

SECTION G

LICENSING

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LICENSING

G LICENSING APPLICATIONS

G1 Introduction

- G1.1 South Ayrshire Council will notify Community Councils of all new premises licence applications and applications for variations (all relating to alcohol) made within its area. Applications for occasional licences will only be advertised on the Council's website at www.south-ayrshire.gov.uk/licensing. Some licensing applications are publicised by notice at the site. It is the responsibility of individual members of the public to observe these notices, and raise an objection.
- G1.2 It is likely that the timescale available for each Community Council to consider any application will be short. Each Community Council may therefore wish to appoint a licensing contact and/or a sub-committee to have responsibility for considering and commenting on licensing matters on its behalf.
- G1.3 The sub-committee must have at least three members, and have clearly defined terms of reference and delegated powers. These details must be specified in either the Community Council's constitution, or in the minutes of one of its meetings. It is the responsibility of the sub-committee to ensure that all its decisions and actions are subsequently reported to, and approved by, the Community Council.

G2 Regulatory Panel (Civic Government (Scotland Act) 1982)

G2.1 The **Regulatory Panel** of South Ayrshire Council deals with licence applications for

- G2.1.1 Taxis and Private Hire Cars and Drivers
- G2.1.2 Booking Offices
- G2.1.3 Late Hours Catering
- G2.1.4 Public Entertainment
- G2.1.5 Street Traders
- G2.1.6 Houses in Multiple Occupancy
- G2.1.7 Tattoo and Skin Piercing
- G2.1.8 Second Hand/Metal Dealers
- G2.1.9 Market Operators`
- G2.1.10 Knife Dealers
- G2.1.11 Theatres
- G2.1.12 Cinemas.

(the above list is not exhaustive but covers the main licence applications made).

- G2.1.13 No list of competent objectors is given in the 1982 Act and no special status is given within the Act to Community Councils.

- G2.2 Schedule 1 of the Civic Government (Scotland) Act 1982 lays out the procedure which requires to be followed in relation to any objection or representation relating to an application for the grant or renewal of a licence in terms of that Act.
- G2.3 The Regulatory Panel will only consider objections or representations if they:-
- G2.3.1 are in writing;
 - G2.3.2 specify the ground of the objection;
 - G2.3.3 specify the name and address of the person making the objection or representation;
 - G2.3.4 are signed by him/her or on his/her behalf;
 - G2.3.5 are made within 28 days of either the first date when public notice of an application was given or the date on which a further public notice is required to be displayed or the date on which the application was made whichever is the latest; and
- G2.4 Late objections or representations will only be considered if the Licensing Authority is satisfied that there is sufficient reason why they were not made on time.
- G2.5 An objection or representation may be made by personal delivery or by ordinary or Special Delivery or Royal Mail Signed For post so that in the normal course of post it might be expected to be delivered on time. The Licensing Authority is required to send a copy of any relevant objection or representation to the applicant to whose application it relates.
- G2.6 In terms of Paragraph 4 of Schedule 1 to the 1982 Act the Licensing Authority may, before reaching a final decision upon an application, give the applicant and any person who was made a relevant objection or representation in relation to the application, an opportunity to be heard. If the Licensing Authority does give the objector or the applicant the opportunity to be heard the parties must be given not less than 14 days notice of the hearing. This notice will be given in writing. However, the Authority is not obliged to give applicant or objector a right to be heard in respect of an application.
- G2.7 If a relevant objection or representation is made and no hearing is to be given to the applicant he/she must be given the opportunity to give his/her views in writing on the objection or representation within a period of not less than 14 days.
- G2.8 Paragraph 5 of Schedule 1 to the 1982 Act stipulates that where an application for the grant or renewal of a licence has been made to a Licensing Authority it shall (a) grant or renew the licence unconditionally; (b) grant or renew the licence subject to conditions or (c) refuse to grant or renew the licence.
- G2.9 Conditions to which the licence may be subject must be reasonable and may include restricting the validity of the licence to an area specified in the licence and where the licence is intended to replace an existing licence, may include a condition requiring the holder of the existing licence to surrender it.

