



Moray Licensing Board
Council Office, High Street, Elgin
IV30 1BX

Tel: (01343) 563152
Fax: (01343) 563221
DX No 520666 Elgin

Clerk to the Board: Rhona Gunn

The Moray Licensing Board The Licensing (Scotland) Act 2005 Guidance Notes for Premises Licence Application Forms

General Guidance on Forms

Applicants should note that under no circumstances does the Moray Licensing Board or the Moray Council or their employees or agents offer legal advice or accept liability of any description, including liability for negligence for any damages or losses (including, without limitation, loss of business, revenue, profits, or consequential loss) whatsoever resulting howsoever including but not limited to the use of or inability to use this information. We accept no responsibility for keeping the information in these pages up to date or liability for any failure to do so. If you are in any doubt you must seek advice from a solicitor.

Applicants should note that the Scottish Government has produced guidance for completion of the premises licence application forms and operating plans. The application form in respect of a personal licence contains its own notes.

The Moray Licensing Board has produced application forms in both Microsoft Word and fillable PDF format that contain expandable boxes in order to ensure that applicants can include all information relevant to their application.

Application forms can be submitted in paper format or electronically. Where paper is used the application form may be scanned for electronic storage and delivery to responsible authorities.

General Points on Completion

- Forms should be completed in typescript or, where by hand, in block capitals in black ink.
- Where the question requires “Yes” or “No” answer the fillable PDF provides the facility to choose “Yes” or “No”. The default is blank, however please do not leave blanks. Where the answer is “No” please choose “No”.
- Please answer questions as fully as possible as the more detail you are able to provide the more straightforward it will be for the Moray Licensing Board to review and decide upon your application without the need for a detailed and potentially lengthy hearing.
- To make an application you must be over 18. Apart from this, any person may apply to the appropriate Board for a licence in respect of any premises.
- Please read all the guidance notes before completing the form.

Exclusion of Liability - In no event does the Moray Licensing Board or the Moray Council or their employees or agents offer legal advice or accept liability of any description, including liability for negligence for any damages or losses (including, without limitation, loss of business, revenue, profits, or consequential loss) whatsoever resulting howsoever including but not limited to the use of or inability to use this information. We accept no responsibility for keeping the information in these pages up to date or liability for any failure to do so. **If you are in any doubt you must seek advice from a solicitor.**

L:\LIC-BRD\new licensing act\Guidance and Packs\Guidance notes for LSA05 Premises Licence Forms.doc

- Please review the Moray Licensing Board statement of licensing policy in accordance with the Licensing (Scotland) Act 2005 before completing any application forms. A copy of the Board's policy is included in this pack.
- All references to the Act concern the Licensing (Scotland) Act 2005.

Exclusion of Liability - In no event does the Moray Licensing Board or the Moray Council or their employees or agents offer legal advice or accept liability of any description, including liability for negligence for any damages or losses (including, without limitation, loss of business, revenue, profits, or consequential loss) whatsoever resulting howsoever including but not limited to the use of or inability to use this information. We accept no responsibility for keeping the information in these pages up to date or liability for any failure to do so. **If you are in any doubt you must seek advice from a solicitor.**

L:\LIC-BRD\new licensing act\Guidance and Packs\Guidance notes for LSA05 Premises Licence Forms.doc

Guidance for The Premises Licence Application Form

By section 20 of the Act any person that is over 18 can apply for a premises licence in respect of any premises, which includes a premises under construction. Application is made to the appropriate licensing board for the area in which the premises is situated.

Applicants within the Moray area must therefore lodge the following with the Moray Licensing Board:

1. The completed application form; AND
2. The draft operating plan (see the separate section on operating plans); AND
3. The draft layout plan (see the separate section on layout plans); AND
4. The appropriate fee (for which see the separate leaflet on licensing fees); AND
5. Any associated personal licence application (see the separate section on personal licences).

The premises licence application can be made in writing or documents can be submitted electronically to the following email address: licensing@moray.gov.uk

