

## **Scheme of Delegation – Licensing Board**

As approved by the Licensing Board on 17<sup>th</sup> January 2008

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

#### **1. Reserved to the Licensing Board**

Decisions on the following matters shall be made by the Licensing Board at a meeting arranged by the Clerk:-

- 1.1 Determining the Licensing Board's policy for the purposes of a Licensing Policy Statement or any Supplementary Licensing Policy Statement.
- 1.2 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
- 1.3 Determining a premises licence application
- 1.4 Determining a premises licence variation application where the variation sought is not a minor variation
- 1.5 Determining an application for the transfer of a premises licence where the applicant has been convicted of a relevant or foreign offence
- 1.6 Determining a personal licence application, or personal licence renewal application where the applicant has been convicted or a relevant or foreign offence
- 1.7 Conducting a hearing under the Act, including taking any of the following steps:-
  - 1.7.1 At a review hearing in respect of a premises licence
    - (i) Issuing a written warning to the licence

holder

(ii) Revoking or suspending the licence, or

(iii) Making a variation of the licence or

1.7.2 Making an order revoking, suspending or endorsing a personal licence

1.8 Making a closure order

1.9 Refusing an application for confirmation of a provisional licence

## 2. **Delegation to the Clerk or Depute Clerk of the Licensing Board**

Decisions on the following matters are delegated to the Clerk or Depute Clerk:-

- 2.1 Any application for a minor variation of premises licences (section 29)
- 2.2 Any application for variation to substitute a new premises manager – where the applicant has *not* been convicted of any relevant or foreign offence (sections 31 and 54)
- 2.3 Any application to transfer a premises licence – where the transferee has *not* been convicted of any relevant or foreign offence (sections 33 to 35)
- 2.4 Any application for confirmation of a provisional premises licence – where no variation (other than a minor variation) has been made to the operating plan or layout plan for the premises to which the licence relates since the provisional licence was issued or since a variation of the provisional premises licence was granted (section 46)
- 2.5 Any application for an occasional licence – where no objections or representations have been received, nor a notice recommending refusal from the Chief Constable or any report from the Licensing Standards Officer recommending refusal (sections 56 to 61)
- 2.6 Any applications for extended hours – where no objections or representations have been received, nor a notice recommending refusal from the Chief Constable or any report from the Licensing Standards Officer recommending refusal (sections 68 to 70)
- 2.7 The determination in terms of section 70 (2) of the Act as to whether or not the Licensing Board will hold a hearing to determine an application for extended hours where an objection, representation or a notice recommending refusal from the Chief Constable or a report from the Licensing Standards Officer recommending refusal has been received
- 2.8 Where a decision has been taken not to hold a hearing in terms of section 70 (s) of the Act, the determination of the application

- 2.9 Any application for a personal licence or renewal of a personal licence where the applicant has *not* been convicted of a relevant or foreign offence (section 74)
- 2.10 In terms of Paragraph 6 of the Licensing (Transitional and Saving Provisions) (Scotland) Order 2007, the decision as to whether, in the case of a premises licence application during the transitional period, to request an anti-social behaviour report from the Chief Constable
- 2.11 In terms of Paragraph 8 of the Licensing (Transitional and Saving Provisions) (Scotland) Order 2007 – “No requirement for a hearing” – the decision as to whether an objection to a premises licence application made during the transitional period should be rejected under section 22(4) of that Act where no other competent objections have been made
- 2.12 In terms of Paragraph 8 of the Licensing (Transitional and Saving Provisions) (Scotland) Order 2007 – “No requirement for a hearing” – the decision as to whether an application for a premises licence, made during the transitional period, can be approved via a list at a meeting of the Licensing Board where:-
- (i) There are no valid objections to the application;
  - (ii) The size and capacity of the premises, the general nature of the premises, and any entertainment to be provided on the premises are to be substantially the same as at the date of application
  - (iii) The hours sought in the Operating Plan are within the Licensing Board’s general policy on Licensing Hours as set out in its Statement of Licensing Policy; and
  - (iv) No request for an anti-social behaviour report in terms of paragraph 6 of the Licensing (Transitional and Saving Provisions) (Scotland) Order 2007 has been made

[Note: the Clerk or Depute Clerk may elect not to use their delegated powers in a particular case in which case the matter will be referred to the Board]

### 3. **Other Matters**

Any matters which are not the subject of a specific delegation in terms of this Scheme of Delegation and are not prescribed by the Licensing (Scotland) Act 2005 shall be

determined by the Licensing Board at a meeting arranged by the Clerk in consultation with the Chairman of the Licensing Board.