



## **REGULATIONS FOR THE LICENSING BOARD**

### **FOR THE CITY OF DUNDEE**

#### **IN TERMS OF SECTION 37 OF THE LICENSING (SCOTLAND) ACT, 1976**

1. In these regulations "Act" means the Licensing (Scotland) Act 1976 "board" means the Licensing Board for The City of Dundee and where appropriate this includes a committee of the Board and any other party to which the Board has delegated any of its functions, "Clerk" means the Clerk to the Board and, unless the context otherwise requires, the interpretation provisions in Section 139 of the Act apply to these regulations.
2. An applicant to the Board who has been cited by the Clerk to attend a meeting of the Board must do so in person unless prevented by illness (in which event a medical certificate must be produced to the Clerk) or unless excused attendance by the Clerk for any reason.
3. An application for the renewal of a licence shall be accompanied by:-
  - (a) a statement giving details of how the licence holder's trade waste is disposed of; and
  - (b) a statement by the applicant as detailed in Regulation 4(d) below.
4. An application for the grant or provisional grant of a new licence (other than an off-sale licence) and an application for affirmation of provisional grant of a licence shall be in such form as may be prescribed by the Board and shall be accompanied by:-
  - (a) Appropriate Certificates in regard to Planning, Building Control and Environmental Health in terms of Section 23 of the Act and only an application which is so accompanied shall be a competent application for advertising under Section 12(1) of the Act. Application for such certificates should be made at least seven days prior to the last day for lodging of applications for consideration at any meeting of the Board.
  - (b) Two certificates as to the applicant's character and fitness to hold a licence and such an applicant who is not an individual natural person shall also lodge with such application two certificates in respect of the character and fitness to hold a licence of the employee, or agent, who it is intended should have responsibility for the day-to-day management of the premises to which the application relates. One of the aforementioned certificates should contain information as to the applicant's experience in the licensed trade as well as his/her character and fitness to hold a licence and may be from persons involved in or associated with the licensed trade. These certificates must be lodged at least 14 days prior to the meeting at which the application is to be considered. Failure to submit satisfactory certificates may affect the competency of the application.
  - (c) Evidence that the applicant is in possession of the premises. Such evidence should take the form of a lease or missives of let or other similar documents and be submitted at least seven days prior to the meeting at which the application is to be considered.

A request to have a provisional grant declared final shall be in the form prescribed by the Board and such a request shall not be entertained by the Board earlier than fourteen days after receipt of the request by the Clerk which period of fourteen days is hereby prescribed as a Notice in terms of Section 26(5) of the Act.

- (d) A statement by the applicant as undernoted:-
- (i) that the applicant is not managing the premises on behalf of **or** for the benefit of any other person; or
  - (ii) specifying the names of the person or persons on whose behalf or for whose benefit (including spouses) the applicant is managing the premises; or
  - (iii) in the case of an application by a firm or partnership, a statement giving the name, address and date of birth of all partners; or
  - (iv) in the case of an application by a limited company, a statement giving the name, address and date of birth of all directors of the company, together with a copy of its Register of Directors (including any changes thereto) as filed with the Registrar of Companies. This information may be checked by the Chief Constable and authorised officers of the Board.
- (e) A statement by the applicant giving details of experience gained by the licensed trade, including detail of previous employment, **must be submitted at the time the application is made.**
- Such a statement is included on the reverse of the application form and must be completed at the time the application is made. If the statement is not completed, the application may not be treated as a competent application.
- (f) A Trade Waste Disposal Statement **must be submitted at the time the application is made.**
- Such a statement is included on the reverse of the application form and must be completed at the time the application is made. If the statement is not completed, the application may not be treated as a competent application.
5. In the case of an application for the grant or provisional grant of a new licence there shall be lodged with the Clerk not later than fourteen days before the meeting of the Board at which the application is to be considered a certificate by the applicant in such form as may be prescribed by the Board that he has arranged for the display at the premises of the notice required by Section 10(2)(b) or Section 10(3)(b) of the Act as the case may be. In the case of an application where the premises to which the application relates are situated in the same building as other premises there shall also be lodged with the Clerk not later than the said fourteen days before the meeting of the Board at which the application is to be considered a certificate by the applicant in such form as may be prescribed by the Board that he has given notice in writing in terms of Section 10(5) of the Act by recorded delivery letter(s) and the postal receipt(s) for the said recorded delivery letter(s) shall accompany the said certificate.
6. (a) An applicant for a provisional grant of a licence in terms of Section 26 of the Act shall lodge with the application a statement specifying what fixtures and fittings (including carpets and curtains) it is intended shall be provided in the premises.
- (b) An applicant on requesting the Licensing Board to declare a provisional grant of a licence final shall accompany that request with a statement certifying that all fixtures and fittings detailed in regulation (a) above have been installed in the premises.

