



## **GUIDANCE NOTES for LATE HOURS CATERING LICENCES**

### **Civic Government (Scotland) Act 1982 (Section 42)**

#### **Disclaimer**

**These notes have been prepared as an outline of the licensing provisions in connection with late hours catering introduced by the Civic Government (Scotland) Act 1982. While every effort has been made to ensure accuracy, these notes are for general guidance only and do not constitute legal advice. It is the responsibility of applicants and licence holders to ensure that they comply with the provisions of the Act, any statutory instruments made thereunder, the conditions outlined in the schedule attached to your licence and any policy/guidance notes issued by the Council.**

#### **INTRODUCTION**

A Late Hours Catering licence is required for the use of premises between 11.00 p.m. and 5.00 a.m. for the sale to or consumption by the public of food. A licence is required whether or not the food is consumed on or off the premises. This means that a licence is required for takeaways and supermarkets as well as restaurants and cafés selling food during these hours.

The licensing authority has the power to specify different days and hours during which food can be consumed on the premises from those during which food can be consumed off the premises.

Premises licensed to sell alcohol in terms of the Licensing (Scotland) Act 2005 and used as such do not require a late hours catering licence whilst they are operating within their alcohol licensing hours. However, if they wish to undertake late hours catering outwith these hours a late hours catering licence would be required.

#### **Exemptions**

The licensing authority may on particular occasions or for a particular period relax or dispense with the requirement to obtain a late hours catering licence in respect of a particular occasion such as a local event, show or festival. The licensing authority may attach conditions to any exemption that it sees fit.

## The Application Form

The application form is split into 6 sections

- A. Personal Details
- B. Business Details
- C. Licence Details
- D. Premises Details
- E. Criminal Convictions
- F. Residence Outside the UK

You must answer all of the questions as fully as you can as failure to do so may result in your application being returned to you. Your application will not be processed until you have provided all the necessary information.

### A. **PERSONAL DETAILS** (if applicant is an individual)

You require to complete this section if you are an individual person applying for a late hours catering licence. Please note, if you are completing Section A you do not also require to complete Section B. It is essential that your full details are supplied on the application form so that necessary Police checks can be undertaken swiftly and so your application can be progressed as quickly as possible.

### B. **BUSINESS DETAILS**

You require to complete this section if the premises/operation is run by a company or partnership rather than an individual person. Please note that when application is made for a licence by a company or partnership you must also give details of the employee who is responsible for carrying out the day to day management of the business. It is essential that your full business details are supplied on the application form so that necessary Police checks can be undertaken and your application can be processed as quickly as possible.

### C. **Licence Details**

A late hours catering licence is ordinarily granted for a period of 3 years, which is the maximum period for which a licence can be issued. However, the licensing authority has the discretion to grant a licence for a shorter period.

**Grant of a Licence** - If you do not hold a late hours catering licence at the time of making your application, you need to apply for the grant of a licence. In addition, late hours catering licences are specific to the applicant and the premises so if you wish to move to different premises or change the licence holder, you will also need to apply for the grant of a licence.

**Renewal of Licence** – If you currently hold a late hours catering licence which has not expired, but is due to expire and you wish to operate during the same late hours as previously granted to you then you need to apply for a renewal of a licence.

**Variation of Licence** - If you want to extend your licensable hours you will be required to submit an application to vary the licence. This requires to be made on a separate form and a fee is payable. A variation may include an extension of your operating hours or the change of the person responsible for the day-to-day management of the premises.

You should include the details of any previous Late Hours Catering licences held or refused in this area or any other of the UK.

#### **D. PREMISES DETAILS**

You require to supply the full postal address and telephone number of the premises to be licensed and the days and hours you intend to trade.

#### **E. CRIMINAL CONVICTIONS**

This section asks whether you have **ever** been convicted of any crime or offence. Please note that this includes any fixed penalties.

Although you are not required to disclose any convictions which are “spent” in terms of the Rehabilitation of Offenders Act 1974, the Police may raise an objection on the basis of any spent convictions you may have and the licensing authority may thereafter decide to consider these if they are determined to be relevant to your application.

If you think a conviction is spent you should seek independent legal advice. Failure to disclose convictions is a criminal offence and any applicant failing to disclose a conviction may be reported to the Procurator Fiscal with a view to prosecution.

#### **F. RESIDENCE OUTSIDE THE UK**

If you are making an application you, or anyone named in the application must provide evidence of your criminal history:

- **If you were born in the UK** but have lived in any other country within the ten years prior to your application for a continuous period of twelve months or more you must provide a Criminal Record Check for all those countries for the relevant period(s)
- **If you were born outwith the UK** you must provide a Criminal Record Check from your country of origin for the time of residence there IF it was in the last ten years, unless you left that country without reaching the criminal age of responsibility. You must also provide a Criminal Record Check from any other country in which you have resided for a continuous period of twelve months or more in the ten years prior to application.

