



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 the Personal Licence Application Form

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.**

- 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 Personal Licence Forms.doc

Guidance for The Personal Licence Application Form

Applicants should review the Personal Licence (Scotland) Regulations 2007 (SSI 2007/77).

Each premises must have a premises manager* and the premises manager must be a personal licence holder. The premises manager can only be named as such for a single premises. Once the premises manager is named for a particular premises then any purported further appointment is void.

*Note that there is an exemption from this requirement for members' clubs that qualify under the Licensing (Clubs) (Scotland) Regulations 2007 (SSI 2007/76). Please see our separate leaflet on members' clubs.

Where the operating plan names a premises manager then he/she must apply for a personal licence at the same time as for the premises licence. However there is no obligation to name a premises manager in the operating plan during transition. The premises manager can be named at a later date in which case the application for a personal licence will be made at a later date. It follows that if the premises manager cannot apply for his/her personal licence (perhaps because of the lack of a training certificate) at the same time as the premises licence application then the premises manager should not be named in the operating plan.

In order to make an application for a personal licence the applicant must hold the relevant training certificate and produce evidence of having passed that training qualification at the time of application. Please refer to the separate section on training.

The premises manager must be trained, hold a personal licence and be identified to the Moray Licensing Board before the 1st September 2009. This is because there are mandatory conditions that attach to every premises licence* and these include:

- Alcohol is not to be sold where there is no premises manager or where the premises manager does not hold a valid personal licence;
- Every sale of alcohol must be authorised (whether specifically or generally) by the premises manager or other personal licence holder.

*There are certain exemptions from these for qualifying members' clubs. Please see our separate leaflet on members' clubs.

Where the premises manager has not been named or granted a personal licence by August 2009 a reminder will be sent to the relevant premises advising that:

1. The premises cannot open for the sale of alcohol unless and until the premises manager is in place; AND
2. If no premises manager is in place by December 2009 then the premises licence will automatically be revoked (by Regulations).

It is a business decision for each premises whether to encourage one or more other members of staff to apply for a personal licence.

A personal licence will last for 10 years but the applicant will need to retrain each 5 years.

By section 72 of the Act anyone that is over 18 can apply for a personal licence. The application must be on the standard form. Application should be made to the Licensing Board where the applicant is ordinarily resident (or in any other case to any Licensing Board).

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.**

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

1. The completed application form; AND
2. Evidence that the applicant possesses a relevant licensing qualification; AND
3. 2 photographs that are 45 mm by 35 mm, on photographic paper, taken against a light background, show the full face of the applicant without sunglasses or head covering (unless the head covering is worn out of religious belief). One of the photographs must be endorsed on the back by a person of good standing in the community (see the passport office website for a list of those that are generally accepted as such) with the words “I certify that this is a true likeness of *(name of applicant)*” followed by the full name and position of the person endorsing the photograph;
4. The relevant fee of £50.00, made payable to the Moray Council. For other methods of payment please see our accompanying leaflet on fees in general.

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

Question	Guidance Notes
1	<p>This question asks for details of the applicant.</p> <p>In the case of an individual the applicant should include any aliases and former names including maiden names e.g. Julie Ann Smith (formerly Julie Ann Brown).</p> <p>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 foreign convictions is defined in the Licensing (Relevant Offences)(Scotland) Regulations 2007 (SSI 2007/513). Please also see the notes to Question 6 below.</p>
2	<p>This question asks for confirmation that the applicant holds a relevant licensing qualification and confirms that a copy of the certificate should be provided with the form.</p>
3	<p>This question makes it clear that applicants can only hold one personal licence. Applicants cannot make multiple applications or hold multiple licences. Application should be made to the licensing Board where the applicant is ordinarily resident.</p>
4	<p>This section is only to be completed by those applying to renew a personal licence.</p>
5	<p>This is a checklist of things to include with the application. The Moray Licensing Board’s fillable PDF format allows for the boxes to be checked.</p>
6	<p>This question asks whether the applicant 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.</p> <p>If the answer is “None” then applicants should write “None” rather than leave the form blank.</p> <p>Relevant offences are listed in the Licensing (Relevant Offences)(Scotland) Regulations 2007 (SSI 2007/513) and applicants should review the list as it is extensive. Foreign offences are defined in section 129(2) of the Act. To assist applicants a copy of the list of relevant offences has been reproduced and included in this pack.</p> <p>The police will be carrying out checks with regard to relevant prior offences.</p> <p>If you have been based overseas for six continuous months or more during the last five years, you 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.</p> <p>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</p>

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.**

	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.
7	The declaration must be signed. As applications may be submitted electronically applicants should contact liquor.licensing@moray.gov.uk to discuss signing 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.**

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.**

- 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.**