7. Consideration of an application seeking a declaration that the Board are satisfied with respect to the requirements specified in Sections 57(1), 58(1) and 59(1) of the Act shall be delegated to the Chairman and one other member of the Board and be in such form as may be prescribed by the Board but shall not be entertained earlier than two weeks after the receipt of the application.
8. An application for a permanent transfer in terms of Section 25(1) of the Act shall be in such form as may be prescribed by the Board and shall be accompanied by:-
  - (a) Two certificates as to the applicant's character and fitness to hold a licence and such an applicant who is not an individual natural person shall also lodge with such application two certificates in respect of the character and fitness to hold a licence of the employee, or agent, who it is intended should have responsibility for the day to day management of the premises to which the application relates. One of the aforementioned certificates should contain information as to the applicant's experience in the licensed trade as well as his/her character and fitness to hold a licence and may be from persons involved in or associated with the licensed trade. These certificates must be lodged at least 14 days prior to the meeting at which the application is to be considered. Failure to submit satisfactory certificates may affect the competency of the application.
  - (b) Evidence that the applicant is in possession of the premises. Such evidence should take the form of a lease or missives of let or other similar documents and be submitted at least seven days prior to the meeting at which the application is to be considered.
  - (c) A statement by the applicant as undernoted:-
    - (i) that the applicant is not managing the premises on behalf of **or** for the benefit of any other person; or
    - (ii) specifying the names of the person or persons on whose behalf or for whose benefit (including spouses) the applicant is managing the premises; or
    - (iii) in the case of an application by a firm or partnership, a statement giving the name, address and date of birth of all partners; or
    - (iv) in the case of an application by a limited company, a statement giving the name, address and date of birth of all directors of the company, together with a copy of its Register of Directors (including any changes thereto) as filed with the Registrar of Companies. This information may be checked by the Chief Constable and authorised officers of the Board.
  - (d) A statement by the applicant giving details of experience gained in the licensed trade, including details of previous employment, **must be submitted at the time the application is made.**

Such statement is included on the reverse of the application form and must be completed at the time the application is made. If the statement is not completed, the application may not be treated as a competent application.
  - (e) A Trade Waste Disposal Statement **must be submitted at the time the application is made.**

Such statement is included on the reverse of the application form and must be completed at the time the application is made. If the statement is not completed, the application may not be treated as a competent application.

An application for the temporary transfer of a licence in terms of Section 25(1A) shall be in such form as may be prescribed by the Board and shall be accompanied by two certificates as to the applicant's character and fitness to hold a licence, evidence that the applicant is in possession of the premises and a statement by the applicant as detailed in Regulation 8(c), (d) and (e) above. Evidence of title and references must be submitted with the application.

An application for the permanent transfer of a licence in terms of Section 25(1B) shall be in such a form as may be prescribed by the Board.

Applications for temporary transfer and permanent transfer (Section 25(1B)) may be lodged at the same time by completing the appropriate section of the application form provided that both necessary fees are paid at the time of lodging.

