

Aberdeenshire Licensing Boards
Smoking, Health and Social Care (Scotland) Act 2005
Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006
Guidance Note

Introduction

On 26th March 2006 the law on smoking in Scotland will change. From that date onwards smoking will no longer be allowed in certain wholly or substantially enclosed public places in Scotland. This Guidance Note is designed to offer advice and assistance to help licence holders comply with the new law. If you are in any doubt as to your legal obligations you should seek your own independent legal advice.

Licence holders should comply at all times, with the terms of:-

- the Smoking, Health and Social Care (Scotland) Act 2005 and the Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006;
- the Scottish Executive document "Helping to Get Your Business or Organisation Ready for the new Law on Smoking"; and
- Aberdeenshire Council's Enforcement Policy.

General

In relation to the enforcement of the new Smoking Legislation, Aberdeenshire Licensing Boards expect all licence holders within Aberdeenshire to comply with the undernoted guidance.

In the interests of safety, and, in the interests of reducing the potential for public nuisance, Aberdeenshire Licensing Boards, in conjunction with Grampian Police, the Planning Service, Building Standards Service and Environmental Health Service strongly recommend that where customers intend to go outside licensed premises to smoke on a pavement or footpath, or on ground abutting a pavement or footpath, that licence holders act responsibly and do not allow their customers to take their drinks, be it in a glass, or bottle, outwith their premises.

Permissions Required

Licence holders are not legally bound to erect smoking shelters for customers who wish to smoke outwith their licensed premises. However, Licence holders are asked to have regard to the following advice in considering their options:-

1. You have a Beer Garden But Don't Want to Erect a Smoking Shelter

Where your premises currently includes a beer garden and you do not propose to erect a smoking shelter or canopies to be used as smoking shelters, no permissions will be required.

- You should provide stub out bins of a standard acceptable to the Head of Environmental Health as appropriate.

2. You have a Beer Garden and Do Wish to Erect a Smoking Shelter

Where your premises currently includes a beer garden and you wish to erect a smoking shelter:-

- you may require to obtain planning permission;
- you may require a building warrant; and
- you will require to obtain consent to alterations from the Licensing Board before erecting any structure in the beer garden.
- You should provide stub out bins of a standard acceptable to the Head of Environmental Health as appropriate

3. You wish to Include a Beer Garden at your Premises and/or Erect a Smoking Shelter

Where you wish to include a beer garden at your premises and/or erect a smoking shelter:-

- you may require planning permission;
- you may require a building warrant; and
- you will require to apply for the grant of a new licence to incorporate the beer garden as part of your licensed premises. Please note that you can only apply for a new licence to a Quarterly Meeting of the Licensing Board.
- You should provide stub out bins of a standard acceptable to the Head of Environmental Health as appropriate.

4. You Wish to Erect Canopies above Windows Outside Your Premises as Shelters

Where you do not wish to have a beer garden or you are not able to provide a beer garden or smoking shelter, but wish to erect canopies over windows on the outside of your building above a pavement or footpath or on ground abutting a pavement or footpath:-

- you will require to obtain planning permission;
- you may require a building warrant; and
- you will require to obtain consent to alterations from the Licensing Board before erecting any structure.
- You may require to keep your windows closed to prevent smoke entering the building.
- You will require to supply stub-out bins of a standard acceptable to the Head of Environmental Health. The bins should be of a type that can be fixed to the wall of the premises. Please note that this may require consent if your building is a listed building.
- The Licensing Boards recommend that you act responsibly and do not allow your customers to take their drinks outside, but to go outside to smoke only.

5. You have no Canopies but your Customers Smoke outside

Where you do not wish to have a beer garden or you are not able to provide a beer garden or smoking shelter and you do not intend to erect canopies, but your customers are going outside to a pavement or footpath or ground abutting a pavement or footpath to smoke, you will not require any permissions.

- You may require to keep your windows closed to prevent smoke entering the building.
- You should still supply stub out bins of a standard acceptable to the Head of Environmental Health. The bins should be of a type that can be fixed to the wall of the premises. Please note that this may require consent if your building is a listed building.
- The Licensing Boards recommend that you act responsibly and do not allow your customers to take their drinks outside, but to go outside to smoke only.