**In all cases**, the Criminal Record Checks provided must

- have been obtained within the six months immediately prior to submitting your application; and
- be translated into English; and
- be verified by the relevant UK-based Embassy or High Commission

Process for obtaining Criminal Record Checks -

<https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

**Note:** *The certificate must be produced before the licence can be granted. Whilst it is desirable for the applicant to produce the certificate with the application, it is not a strict requirement. This is so any applicant having difficulties will not be disadvantaged by delays to processing the application. At the applicants choosing, the application can be accepted as valid without the convictions evidence but the evidence should be provided as soon as possible. In this way the convictions evidence will be a check rather than a validation. Applicants should still note, however, that the licence cannot be*

*granted without the evidence having been produced. Therefore if the application is approaching the 9 month time limit without the evidence being produced, the application may be refused for failure to comply with administrative provisions.*

*If you are experiencing difficulties in obtaining a certificate then please contact the licensing team to discuss your options. It may be possible to accept alternative evidence, for example: evidence of checks having been carried out by another government body; affidavits; or character references.*

*In cases where it is not possible to provide any satisfactory evidence, the application will be referred to the Licensing Committee for a decision. Therefore the application may be delayed pending the outcome of a hearing.*

## **GENERAL INFORMATION**

You require to **sign** and **date** the declaration at the bottom of the application form. This is a very important part of the form and you should note that it is a criminal offence to make a false declaration for which you can be prosecuted and fined up to £2,500.

Once you have completed the application form please submit it to:

Legal and Democratic Services  
Moray Council  
High Street  
Elgin  
IV30 1BX

## **CERTIFICATE OF DISPLAY**

If you are applying for the grant or renewal of a Late Hours Catering Licence you should also send the completed Certificate of Display once you have displayed the Notice at the premises for 21 days, to the address above. It is very important that the Display procedure is carried out correctly. You should note that failure to carry out the requirements will result in a delay in your application and the Display procedures may have to be repeated.

- On the day you lodge your application for the licence you must:-
  - (1) Complete the form headed “**DISPLAY NOTICE**”
  - (2) Display it at or near the premises so it can be conveniently read by the public
- It must remain there for 21 days
- You should check throughout the 21 days that it has not been removed, obscured or defaced. If it has been, you should ensure that it is protected or a replacement is displayed immediately.
- At the end of the 21 days you must:-
  - (1) Remove the notice
  - (2) Complete and return the form headed “**CERTIFICATE OF DISPLAY**”

## **QUERIES**

If you have any queries please email [licensing@moray.gov.uk](mailto:licensing@moray.gov.uk) or contact 01343 563027.





**CERTIFICATE OF DISPLAY**

**GRANT / RENEWAL OF A LATE HOURS CATERING LICENCE**

I/WE \_\_\_\_\_

Applicant for a Grant/Renewal <sup>\*1</sup> of a Late Hours Catering Licence hereby Certify that a Notice in the form prescribed by Moray Council has been posted at or near the premises at:

from ..... (date) to ..... (date)

**AND**

On a community notice board at:

from..... (date) to .....(date)

Where the said notice was removed, obscured or defaced during the above mentioned period I/We certify that this was without any fault of intention on my/our part and I/we took reasonable steps for its protection and replacement as follows <sup>\*2</sup> :-

Signed .....

Date .....

\*1 Delete as appropriate

\*2 Delete this paragraph if not applicable otherwise specify period when the Notice was removed, obscured or defaced, relevant circumstances and steps taken for protection and replacement.





## DISPLAY NOTICE

### CIVIC GOVERNMENT (SCOTLAND) ACT 1982

### APPLICATION FOR THE GRANT / RENEWAL OF A LATE HOURS CATERING LICENCE

Notice is hereby given that

.....  
.....  
.....  
(Applicant full name & address.  
Business or Individual)

.....  
.....  
.....  
(Names & address of  
directors/partners if applicant is a  
business)

.....  
.....  
.....  
(Name & address of Responsible  
Employee if applicant is a  
business)

has made an application to Moray Council for the Grant/Renewal of a Late Hours Catering Licence to operate on the undernoted days and hours at the following premises:

..... (address of premises)

..... (days & hours applied for)

Any Objection or Representation relating to the application should be made to the Head of Legal and Democratic Services, Moray Council, Council Offices, High Street, Elgin, IV30 1BX (where a copy of the application may be inspected) and requires to be lodged by .....\*(date)

Such a representation shall be considered to have been made within the period referred to if it is delivered by hand within that period or posted (by Registered or Recorded Delivery Post) so that in the normal course of the post it might be expected to be delivered within that period or emailed to [licensing@moray.gov.uk](mailto:licensing@moray.gov.uk) within the period.

Where an objection or representation is made to the Council after the date referred to but not before the final decision is taken on the application it is competent for the Council to entertain such objection if it is satisfied that there is sufficient reason why it was not made within the period of time stated.

**ANY OBJECTION OR REPRESENTATION IN RESPECT OF THE FOREGOING APPLICATION MUST BE MADE IN WRITING AND MUST SPECIFY THE GROUNDS OF THE OBJECTION OR THE NATURE OF THE REPRESENTATION.** In addition the name and address of the person making the objection or representation must be specified and must be signed on behalf of the said person.

Signature of Applicant ..... Date.....

or

Signature of Agent on ..... Date.....  
behalf of Applicant

\*The date should be the 28<sup>th</sup> day after the date the application was made to the Council

**THIS DISPLAY NOTICE MUST BE DISPLAYED FOR THE WHOLE OF THE PERIOD OF 21 DAYS AT OR NEAR THE PREMISES SO THAT IT CAN BE CONVENIENTLY READ BY THE PUBLIC**