- G2.10 An authority should not refuse an application if it is of the view that its concerns could be met by granting the licence subject to appropriate conditions.
- G2.11 The Licensing Authority must refuse an application to grant or renew a licence if, in its opinion one of several grounds of refusal have been established but otherwise must grant the application. The statutory grounds for refusal are:
- G2.11.1 that the applicant (or Director or partner or other person responsible for its management) has been disqualified from holding a licence or is not a fit and proper person to be the holder of the licence;
 - G2.11.2 the activity to which the licence relates would be managed by or carried on for the benefit of the person, other than the applicant, who would be refused the grant or renewal of such a licence if he made the application himself;
 - G2.11.3 if the licence applied for relates to an activity consisting of or including the use of premises or a vehicle or vessel which are not/is not suitable or convenient for the conduct of the activity having regard to; the location, character or condition or the premises or the character or condition of the vehicle or vessel; the nature and extent of the proposed activity; the kind of persons likely to be in the premises or vessel; the possibility of undue public nuisance; or public order or public safety or other good reason for refusing the application.

Notification of the authority's decision must be made within 7 days of the decision.

G3 At the Hearing

- G3.1 The Act does not prescribe in detail the conduct of the hearing at which a Licensing Authority considers an application. However, it is the usual practice in South Ayrshire for the Convener to call out the type of application being applied for together with the name of the applicant and for the applicant and/or his/her agent to come forward and identify themselves. The name of any objector will be called and the objector asked to identify him/herself. The objector is normally then asked to state the nature of the objection. This statement should be confined to speaking to the reasons for the objection as outlined in the written objection sent to the Licensing Authority. No new or additional grounds for objecting may normally be raised at this stage since, clearly, the applicant will have had no advance notice of these as the Act requires. Once the objector has spoken to his/her objection, the applicant will be given the opportunity to reply.
- G3.2 Following this the objector and applicant in turn may be given further opportunity to make representation to the hearing but this will be at the discretion of the Committee.

G4 Decision

- G4.1 The legislation only requires the Licensing Authority to intimate its decision within 7 days of it being made. However, it is the practice for the Committee to announce its decision in public on the day on which it is made. At that stage no further decision relating to the applications in question will be permitted, nor will reasons for the decisions be given. A statement of reasons for the decision may be requested and such a request should be made in writing and must be made within 28 days of the decision.

G4.2 Written objections and requests for statements of reasons should be sent to:

Licensing Services
County Buildings
Wellington Square
Ayr
KA7 1DR

G4.3 Should you require further information on the above, please write to the above address. or email licensing@south-ayrshire.gov.uk

G5 Licensing (Scotland) Act 2005 and Gambling Act 2005

G5.1 The **Licensing Board** deals with all types of licences relating to alcohol and gambling.

G5.2 In relation to the Gambling Act premises licences any interested party or responsible authority may make representations/objections

G5.3 In relation to Licensing (Scotland) Act 2005, anyone may object or make representations either for or against the application although frivolous objections may have costs awarded against them.

G6 How to Object

G6.1 In writing by the date specified on the website or notice.

G6.2 The objection must be lodged with the Licensing Section.

G6.3 The objector must send a copy of the objection by Special Delivery, Royal Mail Signed For, hand delivery or by email to Licensing@south-ayrshire.gov.uk.

G6.4 The written objection must also specify reasons in support of the identified ground for refusal. The objection must give name and address of the person making the objection and be signed by them or on their behalf.

G6.5 The Licensing Board will consider all competent objections whether or not the objector appears at the meeting.

G6.6 All objectors will be invited to attend the meeting and will receive a letter giving details of the time and place and application number.

G7 At the Meeting

G7.1 The application number will be called out.

G7.2 The applicant and/or their agent will come to the microphone at the front of the hall.

G7.3 The Clerk will read out a list of objectors and invite any of those objectors who are present and wish to address the Board to come forward and identify themselves.

G7.4 A decision has to be made by the Board as to whether the objection is competent, both in terms of service and content.

G7.5 The applicant/agent will address the Board on the merits of the application.

G7.6 The objector will then outline his/her reasons for objections. No new issues can generally be raised; the objector must cover the grounds listed in the written objection.

G7.7 The applicant will be given another opportunity to address the Board.

G7.8 Questions can be asked by the Board members to both the applicant and the objector.

G8 Decision

After considering all representations the Board will adjourn to consider these submissions. The Board will then return and announce the decision. It will also write to the applicant, police and any party appearing giving notice of its decision and they may then request a statement of reasons within 14 days of that notice