Question	Guidance Notes
1	Please give details of the premises to be licensed, which must be within the Moray area. Where the premises is new and has yet to be named then please indicate this.
2	This question asks for details of the applicant. In the case of an individual the applicant should also include any aliases and former names including maiden names e.g. Julie Ann Smith (formerly Julie Ann Brown). This information will be used, in part, by the police to determine whether an applicant has any relevant or foreign convictions. The list of relevant offences is defined in the Licensing (Relevant Offences)(Scotland) Regulations 2007 (SSI 2007/513). Please also see the notes to Question 4 and the list enclosed. Where the applicant is a company section 147(3) of the Act requires that details of any “connected person” that is, in relation to a partnership, a company, a club or other body (whether incorporated or unincorporated), someone who: (a) in the case of a partnership, is a partner; (b) in the case of a company: (i) is a director; or (ii) has control of the company; (c) in the case of a club, is an office bearer of the club; (d) in any other case, is concerned in the management or control of the body.
3	The form requires applicants to disclose whether they have had a premises licence refused in respect of the same premises. Section 25 of the Act states that where a Licensing Board has refused a premises licence application in respect of any premises, the Board must refuse any subsequent premises licence application in respect of the same premises made before the expiry of the period of one year. Guidance notes state that where the applicant or a “connected person” (see note 2 above) has had an earlier application refused then full details should be given including the date, the premises and the Licensing Board that refused the application. Applicants should answer the question as it is i.e. in respect of the same premises.
4	This question asks whether the applicant or any “connected person” (see note 2 above) has ever been convicted of a relevant offence. However the question also makes it clear that spent relevant or foreign offences need not be disclosed. If the answer is “None” then applicants should write “None” rather than leave the form blank. Relevant offences are listed in the Licensing (Relevant Offences)(Scotland)

Exclusion of Liability - In no event does the Moray Licensing Board or the Moray Council or their employees or agents offer legal advice or accept liability of any description, including liability for negligence for any damages or losses (including, without limitation, loss of business, revenue, profits, or consequential loss) whatsoever resulting howsoever including but not limited to the use of or inability to use this information. We accept no responsibility for keeping the information in these pages up to date or liability for any failure to do so. **If you are in any doubt you must seek advice from a solicitor.**

4 continued	Regulations 2007 (SSI 2007/513) and applicants should review the list as it is extensive. To assist applicants a copy of the list of relevant offences has been reproduced and included in this pack. The police will be carrying out checks with regard to relevant prior offences. If the applicant or any “connected person” has been based overseas for six continuous months or more during the last five years, they are requested to produce evidence of a criminal record check covering that period from an official source which the police can verify. An official source will normally mean the government body who issues criminal record certificates. Further information including details as to how to obtain a criminal records check can be found on the Security Industry Authority’s website at http://www.the-sia.org.uk/home/licensing/close_protection/wizard/overseas.htm Foreign offences are defined in section 129(2) of the Act as any offence under the law of any place other than Scotland which is similar in nature to any relevant offence. This is a duty of disclosure. Having a relevant or foreign conviction does not necessarily mean that your application will be refused. The Moray Licensing Board will have regard to the matter when making their decision under section 23 of the Act.
5	This question asks for a description of the premises. Applicants should not merely refer to the operating/layout plans. Government guidance notes suggest that applicants should provide a clear indication of the type of operation that will be undertaken on the premises. This should then be linked back to the operating/layout plans. Again Government guidance calls for a description of the setting of the premises. The general area, the specific location, the nature and extent of the building and neighbouring buildings etc. The operating plan itself is quite limited in scope and affords the Moray Licensing Board little opportunity to get a general feel of the premises and the proposed operation. Therefore this question is an important part of each application. This question really calls for a detailed description of the premises, it’s surroundings and the nature of the proposed operation. To assist applicants a sample answer to this question has been included within this pack. It should be noted that where applicants wish to claim grandfather rights in respect of their application then in accordance with the Licensing (Transitional and Saving Provisions) (Scotland) Order 2007 (SSI 2007/454) the size and capacity of the premises, the general nature of the premises and any entertainment to be provided on the premises must be substantially the same as before. The description of the premises should demonstrate this as it will be crucial to the determination of the application.
6	This is a question for members’ clubs only. The Act at section 125 provides that members’ clubs that comply with the description prescribed in the Licensing (Clubs) (Scotland) Regulations 2007 (SSI 2007/76) will qualify for certain exemptions contained in section 125. The exemptions include, most notably, the requirement to have a premises manager and the requirement for all sales of alcohol to be authorised by a premises manager or personal licence holder (unless late night mandatory conditions apply). In order to qualify as a members club the Regulations provide that the club must be a not for profit organisation and must have a constitution that provides for a minimum set of conditions. This question asks members’ clubs are to certify that their constitution complies with

