

# ***ABERDEENSHIRE LICENSING BOARDS***

## **Licensing (Scotland) Act 2005**

### **Guidance on Applying for a Personal Licence**

This Guidance Note is designed to assist you in determining what a personal licence is, who should apply, how to apply, what the procedure is and what other licences or permissions may be required.

Applicants should also familiarise themselves with the Boards Licensing Policy before making any application to the Board.

#### **What is a Personal Licence?**

A personal licence authorises the holder of the licence to supervise or authorise the sale of alcohol.

#### **Who Can Apply for a Personal Licence?**

Any person over the age of 18, or an agent on behalf of a person over the age of 18, can apply for a personal licence.

#### **Who Do I Apply to?**

You would normally apply to the Licensing Board for the area in which you live.

If you do not live in Scotland, you can apply to any Licensing Board in Scotland.

#### **What Information is required in an application?**

The application must contain –

- ◆ Details of the applicant
- ◆ Details of the training qualification required to obtain a personal licence
- ◆ In relation to applications for the Grant of a Licence, whether the applicant has ever held a personal licence previously and details of whether that licence was revoked or suspended
- ◆ In relation to applications for the Renewal of a Licence, details of the applicant's current personal licence
- ◆ Details of any relevant or foreign offences for the applicant

#### **What Has to be Lodged with an application?**

The application form must be accompanied by the following documents:-

- ◆ The applicant's training qualification, or a certified copy thereof
- ◆ If the application is for the renewal of a personal licence, the applicant's current personal licence must be submitted with the application. If this is not

possible, the applicant must provide a statement explaining why the current personal licence on the application form itself.

- ◆ Two photographs of the applicant
- ◆ The application fee.

### Training Qualification

An applicant for a personal licence must be in possession of a licensing qualification. A licensing qualification is one that has been accredited by the Scottish Ministers under Section 91 of the 2005 Act. The licensing qualification can relate to all licensed premises, on sales only or off sales only.

Note: Qualifications obtained in England do not apply in Scotland. Equally, qualifications obtained in Scotland do not apply in England. You may therefore have to undergo further training before you can obtain a personal licence.

Training must be provided by an accredited trainer.

Paragraph 4(1) of the mandatory conditions attaching to premises licences provides that alcohol is not to be sold on the premises if the licensing qualification held by the premises manager is not the appropriate licensing qualification for the premises.

You need to contact local colleges, Alcohol Focus Scotland, the British Institute of Inn keeping, the Scottish Qualifications' Authority and other similar bodies to find out further about what course you need to take and how much it will cost.

You must have sat the course, passed the exam AND obtained your training certificate before making your application for a personal licence.

NOTE: your training certificate is **NOT** a personal licence.

### Photographs

The two photographs of the applicant must -

- ◆ Measure 45 millimetres by 35 millimetres
- ◆ Be on photographic paper
- ◆ Be taken against a light background; and
- ◆ Show the full face of the applicant, without the applicant wearing sunglasses or any head covering (unless the applicant wears such a covering on account of a religious belief)

One photograph of the applicant must have on the back of it a statement by a person appearing to the Licensing Board to be a person of standing in the community, with the words "*I certify that this is a true likeness of (name of applicant)*", followed by the full name of the person endorsing the photograph.

### What will it cost

The Licensing (Fees) (Scotland) Regulations 2007 stipulate that the application fee for a personal Licence is £50.00.

## **What Happens once I Lodge My Application?**

Your application will be checked by Licensing Officers to ensure that all required information has been completed and is relevant and correct.

If anything is not correct then you will be given an opportunity to correct the errors.

Once the application is complete, is relevant and correct, the Board will deem the application to be competent and capable of being processed.

The Board must then give notice, together with a copy of the application, to the Chief Constable.

The Chief Constable must, within 21 days of receipt of notice of the application from the Board, respond to the notice by giving the Board either –

- ◆ A notice stating that the applicant, has not been convicted of a relevant or foreign offence; or
- ◆ A notice specifying any convictions of the applicant for a relevant or foreign offence. If the Chief Constable considers that, having regard to any convictions specified in the notice, it is necessary for the purposes of the any of the licensing objectives that the application for the personal licence be refused, he can include a recommendation to that effect in the notice.

