

**The Moray Licensing Board Scheme of Delegation
for the Licensing (Scotland) Act 2005**

Effective Date: 21st June 2023

Delegation of functions is provided for within paragraph 10 of Schedule 1 to the Licensing (Scotland) Act 2005 as follows:

A Licensing Board may authorise (whether generally or specifically) any member, committee, clerk or member of staff to exercise on behalf of the Board any of the Board's functions under the Act, other than the following:

- (a) determining the Board's policy for the purposes of a licensing policy statement or supplementary licensing policy statement,
- (b) 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,
- (c) determining a premises licence application,
- (d) determining a premises licence variation application where the variation sought is not a minor variation,
- (e) determining an application for the transfer of a premises licence where the applicant has been convicted of a relevant offence or a foreign offence,
- (f) determining a personal licence application or renewal application where the applicant has been convicted of a relevant offence or a foreign offence,
- (g) conducting a hearing under this Act (including the resulting steps like issuing a warning, suspending or revoking the premises licence, varying the licence, suspending, revoking or endorsing the personal licence)
- (h) making a closure order,
- (i) refusing an application for confirmation of a provisional premises licence.
- (j) granting/refusing an occasional licence application where there is a notice of objection or representations in relation to the application, or a notice from the appropriate chief constable recommending refusal of the application.

Therefore the above functions will be undertaken by the Moray Licensing Board. All other functions may be carried out by any member of the Board, committee of the Board, clerk or member of staff. In particular the following will apply:

	Nature of Application	Function	Discharged By
1	Premises licences	Determining a premises licence application subject to the proviso that the Clerk may submit lists of certain pre-approved applications to the Board for determination.	Board or a sub committee
2	Premises licence minor variation	Dealing with an application under section 29 of the 2005 Act for a minor variation such as is described in subsection (6)(c) of that section including any variation of the information contained in the licence relating to the premises manager (including a variation so as to substitute a new premises manager)	Clerk or person appointed to assist the Clerk
3	Premises licence variation	Determining whether to cite an Applicant to a hearing for a premises licence variation application where the variation is not a minor variation	Clerk or person appointed to assist the Clerk
4	Premises licence transfer	Determining an application under section 33 or 34 of the 2005 Act being any application to	Clerk or person appointed to assist

		transfer a licence (other than such an application as is described in paragraph 10(2)(e) of schedule 1 to the Act which is determining an application for the transfer of a premises licence where the applicant has been convicted of a relevant offence or a foreign offence)	the Clerk
5	Premises licence confirmation	Confirm a provisional premises licence under section 46	Clerk or person appointed to assist the Clerk
6	Premises licence review proposal	Whether to make a premises licence review proposal under section 37(1)	Clerk or person appointed to assist the Clerk
7	Premises licence reviews	To exercise the powers under section 38(5) and (6) for the purpose of a review hearing to obtain further information, request any person to attend to provide information and/or request production of any document at a review hearing	Clerk or person appointed to assist the Clerk
8	Premises licence production	To exercise the power under section 49(3) to require a premises licence holder to produce the premises licence	Clerk or person appointed to assist the Clerk
9	Premises licence fees	Determining what category a premises falls within in terms of the fees Regulations	Clerk or person appointed to assist the Clerk
10	Personal licences	Determining a personal licence application including renewal applications where the applicant has been convicted of a relevant offence or a foreign offence	Board or a sub committee
11	Personal licences	Determine a personal licence application including renewal applications where the applicant has not been convicted of a relevant or foreign offence	Clerk or person appointed to assist the Clerk
12	Personal licences	Revoke a personal licence under the mandatory provision in section 87(3) if the licence holder fails to comply with the provisions as regards training in section 87(1)	Clerk or person appointed to assist the Clerk
13	Personal licences	To accept an application for renewal of a personal licence outside of the statutory timescale	Clerk or person appointed to assist the Clerk
14	Occasional Licences	Refuse to accept for processing an application where it appears likely, in the opinion of the Clerk, that insufficient time will be available for statutory consultation and where it appears, in the opinion of the Clerk, there is no valid reason to use the statutory short notice procedure in para 15 below.	Clerk or person appointed to assist the Clerk
15	Occasional Licences	Refuse to accept for processing any "late application", defined as one that is received with less than 28 days' notice of the event to be licensed unless: <ul style="list-style-type: none"> - It is for a funeral tea, wake or similar - It is from an individual or organisation who has already submitted an application (in the correct time) or already holds a licence for another venue and the other venue cannot be used for reasons beyond the applicant's control, for example fire damage. 	Clerk or person appointed to assist the Clerk
	Occasional Licences	Determine whether to permit applications for occasional licences to be considered at short	Clerk or person appointed to assist

16		notice (i.e. being a period less than 28 days but not less than 24 hours) contrary to the policy in section 14 above.	the Clerk
17	Occasional licences	Grant an occasional licence application where there is notice of objection or representation and or notice from the chief constable recommending refusal in relation to the application	Convenor and Vice Convenor of the Board acting in agreement, failing which reference will be made to any third member for a majority decision. If the Convenor and/or Vice Convenor is not available then reference can be made to any other member(s) of the Licensing Board.
18	Occasional licences	Grant an occasional licence application where there is no notice of objection or representation and no notice from the chief constable recommending refusal in relation to the application (or where any such objection, representation or notice has been withdrawn)	Clerk or person appointed to assist the Clerk
19	Occasional Licence conditions	To impose conditions under section 60 in respect of an occasional as necessary or expedient for the purpose of any licensing objective	Clerk or person appointed to assist the Clerk
20	Extended Hours	Determine whether to permit applications for licences for extended hours to be considered at short notice (i.e. being a period less than 10 days but not less than 24 hours).	Clerk or person appointed to assist the Clerk
21	Extended Hours	Accept and application for extended hours at short notice (i.e. a period less than 10 days but not less than 24 hours) where the application is in respect of a funeral tea, wake or similar.	Clerk or person appointed to assist the Clerk
22	Extended hours	Grant an extended hours application where there is notice of objection or representation and or notice from the chief constable recommending refusal in relation to the application	Convenor and Vice Convenor of the Board acting in agreement, failing which reference will be made to any third member for a majority decision. If the Convenor and/or Vice Convenor is not available then reference can be made to any other member(s) of the Licensing Board.
23	Extended hours	Grant an extended hours application where there is no notice of objection from the chief constable under section 69(2) and no adverse report from the LSO under section 69(3)	Clerk or person appointed to assist the Clerk
24	Extended hours	To impose conditions under section 70A in respect of an occasional as necessary or	Clerk or person appointed to assist

		expedient for the purpose of any licensing objective	the Clerk
25	Power to relieve procedural errors	The power under section 135 to relieve any applicant or other party to proceedings before the Board of any failure to comply with any procedural provision if the failure is due to mistake, oversight or other excusable cause, and it is considered appropriate in all the circumstance to relieve the failure.	Clerk or person appointed to assist the Clerk
26	Power to deal with legal proceedings	To institute, defend, settle, appear on behalf of the Licensing Board and/or instruct agents or Counsel in any legal or similar proceedings of for an opinion when deemed appropriate.	Clerk or person appointed to assist the Clerk

All powers that are delegated are subject to the proviso that where it appears to the clerk or person appointed to assist the clerk that, as regards a particular case, it is appropriate that a function specified above be discharged by the Board or by a member or particular members of the Board, that officer is to remit the case appropriately.