Exclusion of Liability - In no event does the Moray Licensing Board or the Moray Council or their employees or agents offer legal advice or accept liability of any description, including liability for negligence for any damages or losses (including, without limitation, loss of business, revenue, profits, or consequential loss) whatsoever resulting howsoever including but not limited to the use of or inability to use this information. We accept no responsibility for keeping the information in these pages up to date or liability for any failure to do so. **If you are in any doubt you must seek advice from a solicitor.**

	the Regulations. To assist these applicants details of the relevant rules have been reproduced and included within this pack is a further copy of a previously distributed leaflet describing members' clubs. For verification purposes members' clubs are requested to include a copy of their constitution with their application. This will help to speed the processing of applications. Members' clubs that do not qualify will not enjoy the exemptions detailed in the Act and, most notably, a premises manager will be required.
Declaration	The declaration must be signed. As applications may be submitted electronically applicants should contact licensing@moray.gov.uk to discuss the signature of electronic documents.
Checklist	The form provides applicants with a checklist of minimum information to be provided. All applications must be accompanied by an operating plan, a layout plan and the appropriate fee. Any application missing one or more of these items will <u>not</u> be a valid application. Applicants should note that unless and until a valid application is received the application will not be considered to have been made at all. Applicants have been made aware of the dates by which applications must be received by the Moray Licensing Board if grandfather rights are being claimed. If a full valid application is not submitted by the appropriate last lodging date then there is no discretion to accept a late application. This means that any late application (including an incomplete invalid application that is not completed until after the last lodging date) will not enjoy grandfather rights and must be treated as a wholly new application. Applicants will then be asked to provide additional information including appropriate certificates (building standards, food hygiene and planning). To assist applicants the Moray Licensing Board has produced a leaflet that provides information on fees. Applicants that are claiming grandfather rights should note the exemption from the requirement to provide certificates. Applicants should also read all these notes. The Moray Licensing Board is seeking additional information to be supplied alongside application forms. The notes explain what information is requested from certain applicants. The Moray Licensing Board is asking <u>all</u> applicants to complete a risk assessment and a pro forma risk assessment is provided in this pack. The risk assessment is for the applicant's purposes as much as the Moray Licensing Board and applicants should retain a copy of the completed document.
Additional Material	Applicants are being asked to self certify their applications as being grandfathered and subject to the special procedure. Please see the separate notes on grandfather rights. Only a grandfathered application will benefit from the exemptions (e.g. from the provision of certificates) during transition. If applicants cannot certify that their application qualifies for grandfather rights then it is not a bar to applying. It simply means that there will be no exemptions and applications must be treated as wholly new applications outside of the special procedure. If the answer is "No" then please choose "No". Do not leave the question unanswered.

Applicants that have any further issues to discuss should take advantage of the Moray Licensing Board's additional services as detailed in the accompanying letter. Those are the dedicated telephone enquiry line, dedicated email enquiry line and surgeries.

Exclusion of Liability - In no event does the Moray Licensing Board or the Moray Council or their employees or agents offer legal advice or accept liability of any description, including liability for negligence for any damages or losses (including, without limitation, loss of business, revenue, profits, or consequential loss) whatsoever resulting howsoever including but not limited to the use of or inability to use this information. We accept no responsibility for keeping the information in these pages up to date or liability for any failure to do so. **If you are in any doubt you must seek advice from a solicitor.**

L:\LIC-BRD\new licensing act\Guidance and Packs\Guidance notes for LSA05 Premises Licence Forms.doc

Guidance for the Operating Plan

As with all forms applicants are advised to review the Moray Licensing Board's statement of licensing policy in accordance with the Licensing (Scotland) Act 2005 before completing the operating plan.

By virtue of section 20(2)(b) of the Act every application **must** be accompanied by (amongst other things) an operating plan. Only an application that complies with the requirements of section 20 is considered to be a premises licence application. An application without an operating plan will not be valid and will not be considered as validly made or received. Please see the note to the checklist for the premises licence application.

The operating plan will form part of the premises licence and by schedule 3 paragraph 2(1) of the Act Alcohol must only be sold in accordance with the operating plan.

Also, by virtue of section 27(1) and schedule 3 paras 2(1) & (3), compliance with the operating plan is a condition of the premises licence. It follows that a breach of the operating plan will be a breach of the licence.

Question	Guidance Notes
1	This question seeks information as to whether alcohol will be sold for consumption on the premises, off the premises or both. Applicants should then go on to answers 2, 3 or 2 and 3 as appropriate. There are no types of licence. There is one premises licence that allows the sale of alcohol for consumption on the premises, off the premises or both. Applicants will choose how they wish to operate subject to the Act, Regulations, policy and guidance. Applicants should also be aware of the requirement for like for like trading in order to claim grandfather rights. See the note to question 5 of the premises licence application and the note accompanying the self certification at the end of the operating plan.
2	Where applicants wish to sell alcohol for consumption on the premises then this question seeks information as to when applicants wish to be open for such sales. Applicants should note that there are no longer set permitted hours. Applicants will choose when they wish to sell alcohol subject to the Act, Regulations, policy and guidance. 24 hour opening will not be permitted on a regular basis. 24 hour opening may possibly be justified on rare occasions where very exceptional circumstances apply e.g. events of national or international significance. This question seeks CORE opening hours for each day. The time the premises will open and the time when the premises will close. CORE hours mean the premises should generally be open between these times. Applicants should not be seeking hours "just in case". Unexpected events can be dealt with in terms of an extension of hours application. There may be occasions where during core hours premises wish to close. Exceptions are made for illness, holidays, bad weather and other unexpected events. The Moray Licensing Board also considers that where a premises chooses to close during core hours owing to a lack of trade then it will not generally be treated as a breach of the operating plan. A problem may, however, arise where premises choose long core hours and consistently fail to use the same. Applicants are therefore advised to choose their core hours carefully. The Moray Licensing Board has provided additional guidance on opening hours in it's statement