Any person can lodge an objection or representation in respect of the application.

While the application is being processed, if the applicant is convicted of a relevant or foreign offence, the applicant must, not later than one month after the date of conviction, give notice of the conviction to the Licensing Board to which the personal licence application was made. The notice must specify the nature of the offence and the date of conviction. It is an offence not to comply with this requirement.

Where the Board receives such a notice the Board must –

- ◆ Suspend consideration of the application; and
- ◆ Give notice of the conviction to the appropriate chief constable

The Chief Constable must, within 21 days of receipt of such a notice, respond to the notice by giving the Board either –

- ◆ A notice stating that the Chief Constable is unable to confirm the existence of the conviction or that the conviction does not relate to a relevant or foreign offence; or
- ◆ A notice confirming the existence of the conviction and that it relates to a relevant or foreign offence. If the Chief Constable considers that, having regard to any convictions specified in the notice, it is necessary for the purposes of any of the licensing objectives that the application for the personal licence be refused, he can include a recommendation to that effect in the notice.

Once the Board has received the Chief Constable's notice it must resume consideration of the application and determine the application as outlined below.

Objections must relate to one of the grounds of refusal of a personal licence.

Where the Board is satisfied that –

- ◆ The applicant is aged 18 or over;
- ◆ The applicant possesses a valid and current licensing qualification;
- ◆ That no personal licence previously held by the applicant has been revoked within the period of 5 years ending with the day on which the current application was received; and
- ◆ The Chief Constable has lodged notice with the Board confirming that the applicant has not been convicted of a relevant or foreign offence

Then the Board must grant the application.

If the Board is not satisfied that –

- ◆ The applicant is aged 18 or over;
- ◆ The applicant possesses a valid and current licensing qualification; and
- ◆ That no personal licence previously held by the applicant has been revoked within the period of 5 years ending with the day on which the current application was received;

Then the Board must refuse the application.

Where the Board is satisfied that –

- ◆ The applicant is aged 18 or over;
- ◆ The applicant possesses a valid and current licensing qualification; and
- ◆ That no personal licence previously held by the applicant has been revoked within the period of 5 years ending with the day on which the current application was received;
- ◆ the Chief Constable has lodged notice with the Board confirming convictions for relevant or foreign offences for the applicant, with or without a recommendation to refuse the application in relation the licensing objectives,

then the Board must hold a hearing for the purposes of considering and determining the application.

The Board must take into account the notice provided by the Chief Constable in determining an application at a hearing.

After considering the application at a hearing, the Board will either determine that the application be granted, or that it be refused.

### **What Are the Grounds of Refusal of a Personal Licence?**

Where an application is considered at a hearing of the Licensing Board, the Board must, having regard to the Chief Constable's notice –

- ◆ If satisfied that it is necessary to do so for the purposes of the crime prevention objection REFUSE the application; or
- ◆ If not so satisfied, GRANT the application.

### **When will I get my personal Licence?**

The licence must be issued to the applicant within 28 days of the application being granted by the Board.

You can only hold one personal licence at a time. Any personal licence issued by a Licensing Board in Scotland will be void if the individual to whom it is issued already holds a Scottish Personal Licence.

### **What Do I need to do when I get my Personal Licence?**

Check the licence thoroughly and if there are any errors, return the licence to the Licensing Board for correction.

### **How Long Will My Personal Licence Last?**

A personal licence lasts for the period of 10 years beginning on the date on which it is issued.

The Licensing Board that issued the personal licence must, not later than 3 months before the expiry date of the licence, give notice to the holder of the licence that the licence will cease to have effect on the expiry date unless the licence is renewed.

Applications to renew the personal licence must be lodged with the relevant licensing board no later than 3 months prior to the expiry date on the personal licence.

Any subsequent renewal of that personal licence will last for the period of 10 years beginning on the date the renewal application is granted in respect of that licence.