An application in terms of section 25(2) of the Act for the transfer of a licence in the case of death, bankruptcy, insolvency or incapacity of a holder of a licence must be lodged with the Clerk as soon as possible after the death, bankruptcy, insolvency or incapacity of the licenceholder, in such form as may be prescribed by the Board and must be accompanied by evidence as to the title of the applicant to apply for the transfer of a licence, evidence that the applicant is in possession of the said premises, two certificates as to the applicant's character and fitness to hold a licence and a statement by the applicant as detailed in Regulation 8(c), (d) and (e) above. Such application shall not be entertained by the Board earlier than seven days after receipt thereof by the Clerk.

9. An application in terms of Section 25(3) of the Act by a person other than an individual natural person for the substitution of another employee or agent mentioned in Sections 11 or 26 of the Act must be lodged with the Clerk as soon as possible after the event giving rise to the application, but not later than six weeks thereafter, in such form as may be prescribed by the Board and must be accompanied by two certificates as to the character of the employee or agent proposed to be substituted and as to his fitness to hold a licence and the statements referred to in Regulation 8(c), (d) and (e) above. The Board shall dispose of such application within eight weeks of the said event.
10. An application in terms of Section 25(4) of the Act for confirmation of a transferred licence shall be in such form as may be prescribed by the Board and shall be lodged with the Clerk not later than five weeks before the first day of the meeting of the Board at which the application is to be considered.
11. Consideration of an application for the consent of the Board to the proposed reconstruction, extension or alteration of premises in respect of which a licence is in force shall be delegated to the Chairman and one other member except where the Clerk is of the opinion that there is a material change in character of the premises taking it beyond the powers of the Board to grant, in which case the application will be submitted to the Board. Where an application is to be considered by the Board it shall be lodged with the Clerk not later than five weeks before the first day of the meeting of the Board at which the application is to be considered. Such an application together with an application for the grant of a new licence or for the provisional grant of a new licence in respect of proposed licensed premises shall, except where the said licence is an off-sale, be accompanied by the plans specified in regulation 12 hereof and a statement as outlined in regulation 4 hereof. An application for the grant of a provisional licence by the holder of a licence to enable him to carry on business in temporary premises during the reconstruction of his own premises shall be in such form as may be prescribed by the Board. The application will be considered by the Board not less than five weeks after the date on which the application accompanied as aforesaid has been lodged with the Clerk.
12. Where applications require to be accompanied by plans, one linen (or plastic) and three paper copies of such plans shall be lodged and shall conform to the following requirements:-
  - (a) Plans must be to the satisfaction of the Board to a scale of 1/100 (including elevations except where the proposed reconstruction or alteration is wholly internal) and must contain a location plan to a scale of not less than 1/1250;