Exclusion of Liability - In no event does the Moray Licensing Board or the Moray Council or their employees or agents offer legal advice or accept liability of any description, including liability for negligence for any damages or losses (including, without limitation, loss of business, revenue, profits, or consequential loss) whatsoever resulting howsoever including but not limited to the use of or inability to use this information. We accept no responsibility for keeping the information in these pages up to date or liability for any failure to do so. **If you are in any doubt you must seek advice from a solicitor.**

	of policy. Where applicants are used to closing during the day and re-opening at night the form does not provide for more than one opening/closing time in any day. Applicants should indicate as best they can. Applicants should note that where a premises will be open after 01:00 am then mandatory licence condition(s) will apply. Applicants should note that in order to claim grandfather rights and be dealt with under the special procedure the Licensing (Transitional and Saving Provisions) (Scotland) Order 2007 (SSI 2007/454) provide that alcohol is not to be sold on the premises outside of the hours authorised by the applicant's existing permission (including any regular extension). Whilst the nature of and activities on the premises need only be substantially the same, hours cannot differ other than be less than those currently enjoyed.
3	Where applicants wish to sell alcohol for consumption off the premises then this question seeks information as to when applicants wish to be open for such sales. Applicants should note that there are no longer set permitted hours. Applicants will choose when they wish to sell alcohol subject to the Act, Regulations, policy and guidance. Applicants should note that by virtue of section 65(3) of the Act off sales must <u>not</u> take place outside 10 am to 10 pm each day (including Sundays). In the event that applicants seek hours outside of these limits the application <u>must</u> be refused. This question seeks CORE opening hours for each day. The time the premises will open and the time when the premises will close. CORE hours mean the premises should generally be open between these times. Applicants should not be seeking hours "just in case". Applicants are therefore advised to choose their core hours carefully. The Moray Licensing Board has provided additional guidance on opening hours in it's statement of policy. Where applicants are used to closing during the day and re-opening at night the form does not provide for more than one opening/closing time in any day. Applicants should indicate as best they can. Applicants should note that in order to claim grandfather rights and be dealt with under the special procedure the Licensing (Transitional and Saving Provisions) (Scotland) Order 2007 (SSI 2007/454) provide that alcohol is not to be sold on the premises outside of the hours authorised by the applicant's existing permission. Whilst the nature of the premises and the activities on the premises need only be substantially the same, hours cannot differ other than be less than those currently enjoyed.
4	This important question seeks details of seasonal variations. The Government's guidance notes refer to operation continuously throughout the year or on a seasonal basis. This may be confusing as it tends to suggest it only applies to a business like a hotel in a tourist area that chooses to close to the public in winter. However the scope of this question is much wider and should be expanded upon. Possible seasonal variations should be considered by <u>all</u> applicants. Even a business that does not consider itself seasonal may have seasonal variations. The obvious example is Christmas and applicants should be able to anticipate all regular, seasonal events like Christmas. This box should be completed with all anticipated seasonal variations. If applicants wish to seek longer hours at Christmas then full details should be incorporated into this box. Events that cannot be anticipated can be the subject of an extended hours application.

Exclusion of Liability - In no event does the Moray Licensing Board or the Moray Council or their employees or agents offer legal advice or accept liability of any description, including liability for negligence for any damages or losses (including, without limitation, loss of business, revenue, profits, or consequential loss) whatsoever resulting howsoever including but not limited to the use of or inability to use this information. We accept no responsibility for keeping the information in these pages up to date or liability for any failure to do so. **If you are in any doubt you must seek advice from a solicitor.**