A personal licence will cease to have effect if the licence is revoked or if the licence holder surrenders the licence.

### **Is there anything else I need to know about my Personal Licence?**

#### **Producing the Personal Licence**

A personal licence holder working at any licensed premises must, if required to do so by a Constable or the Licensing Standards Officer, produce the personal licence for examination. A person who fails to do so commits an offence.

#### **Refresher of the Training Qualification**

A personal licence holder must, no later than 3 months after the expiry of –

- ◆ The period of 5 years beginning with the date on which the licence holder's licence was issued; and
- ◆ Each subsequent period of 5 years during which the licence has effect

Produce to the Licensing Board which issued the licence, evidence of the Licence Holder having been through a refresher training course and having obtained a qualification certificate for that refresher course.

If the Licence Holder fails to comply with the above requirement, the Licensing Board which issued the personal licence, must revoke the licence.

#### Notification of Change of Name or Address

A personal licence holder must, no later than one month after any change in the licence holder's name or address, give the Licensing Board which issued the licence notice of the change. Such notice must be accompanied by the personal licence or an explanatory statement stating why the licence cannot be produced.

The personal licence holder may have to submit new passport photographs to the Licensing Board as well in order to obtain an updated personal licence.

The Licensing Board must make the necessary amendments to the licence.

#### Duty to notify the Court of Personal Licence

Where –

- ◆ a personal licence holder is charged with a relevant offence or,
- ◆ if a person who has applied for a personal licence is charged with a relevant offence and is granted a personal licence, after the person's first appearance in connection with the offence but before –
  - conviction and sentencing for the offence or acquittal, or
  - where an appeal is brought against conviction, sentence or acquittal, the disposal of the appeal

that person must produce his/her personal licence to the court or, where that is not practicable, notify the court of –

- ◆ the existence of the personal licence;
- ◆ the identity of the Licensing Board which issued the licence; and
- ◆ the reasons why it is not practicable to produce the licence.

Any person who fails to comply commits an offence.

NOTE: It is your licence and not your training certificate that must be produced to the court.

#### Court's Duty to notify the Licensing Board of Convictions

Where a personal licence holder is convicted of a relevant offence in a court in Scotland, the clerk of the court must, as soon as is reasonable practicable after the conviction, give notice of the conviction to the Licensing Board which issued the personal licence.

#### Licence Holder's Duty to notify the Licensing Board of Convictions

Where a personal licence holder is convicted of a relevant or foreign offence he/she must not later than one month after the date of the conviction, give notice of the conviction to the Licensing Board which issued the personal licence or to the Licensing Board for the area in which are situated any licensed premises in which the Licence Holder is working.

The notice must -

- ◆ Specify –
  - The nature of the offence; and
  - The date of the conviction; and
- ◆ Be accompanied by the personal licence held by the licence holder, or
- ◆ If that is not practicable, a statement of the reasons for failure to produce the licence.

A Licence Holder who fails, without reasonable excuse to comply, commits an offence.

### **Where Can I Get Further Information?**

Further information is available from:-

**The Depute Clerk to the North Board  
Aberdeenshire Council  
St. Leonards  
Sandyhill Road  
Banff  
AB45 1BH  
Telephone: 01261 – 813320  
Fax: 01261 – 815664  
Legal Post: LP-6: Banff**

**The Depute Clerk to the Central Board  
Aberdeenshire Council  
Gordon House  
Blackhall Road  
INVERURIE  
AB51 3WA  
Telephone: 01467 628208  
Fax: 01467 628500  
Legal Post: LP 3 INVERURIE**

**The Depute Clerk to the South Board  
Aberdeenshire Council  
Viewmount  
Arduthie Road  
Stonehaven  
AB39 2DQ  
Telephone: 01569 - 768255  
Fax: 01569 - 768259  
Legal Post: LP-5: Stonehaven**

E-mail

[licensing@aberdeenshire.gov.uk](mailto:licensing@aberdeenshire.gov.uk)

## **Application Checklist**

Completed Application Form	
Fee of £50	
2 passport photographs (one of which has been endorsed)	
Training Certificate	