
27	The Club must ensure that at all times, there at least two members of staff, or Committee Members, or volunteers involved in the management of the Club who are trained to the standard of a Personal Licence Holder. If the persons trained change at any time, evidence of an up-to-date training certificate must be submitted to the Clerk within two months of change in personnel.	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
28	Any person requiring to hold a training certificate for the purposes of condition 26 above, must complete a refresher training course within a period of 3 months of the 5-year anniversary of the date of the initial training certificate and submit a copy of the refresher training certificate to the Clerk within 28 calendar days of receipt of the updated certificate. Further refresher training will be completed at 5 yearly intervals thereafter in line with this condition.	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
29	That up to 5 visitors per member shall be permitted in the club premises provided they are signed into the club by that member into a book kept for that purpose by the club. Such visitors must be bone fide guests of the member signing them in.	<p>SPS, PPN</p> 
30	All promotional materials, including the use of social media, must specify that events are open to Members and Guests only, unless an Occasional Licence is in place. Events must be advertised in the press as for "Members and Guests only"	<p>SPS, PPN</p> 
Beer Gardens and Outside Drinking Areas		

31	Beer Gardens and outside drinking areas must not be used for activities linked to the sale or consumption of alcohol after 11.00pm	PCD, SPS, PPN, PIPH, PCYPFH     
32	The Licence Holder must take reasonable steps to ensure that litter and, where used, glass and bottles are removed from beer gardens and outside drinking areas on a regular basis.	SPS, PPN, PIPH, PCYPFH    
33	The Licence Holder shall consider the use of safe alternatives to glass containers and bottles in beer gardens and outside drinking areas.	PCD, SPS, PPN, PIPH, PCYPFH     
Hybrid Premises		
34	Premises operating as “other premises” during the day and wishing to operate as Nightclubs thereafter must ensure that the premises are closed down and cleared of patrons, particularly children and young persons, for at least one hour prior to the commencement of operating as a nightclub at the premises	PCD, SPS, PPN, PCYPFH    
Festive Season Conditions for Premises opening after 1.00a.m.		
35	A person trained to the satisfaction of the Licensing Board in administering first aid must be present on the premises from 1.00a.m. (on any day when the premises are open at that time) until the time at which the premises next close	SPS, PIPH, PCYPFH   
36	A designated person who is the holder of a personal licence must be present on the premises from 1.00a.m. (on any day when the premises are open at that time) until the time at which the premises next close	PCD, SPS, PPN, PIPH, PCYPFH     
37	There must be written policies in existence concerning - <ul style="list-style-type: none"> • The evacuation of the premises; and • The prevention of the misuse of drugs on the premises. • Duty of care (‘Vulnerability through Intoxication’) 	PCD, SPS, PPN, PIPH, PCYPFH     
38	There must be persons responsible for checking on the safety and wellbeing of persons using any toilet facilities on the premises.	PCD, SPS, PPN, PIPH, PCYPFH     
39	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 1.00a.m. (on any day when the premises are open at that time) until the time at which the premises next close.	PCD, SPS, PPN, PIPH, PCYPFH     

Key to objectives

	PCD	Prevention of Crime and Disorder
	SPS	Securing Public Safety

	PPN	Preventing Public Nuisance
	PIPH	Preventing and Improving Public Health
	PCYPFH	Protecting Children and Young Persons from Harm

NOTE: Additional Conditions specific to individual licensed premises may be attached by the Board to premises licences depending on the circumstances of the particular application, over and above the pool conditions listed in this document.

APPENDIX 3 - Licensing (Scotland) Act 2005

Part 3 & Sections 17-28, 45

Grant Premises Licence or Provisional Premises Licence

LEGAL TEST

The legal test is set out in Section 23 of the Act.

- (1) An application for a premises licence is to be determined in accordance with this section.
- (2) The Licensing Board **must** hold a hearing for the purpose of considering and determining the application.
- (3) In considering and determining the application, the Board **MUST** take account of the application documents (as listed below)
- (4) The Board **MUST**, in considering and determining the application, consider whether any of the grounds for refusal applies and,
 - (a) if none of them applies, the Board **MUST** grant the application, or
 - (b) if any of them applies, the Board **MUST** refuse the application.
- (5) The grounds for refusal are –
 - (a) that the subject premises are excluded premises
 - (b) that the application **must** be refused under section 25(2), 64(2) or 65(3) [the applicant has been lodged within a period of 12 months of the date of a previous refusal]
 - (ba) that the Licensing Board considers, having regard to the licensing objectives that the applicant is not a fit and proper person to be the holder or a licence.
 - (c) That the Licensing Board considers that the granting of the application would otherwise be inconsistent with one or more of the Licensing objectives.
 - (d) that, having regard to –
 - (i) the nature of the activities proposed to be carried on in the subject premises,
 - (ii) the location, character and condition of the premises, and
 - (iii) the persons likely to frequent the premises

The Board considers that the premises are unsuitable for use for the sale of alcohol.

- (e) that the Board considers that, if the application were to be granted, there would, as a result, be overprovision of licensed premises, or licensed premises of the same or similar description as the subject premises in the locality.
- (6) In considering whether either of the grounds for refusal specified in Section 23(5)(ba) and (c) applies, the Licensing Board **must** in particular take into account –
 - (a) any conviction, notice of which is given by the chief constable under Section 21(4)(b), and
 - (b) any report given by the chief constable under Section 24A(2) (power of the Board to request the Chief Constable to provide an anti-social behaviour report)
- (7) Where the Licensing Board considers that –
 - (a) they would refuse the application as made, but
 - (b) if a modification proposed by them were made to the operating plan, or layout plan, or both) for the subject premises accompanying the application, they would be able to grant the application,

The Board **MUST**, if the applicant accepts the proposed modification, grant the application as modified.
- (8) Where the Licensing Board REFUSES the application-
 - (a) the Board **MUST** specify the ground for refusal, and
 - (b) if the ground for refusal is that specified in Section 23(5)(ba) or (c), the Board **MUST** specify the licensing objective or objectives in question.

1. Section 4 of the Scottish Government's Statutory Guidance to Licensing Authorities relates to premises licences. The Board should note that in terms of Section 142(4) of the Act, a Board deciding not to follow this guidance **must** give Ministers notice of that decision together with a statement of the reasons for it.