- (b) In the case of existing premises plans must show the whole of the premises (including cellars);
  - (c) The names and addresses of (i) the applicant and (ii) the Architect or the person who drew the plans must be shown on the plans, which must be signed by the applicant or his agent as relative to the application.
  - (d) The height of counters and partitions must be marked on the plans.
  - (e) The actual area in square metres contained in the existing premises and cellars and in the proposed premises and cellars must be stated separately on the plans; and
  - (f) The names and widths of all streets and lanes, etc. to which the premises have a frontage must be marked on the plans.
13. An application for an occasional licence under Section 33 of the Act or for an occasional permission under section 34 of the Act shall be in the form prescribed, shall be signed by the applicant or his agent, and lodged with the Clerk not later than twelve days prior to the event for which the licence is required, provided that the Clerk may be authorised by the Chairman of the Board or in his absence by his nominee to accept the lodgement of an application later than twelve days prior to the date of the event. The said twelve day period will be waived when the event is a funeral. The Clerk will advise the Chief Constable of the application and the Chief Constable not later than four days after the date of lodging of each such application shall in writing inform the clerk of any observations on the application which he may wish to make. If the licence, or permission, is granted the Clerk, not later than twenty four hours prior to the beginning of the event in question, shall send the licence with any conditions attached thereto to the applicant or a Notice of Refusal of the application as the case may be. The Clerk shall keep a record of all such licences and permission applied for the decisions thereon and a reference to any conditions attached thereto.
14. An application for an occasional extension of the permitted hours shall be in the form prescribed, signed by the applicant or his agent and lodged with the Clerk not later than twelve days prior to the date of commencement of the period for which the extension is required, provided that the Clerk may be authorised by the Chairman of the Board or in his absence by his nominee to accept lodgement of an application later than fourteen days prior to the date of commencement of the period for which the extension is required. The said twelve day period will be waived when the occasion is a funeral. The Clerk will serve a copy of the application on the Chief Constable.
- The Clerk shall not later than 48 hours after the making of the Board's decision send the occasional extension grant with any conditions attached thereto or notice of refusal thereof as the case may be to the applicant.
15. An application by the Police for an Order in terms of Section 66 of the Act shall be in the form prescribed. Such an application shall, other than in circumstances certified by the applicant Constable to be exceptional, relate to a temporary restriction of permitted hours on a day or days not less than ten days after the date on which the application is lodged with the Clerk. The Board shall normally hear the applicant Constable before deciding whether or not to grant such an application. As soon as may be after the Board have made a decision in relation to such an application the Order or notice of refusal of the Order shall be sent to the applicant Constable, who, or his nominee shall, if the Board make an Order, notify any affected licence holder and/or the secretary of any affected club of the terms of the Order. Such an application and such an Order may relate to and specify the day or days on which a recurrent event or events take place or are to take place over the succeeding twelve months' period without specifying the date or dates thereof if the Board considers an Order in such terms to be desirable in the interests of public order or public safety. Where such an Order specifies the day or days of a recurrent event or events, the applicant Constable or his nominee shall not less than seven days before each such event takes place, notify the licence holders and the secretaries of clubs affected.

16. An application for musical entertainment consent in terms of the Byelaws for licensed premises shall be in such form as may be prescribed by the Board and shall be lodged with the Clerk not later than five weeks before the first day of the meeting of the Board at which the application is to be considered. Such an application may be made by the holder of a licence or an applicant for a licence.
17. An applicant for any licence or permission shall permit such members of the Board and such officers as the Board may determine access to the premises for the purpose of ascertaining the suitability of the premises for the particular application.
18. An application for a Children's Certificate in terms of Section 49 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 shall be in such form as prescribed and shall be lodged (in duplicate) with the Clerk not later than five weeks before the first day of the meeting at which the application is to be considered. If the application relates to only part of a recognised room within the premises then one linen (or plastic) and three paper copies of a plan which clearly shows the area to which the Certificate relates must be lodged with the application.
19. Any applications made will not be deemed to have been lodged until the appropriate fee has been paid.
20. Applicants for Renewal of Licence, permanent transfer under Sections 25(1) and 25(2), confirmation under Section 25(4) and applicants for any new licences must lodge with the Clerk at least 7 days before the meeting at which the application is to be determined, a copy of a certificate showing that he or she has been awarded the Servewise Plus certificate or any other relevant certificate of the same SQA standard or above. In the case of an application under Section 11 of the Act, the certificate must be held by the person nominated as having responsibility for the day to day management of the premises.
21. Any applicant for a new licence or any existing licensee carrying out alterations must comply with the terms of the Control of Asbestos Regulations 2002 and submit a management plan and where appropriate, any asbestos survey to the Environmental Health and Trading Standards Department setting out how the risks from materials are to be managed. Such plan to be submitted at the time the application is made.
22. All previous Regulations made by the Licensing Board are hereby repealed.

**PATRICIA McILQUHAM**  
**Clerk to the Licensing Board**

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19th January, 2006