5(a) to (e)	This question asks applicants to list all activities other than the sale of alcohol that will take place on the premises. The form requires a checklist with a simple “Yes” or “No” for each activity. There is also space to add activities not listed but see also 5(f) below. If the answer is “No” please choose “No” from the drop down list rather than leaving the box blank. Once an activity has been selected applicants are then required to choose “Yes” or “No” as to whether the activity will take place outwith (as well as within) core opening hours. As an example this would allow for things like a public house style premises where the sale of alcohol commences at 11 am but the premises wishes to open from 8 am in order to provide breakfasts (without alcohol). Another common example would be supermarkets being open for the sale of goods other than alcohol outside the hours of 10 am to 10 pm. However Government guidance makes it clear that mixed use premises like supermarkets are not required to detail the sale of goods other than alcohol. Where activities will take place outside of core hours then applicants are asked to expand upon their intentions in the box immediately under the table of activities. This question provides for a degree of generality of information. Applicants are not being asked to detail exactly how often and for what hours other activities are intended. However, applicants should be realistic in their expectations. Existing licence holders have been advised for some time to keep a diary of events for their premises and this should serve as a good guide to what applicants can reasonably expect. Applicants are again reminded that in order to claim grandfather rights the nature of the premises and entertainment to be provided on the premises need to be substantially the same as before. Applicants will be asked to self certify this fact on the operating plan and should be prepared to be able to demonstrate like for like trading where it appears that the details in question 5 conflict with the Moray Licensing Board’s knowledge of the premises. In this regard a diary of events would be useful to applicants.
5(f)	This question provides applicants with the opportunity to provide full details of activities that do not appear in the standard list. Whilst the box is open applicants should not be expected to provide information other than the nature of the activity, whether it will be provided during core hours and whether it will be provided outwith core hours.
5(g)	This question seeks to verify those premises that will be subject to additional mandatory conditions on the premises licence. In accordance with the Licensing Conditions (Late Opening Premises) (Scotland) Regulations 2007 (SSI 2007/336) this will be those that open after 01:00 am AND have a capacity of at least 250 (see question 7 on capacity) AND that <u>either</u> regularly provide at any time between 01:00 am and 05:00 am live or recorded music (exceeding 85dB), dancing or adult entertainment <u>or</u> when fully occupied are likely to have more customers standing than seated. Applicants are being asked to self certify these matters so that the Moray Licensing Board can identify those premises that are subject to the additional mandatory licence conditions. Please see our separate leaflet on conditions. Applicants are also referred to the guidance on preventing noise nuisance from licensed premises as produced by the Moray Council’s environmental health department and included in the Moray Licensing Board’s statement of licensing policy. Additional advice regarding noise levels can be sought from the environmental health section.

Exclusion of Liability - In no event does the Moray Licensing Board or the Moray Council or their employees or agents offer legal advice or accept liability of any description, including liability for negligence for any damages or losses (including, without limitation, loss of business, revenue, profits, or consequential loss) whatsoever resulting howsoever including but not limited to the use of or inability to use this information. We accept no responsibility for keeping the information in these pages up to date or liability for any failure to do so. **If you are in any doubt you must seek advice from a solicitor.**

6	This question is only relevant to premises that have detailed the proposed sale of alcohol for consumption on the premises. The question concerns the admission of children (under 16) and young persons (16 and 17). There will no longer be the need for children's certificates. Applicants will choose whether they wish to admit children on the premises and, if so, on what basis. Neither will there be any rule than children/young persons will not be permitted in a bar area. Applicants choosing to admit children will opt in by choosing "Yes" to question 6(a). If the answer is "No" please clearly select "No" rather than leave the question blank. Where the answer to 6(a) is "Yes" then applicants should go on to complete questions 6(b) to 6(e) inclusive. Again applicants should choose the terms (e.g. only accompanied by an adult), the ages, the times and the parts to which children will have access. Applicants should note the requirement for signage outside of the premises regarding the admission of children. Applicants should also note the Moray Licensing Board's policy with regard to children as contained in the statement of licensing policy. The Moray Licensing Board will consider the suitability of particular areas and arrangements for the presence of children/young persons. Note also that parts of the premises to which children/young persons will be allowed access must also be detailed on the layout plan.
7	This question asks the applicant to certify the capacity of the premises. The definition of capacity for both on and off sales is defined within section 147. As this is such a wide and difficult subject, the Moray Licensing Board has produced separate guidance on capacity in association with the Moray Council's building standards department. Capacity is to be measured in building standards terms. The figure in this box should be broken down into component parts where different parts of the premises will be used for different purposes (and thus have different occupancy load factors). Please refer to the separate guidance as it includes a worked example. The figure in this box will be used for two purposes. Those are: 1. Measurement of overprovision. The Moray Licensing Board is under a duty to assess overprovision. However applicant that claim grandfather rights cannot be refused a licence on the basis of overprovision. 2. To determine whether the premises passes the test of having a capacity of at least 250 for the purpose of the additional mandatory premises licence conditions. Building standards officers will be checking capacity figures for all applications and further information will be sought where the figure does not seem consistent with the premises plans. Officers will not set or agree capacity figures as that is a matter for the applicant. Officers may, however, choose to question certain figures. Applicants should also have regard to their fire risk assessments for this purpose.

