



The Moray Licensing Board Scheme of Delegation for the Licensing (Scotland) Act 2005

Delegation of functions is provided for within paragraph 10 of Schedule 1 to the Licensing (Scotland) Act 2005 as follows:

A Licensing Board may authorise (whether generally or specifically) any member, committee, clerk or member of staff to exercise on behalf of the Board any of the Board's functions under the Act, other than the following:

- (a) determining the Board's policy for the purposes of a licensing policy statement or supplementary licensing policy statement,
- (b) determining, for the purposes of any such statement, whether there is overprovision of licensed premises, or licensed premises of any particular description, in any locality,
- (c) determining a premises licence application,
- (d) determining a premises licence variation application where the variation sought is not a minor variation,
- (e) determining an application for the transfer of a premises licence where the applicant has been convicted of a relevant offence or a foreign offence,
- (f) determining a personal licence application or renewal application where the applicant has been convicted of a relevant offence or a foreign offence,
- (g) conducting a hearing under this Act (including the resulting steps like issuing a warning, suspending or revoking the premises licence, varying the licence, suspending, revoking or endorsing the personal licence)
- (h) making a closure order,
- (i) refusing an application for confirmation of a provisional premises licence.
- (j) granting/refusing an occasional licence application where there is a notice of objection or representations in relation to the application, or a notice from the appropriate chief constable recommending refusal of the application.

Therefore the above functions will be undertaken by the Moray Licensing Board. All other functions may be carried out by any member of the Board, committee of the Board, clerk or member of staff. In particular the following will apply:

| | Nature of Application | Function | Discharged By |
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| 1 | Premises licences | Determining a premises licence application subject to the proviso that the Clerk may submit lists of certain pre-approved applications to the Board for determination. | Board or a sub committee |
| 2 | Premises licence minor variation | Dealing with an application under section 29 of the 2005 Act for a minor variation such as is described in subsection (6)(c) of that section including any variation of the information contained in the licence relating to the premises manager (including a variation so as to substitute a new premises manager) | Clerk or person appointed to assist the Clerk |
| 3 | Premises licence variation | Determining whether to cite an Applicant to a hearing for a premises licence variation application where the variation is not a minor variation | Clerk or person appointed to assist the Clerk |

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| 4 | Premises licence transfer | Determining an application under section 33 or 34 of the 2005 Act being any application to transfer a licence (other than such an application as is described in paragraph 10(2)(e) of schedule 1 to the Act which is determining an application for the transfer of a premises licence where the applicant has been convicted of a relevant offence or a foreign offence) | Clerk or person appointed to assist the Clerk |
| 5 | Premises licence confirmation | Confirm a provisional premises licence under section 46 | Clerk or person appointed to assist the Clerk |
| 6 | Premises licence review proposal | Whether to make a premises licence review proposal under section 37(1) | Clerk or person appointed to assist the Clerk |
| 7 | Premises licence reviews | To exercise the powers under section 38(5) and (6) for the purpose of a review hearing to obtain further information, request any person to attend to provide information and/or request production of any document at a review hearing | Clerk or person appointed to assist the Clerk |
| 8 | Premises licence production | To exercise the power under section 49(3) to require a premises licence holder to produce the premises licence | Clerk or person appointed to assist the Clerk |
| 9 | Premises licence fees | Determining what category a premises falls within in terms of the fees Regulations | Clerk or person appointed to assist the Clerk |
| 10 | Personal licences | Determining a personal licence application including renewal applications where the applicant has been convicted of a relevant offence or a foreign offence | Board or a sub committee |
| 11 | Personal licences | Determine a personal licence application where the applicant has not been convicted of a relevant or foreign offence | Clerk or person appointed to assist the Clerk |
| 12 | Occasional Licences | Determine whether to permit applications for occasional licences to be considered at short notice (i.e. being a period less than 21 days but not less than 24 hours). | Convenor of the Board, whom failing the Vice Convenor, whom failing any other member of the Licensing Board. |
| 13 | Occasional Licences | Accept an occasional licence application at short notice (i.e. a period less than 21 days but not less than 24 hours) where the application is in respect of a funeral tea, wake or similar. | Clerk or person appointed to assist the Clerk |
| 14 | Occasional licences | Grant an occasional licence application where there is no notice of objection or representation and no notice from the chief constable recommending refusal in relation to the application (or where any such objection, representation or notice has been withdrawn) | Clerk or person appointed to assist the Clerk |
| 15 | Occasional Licence conditions | To impose conditions under section 60 in respect of an occasional as necessary or expedient for the purpose of any licensing objective | Clerk or person appointed to assist the Clerk |
| 16 | Extended Hours | Determine whether to permit applications for licences for extended hours to be considered at short notice (i.e. being a period less than 21 days but not less than 24 hours). | Convenor of the Board, whom failing the Vice Convenor, whom failing any other member of the Licensing Board. |
| 17 | Extended Hours | Accept and application for extended hours at short notice (i.e. a period less than 21 days but not less than 24 hours) where the application is | Clerk or person appointed to assist the Clerk |

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| | | in respect of a funeral tea, wake or similar. | |
| 18 | Extended hours | Grant an extended hours application where there is no notice of objection from the chief constable under section 69(2) and no adverse report from the LSO under section 69(3) | Clerk or person appointed to assist the Clerk |
| 19 | Power to Relieve Procedural Errors | The power under section to relieve any applicant or other party to proceedings before the Board of any failure to comply with any procedural provision if the failure is due to mistake, oversight or other excusable cause, and it is considered appropriate in all the circumstance to relieve the failure. | Clerk or person appointed to assist the Clerk |

All powers that are delegated are subject to the proviso that where it appears to the clerk or person appointed to assist the clerk that, as regards a particular case, it is appropriate that a function specified above be discharged by the Board or by a member or particular members of the Board, that officer is to remit the case appropriately.