Approved by the Licensing Boards at their Meetings dated:-

South: 31st March 2006

Central: 5th April 2006

North: 29th March 2006

Copies of the Smoking, Health and Social Care (Scotland) Act 2005 can be found at:
<http://www.opsi.gov.uk/legislation/scotland/acts2005/20050013.htm>

Copies of the Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006
Smoking Act can be found at:
<http://www.opsi.gov.uk/legislation/scotland/ssi2006/draft/20069894.htm>

The Advice Document from the Scottish Executive can be found at:
<http://www.clearingtheairscotland.com/faqs/pdf/Brochure.pdf>

Aberdeenshire Council's Enforcement Policy can be obtained from Licensing Offices and
Environmental Health Offices [see lists below] at:
www.aberdeenshire.gov.uk

Contacts

1. Advice relating to the Council's Enforcement Policy can be obtained from
Environmental Health Offices located at –

Graham Robertson, Municipal Buildings, High Street, Turriff Tel 01888 563417

2. Advice relating to Planning Permission or Listed Building Consent can be obtained
from –

Banff & Buchan Area

Town House, Low Street, Banff AB45 1AY
Tel: 01261 813200 Fax: 01261 813281
e-mail: bb.planapps@aberdeenshire.gov.uk

Buchan Area

Arbuthnot House, 62 Broad Street, Peterhead AB42 1DA
Tel: 01779 477363 Fax: 01779 483727
e-mail: bu.planapps@aberdeenshire.gov.uk

Formartine Area

45 Bridge Street, Ellon AB41 9AA
Tel: 01358 726429 Fax: 10358 726450
e-mail: fo.planapps@aberdeenshire.gov.uk

Garioch Area

Gordon House, Blackhall Road, Inverurie AB51 3WA
Tel: 10467 620981 Fax: 01467 628469
e-mail: ga.planapps@aberdeenshire.gov.uk

Kincardine and Mearns

Viewmount, Arduthie Road, Stonehaven AB39 2DQ
Tel: 01569 768300 Fax: 01569 766549
e-mail: km.planapps@aberdeenshire.gov.uk

Marr

Viewmount, Arduthie Road, Stonehaven AB39 2DQ
Tel: 01569 768300 Fax: 01569 766549
e-mail: ma.planapps@aberdeenshire.gov.uk

3. Advice relating to Building Warrants can be obtained from –

Aboyne – Building Standards Section, Bellwood Road, Aboyne, AB34 5HQ Tel 013398 87373

Alford – Building Standards Section, School Road, Alford, AB33 8TY Tel 019755 64808

Banchory – Building Standards Section, High Street, Banchory, AB31 5RW Tel 01330 822878

Banff – Building Standards Section, Town House, Low Street, Banff, AB451AY Tel 01261 813204

Ellon – Building Standards Section, 45 Bridge Street, Ellon, AB41 9AA Tel 01358 726437

Fraserburgh – Building Standards Section, 51 Mid Street, Fraserburgh, AB43 9AJ Tel 01346 514866

Huntly – Building Standards Section, 25 Gordon Street, Huntly, AB54 8AN Tel 01466 794121

Inverurie – Building Standards Section, Gordon House, Blackhall Road, Inverurie, AB51 4WA Tel 01467 620981

Peterhead – Building Standards Section, Arbuthnott House, Broad Street, Peterhead, AB42 1DA Tel 01779 477363

Stonehaven – Building Standards Section, Viewmount, Arduthie Road, Stonehaven, AB39 2DQ Tel 01569 678300

Turriff – Building Standards Section, Municipal Building, High Street, Turriff, AB53 4EN Tel 01888 563417

4. Advice relating to licensing applications can be obtained from –

South Aberdeenshire Divisional Board

The Depute Clerk to the Board
Law and Administration
Viewmount
Arduthie Road
Stonehaven. AB39 2DQ
Telephone: 01569 762001, Fax: 01569 768259

Central Aberdeenshire Divisional Board

The Depute Clerk to the Board
Law and Administration
Gordon House
Blackhall Road
Inverurie, AB51 3WA
Telephone: 01467 628205, Fax: 01467 623329

North Aberdeenshire Divisional Board

The Depute Clerk to the Board
Law and Administration
St. Leonards
Sandyhill Road
Banff
AB45 1BH
Telephone: 01261 813320, Fax: 01261 815664

All boards can be contacted by e-mail at licensing@aberdeenshire.gov.uk