8	This question relates to the premises manager. Every premises <u>must</u> have a premises manager and the premises manager can only be named as such for one premises. There is only an exemption for qualifying members' clubs (see the note to Q6 of the premises licence application). The premises manager <u>must</u> be a personal licence holder. Where the operating plan names a premises manager then he/she must apply for his/her personal licence at the same time as for the premises licence. In order to apply for a personal licence the applicant must have a relevant training certificate. During transition there is no requirement to name a premises manager. Application can be made for the premises licence and the premises manager can be named at a later date. This will allow for difficulties in obtaining training certificates. However a premises manager must be named and have their personal licence before the 1st September 2009. Premises without a premises manager will be reminded of this in August 2009. If no premises manager is in place by the 1st September 2009 then the premises will not be able to open for the sale of alcohol. If a premises manager is still not named and in place by the 1st December 2009 then the premises licence will be automatically revoked. Question 8(e) requires details of the premises manager's personal licence.
Declaration	The declaration must be signed and as applications may be submitted electronically applicants should contact licensing@moray.gov.uk to discuss the signing of electronic documents.

Exclusion of Liability - In no event does the Moray Licensing Board or the Moray Council or their employees or agents offer legal advice or accept liability of any description, including liability for negligence for any damages or losses (including, without limitation, loss of business, revenue, profits, or consequential loss) whatsoever resulting howsoever including but not limited to the use of or inability to use this information. We accept no responsibility for keeping the information in these pages up to date or liability for any failure to do so. **If you are in any doubt you must seek advice from a solicitor.**

Guidance for the Layout Plan

As with all forms applicants are advised to review the Moray Licensing Board's statement of licensing policy in accordance with the Licensing (Scotland) Act 2005 before completing the operating plan.

By virtue of section 20(2)(b) of the Act every application **must** be accompanied by (amongst other things) a layout plan. Only an application that complies with the requirements of section 20 is considered to be a premises licence application. An application without a layout plan will not be valid and will not be considered as validly made or received. Please see the note to the checklist for the premises licence application.

The layout plan will form part of the premises licence and should be linked to and consistent with the operating plan.

There is no requirement for a layout plan to be drawn by an architect. However applicants that choose to prepare their own layout plan should ensure that it is clear and complies with the requirements set out below. Unclear plans may be returned in which case the application will not be properly constituted and an acceptable plan will have to be lodged within the relevant timescale.

By virtue of paragraph 5 of the Premises Licence (Scotland) Regulations 2007 (SSI 2007/452) the layout plan must comply with a whole list of matters. To assist applicants paragraph 5 is summarised here:

Scale

A layout plan is to be drawn in a scale where 1 millimetre represents 100 millimetres or in such other scale as may be agreed between the person submitting the plan and the Licensing Board to which it is to be submitted.

The Moray Licensing Board would like applicants to note that paragraph 5(1)(b) provides for such scale (other than 1:100) that the applicant and Licensing Board may agree.

The Moray Licensing Board has noted that the scale of 1:100 dictates a plan size that is prone to loss of detail and may be hard to read/decipher. In addition for the purposes of verification of capacity, building standards officers would find it generally easier to work from plans that are of scale 1:50 and which are line drawings rather than simple layouts.

Therefore the Moray Licensing Board expresses the preference that plans should be on a scale of 1:50. This is subject to the proviso that where premises are quite large such that a scale of 1:50 will not reasonably fit onto A1 paper then applicants should choose a scale of 1:100.

It should be made clear that plans on a scale of 1:100 cannot be rejected.

All Plans

All plans must show the following:

- (a) the extent and dimensions of the boundary of the building, if relevant, and any external and internal walls of the building and, if different, the perimeter and dimensions of the premises to be licensed (including outside drinking areas);
- (b) the location and names of any streets surrounding the premises from which members of the public have access to the premises;
- (c) the location and width of each point of access to and egress from the premises;
- (d) the location and width of any other escape routes from the premises;

Exclusion of Liability - In no event does the Moray Licensing Board or the Moray Council or their employees or agents offer legal advice or accept liability of any description, including liability for negligence for any damages or losses (including, without limitation, loss of business, revenue, profits, or consequential loss) whatsoever resulting howsoever including but not limited to the use of or inability to use this information. We accept no responsibility for keeping the information in these pages up to date or liability for any failure to do so. **If you are in any doubt you must seek advice from a solicitor.**

- (e) the location of any equipment used for the detection or warning of fire or smoke or for fighting fires;
- (f) the location of any steps, stairs, elevators or lifts on the premises;
- (g) the location of any toilets on the premises (identified as male, female or disabled as appropriate);
- (h) any area on the premises set aside specifically for the use of children and young persons; and
- (i) any area on the premises to which children and young persons will have access.

On Sales

The plans must clearly show the use or uses to which each part of the premises will be put (under reference to the activities identified in the operating plan).

Off Sales

Plans must show:

- (a) the location of the area or areas to be used for the display of alcohol;
- (b) the maximum width and height (in metres) of the frontage to be used for the display of alcohol within that area or those areas; and
- (c) the maximum linear measurement (in metres) of any displays of alcohol outside the frontage referred to in head (b).

General Matters

Regulations make it clear that applicants can use a legend and symbols on the plan. Colour coding is another useful tool that applicants can employ for example to indicate the areas to which children might have access.

Plans will be scanned for electronic storage as well as electronic distribution to responsible authorities wherever possible. This is a further reason for limiting the size of plans (see Scale above).

Plans will be accepted in electronic format subject to an overall file size of no more than 5MB.

However applicants should note that in accordance with the Licensing (Procedure)(Scotland) Regulations 2007 (SSI 2007/453) paragraph 5 a premises licence application must be accompanied by 6 additional copies of the layout plan.

Exclusion of Liability - In no event does the Moray Licensing Board or the Moray Council or their employees or agents offer legal advice or accept liability of any description, including liability for negligence for any damages or losses (including, without limitation, loss of business, revenue, profits, or consequential loss) whatsoever resulting howsoever including but not limited to the use of or inability to use this information. We accept no responsibility for keeping the information in these pages up to date or liability for any failure to do so. **If you are in any doubt you must seek advice from a solicitor.**

L:\LIC-BRD\new licensing act\Guidance and Packs\Guidance notes for LSA05 Premises Licence Forms.doc

Guidance on Completing the Risk Assessment

There is no requirement within the legislation to complete a form of risk assessment. However the operating plan provides no means of supplying information that may be relevant to promotion of the licensing objectives.

As such the Board strongly recommends that applicants complete a risk assessment in respect of the premises and to provide a copy of this to the Board with the application and operating plan. A risk assessment should be an end-to-end process with thought being given to the potential risks for patrons queuing up to gain access to the premises right through to patrons leaving the immediate vicinity of the licensed premises. Licensees are reminded that all activity directly connected to their premises, both inside and out, should be considered.

Adopting a risk assessment approach will mean that applicants should better understand what steps are required to provide information in a manner which enables the Board and Responsible Authorities and Interested Parties to assess how they will seek to promote the licensing objectives. A risk assessment is as individual as an operating plan and will vary according to the nature of the business.

The Board recognises that applicants best understand their business and it is for applicants to decide what is appropriate in each case.

Completion of a Risk Assessment enables the Moray Licensing Board to be less prescriptive in terms of conditions. To assist applicants the Moray Licensing Board has devised a risk assessment pro-forma. It contains many of the key factors which the responsible authorities will be expecting applicants to meet in order to fulfil the licensing objectives. The contents are not exhaustive but the risk assessment approach will reduce the possibilities of adverse representations. An applicant who decides not to complete or provide a risk assessment may face additional representations.

It is hoped that during transition applications can be pre-approved by the Clerk and then submitted to the Board for final approval. Completion of a risk assessment will help facilitate this process. In the absence of information as to how applicants will promote the licensing objectives the Board may choose to hold a full hearing and the applicant will be required to attend to answer questions on the same.

It is recognised that wherever possible the Moray Licensing Board should seek to avoid duplication of other regulatory regimes. Some areas of the risk assessment may duplicate issues which applicants have previously addressed in order to satisfy other legislation. Where this does occur, applicants may cross reference to such alternative documents and copies of the same may accompany the application. An example of this is an existing fire risk assessment.

In respect of premises where alcohol will only be sold for consumption off the premises large parts of the risk assessment will not be relevant. If this is the case then please do not ignore the form altogether. Please complete the parts that are relevant to your business.

Exclusion of Liability - In no event does the Moray Licensing Board or the Moray Council or their employees or agents offer legal advice or accept liability of any description, including liability for negligence for any damages or losses (including, without limitation, loss of business, revenue, profits, or consequential loss) whatsoever resulting howsoever including but not limited to the use of or inability to use this information. We accept no responsibility for keeping the information in these pages up to date or liability for any failure to do so. **If you are in any doubt you must seek advice from a solicitor.**

L:\LIC-BRD\new licensing act\Guidance and Packs\Guidance notes for LSA05 Premises Licence Forms.doc

Training Requirements

There are mandatory training requirements for:

- **All** personal licence holders; AND
- **All** staff that will sell or serve alcohol.

Personal Licence Holder Training

The training for personal licence holders is the higher standard and comprises a recognised training qualification from an approved awarding body.

The requirements for training of personal licence holders are contained within the Licensing Qualification (Scotland) Regulations 2007 (SSI 2007/98) and the Licensing (Amendment)(Scotland) Regulations 2007 (SSI 2007/313).

The qualification and the body awarding the qualification must be approved by the Scottish Qualifications Authority (the SQA). The following bodies have been approved by the SQA to provide a personal licence qualification:

1. City & Guilds through Servewise (Servewise being part of Alcohol Focus Scotland);
2. BII – the British Institute of Innkeepers;
3. EDI – Education Development International.

It should be noted that many other training companies and providers may offer training but they must offer a course provided by one of the three above. This means that the qualification certificate itself must have a symbol from one of the three above to be valid.

Staff Training

All staff that will sell or serve alcohol must **first** undertake the mandatory training requirements set out in schedule 3 to the Act. The detailed training requirements are set out in the Licensing (Training of Staff)(Scotland) Regulations 2007 (SSI 2007/397).

This includes all staff, whether permanent or temporary, part time or full time. There is no exemption for members' clubs from this provision, despite the other exemptions in respect of premises managers and personal licence holders.

The training requirement is for a minimum of two hours' of training in a set list of subjects, which are:

- The legal basis of the requirement for the training of staff under paragraph 6 of schedule 3 to the Act;
- The licensing objectives;
- The definition of "alcohol" in the Act;
- What constitutes an unlicensed sale;
- The functions of the Licensing Standards Officers, including their powers of entry;
- The nature of the operating plan and its place in the licensing system;
- The different types of premises licence conditions under section 27 of the Act;
- Special provisions for clubs under section 125 of the Act;
- Licensed hours under Part 5 of the Act;
- Offences under the Act, particularly those involving persons under the age of 18;
- Proof of age under sections 102 & 108 of the Act and the Sale of Alcohol to Children and Young Persons (Scotland)(Regulations 2007;

Exclusion of Liability - In no event does the Moray Licensing Board or the Moray Council or their employees or agents offer legal advice or accept liability of any description, including liability for negligence for any damages or losses (including, without limitation, loss of business, revenue, profits, or consequential loss) whatsoever resulting howsoever including but not limited to the use of or inability to use this information. We accept no responsibility for keeping the information in these pages up to date or liability for any failure to do so. **If you are in any doubt you must seek advice from a solicitor.**

L:\LIC-BRD\new licensing act\Guidance and Packs\Guidance notes for LSA05 Premises Licence Forms.doc

- Test purchasing of alcohol under section 105(2) of the Act;
- Best practice as regards standards of service and refusing service;
- Units of alcohol and the relationship between units and the strength of different alcoholic drinks;
- The sensible drinking limits for males and females recommended by the British Medical Association;
- Good practice in managing conflict situations.

The Regulations merely set the headings for training which apply to both training providers and in-house training. The detailed content and method of delivery is a matter for the trade as long as it covers a minimum of 2 hours.

The training can be provided by one of the recognised training providers as detailed in the personal licence section above or it can be provided on an in-house basis but only by a personal licence holder. The training must be provided before the 1st September 2009 for existing staff and any new staff must be trained before they can sell or serve alcohol.

The training must be recorded and will be monitored. It is a mandatory requirement set out in the Licensing (Mandatory Conditions No. 2)(Scotland) Regulations 2007 (SSI 2007/546) that each premises will have to maintain a record of training undertaken by each staff member. The form of record is set in the Regulations and must be signed by both the training provider and the member of staff. Those records must then be made available to the Licensing Standards Officer for inspection upon request.

It is not clear as to what the training requirements are for a member of staff that has moved from another premises. If that member of staff brings an up to date training record then it will be up to the premises in question to check the veracity of the same. In the event of doubt, premises managers may deem it wise for all new members of staff to undergo training whether they have done so previously or not. Each premises should consider whether to have a policy in this regard.

Failure to provide appropriate training for staff will be a breach of the premises licence and the LSO and/or the Moray Licensing Board would be able to take appropriate action.

Exclusion of Liability - In no event does the Moray Licensing Board or the Moray Council or their employees or agents offer legal advice or accept liability of any description, including liability for negligence for any damages or losses (including, without limitation, loss of business, revenue, profits, or consequential loss) whatsoever resulting howsoever including but not limited to the use of or inability to use this information. We accept no responsibility for keeping the information in these pages up to date or liability for any failure to do so. **If you are in any doubt you must seek advice from a solicitor.**

L:\LIC-BRD\new licensing act\Guidance and Packs\Guidance notes for LSA05 Premises Licence Forms.doc