

# **SHETLAND ISLANDS AREA LICENSING BOARD**

## **LICENSING (SCOTLAND) ACT 2005**

### **GUIDANCE NOTES ON OBJECTIONS AND REPRESENTATIONS – PREMISES LICENCES**

These Notes are intended to assist you to complete the Licensing Board's objections/representations form, but they are not intended to be a complete statement of the law. The relevant law can be found in the Licensing (Scotland) Act 2005<sup>1</sup> (the "Act") and various sets of Regulations under the Act. If you need further guidance or help to complete the form, or to make an objection or about what to do next, we suggest that you might seek advice from a solicitor, the Citizen's Advice Bureau or other adviser.

#### **Objections**

Any person may notify the Board that they object to a premises licence application and can do that on any one or more of the grounds below<sup>2</sup> –

- (a) that the application relates to "excluded premises"<sup>3</sup>. In Shetland these are essentially garages or garage shops, but there is an exemption for premises that are the principal source, in their community, for groceries or for petrol or derv;
- (b) that –
  - 25(2) - the application has been made within one year of an earlier refusal by the Board and
    - (i) there has neither been a material change of circumstances since the earlier refusal, and
    - (ii) the Board did not direct at the time of the earlier refusal that section 25(2) would not apply to a subsequent application;
  - 64(2) - the application is for 24-hour opening and there are no exceptional circumstances to justify the sale of alcohol on the premises during such a period; or
  - 65(3) - the application is for off-sales hours before 10am or after 10pm or both;
- (c) that the granting of the application would be inconsistent with one or more of the licensing objectives<sup>4</sup>, namely –
  - preventing crime and disorder;
  - securing public safety;
  - preventing public nuisance;
  - protecting and improving public health; and
  - protecting children from harm;
- (d) that having regard to –
  - (i) the nature of the activities proposed to be carried on in the subject premises;
  - (ii) the location, character and condition of the premises; and
  - (iii) the persons likely to frequent the premises;the premises are unsuitable for use for the sale of alcohol;

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<sup>1</sup> The Act is available on-line at <https://www.legislation.gov.uk/asp/2005/16/contents>.

<sup>2</sup> Section 23(5) of the Act.

<sup>3</sup> Section 123.

<sup>4</sup> Section 4.

- (e) that, if the Board granted the application, there would, having regard to the number and capacity of licensed premises, or licensed premises of similar description, be overprovision of such premises in the locality.

Please note that anyone lodging an objection on this ground will have to specify the locality on which they are basing their objection.

If the Board determines that none of the above grounds for refusal apply, it must grant the application.

If the Board decides that any of the grounds for refusal apply, it must refuse the application.

#### **Special Procedure for Certain Applications**

Where the application is not for a provisional premises licence and the Board is minded to refuse the application only on ground (d) above, but would be able to grant the application if certain modifications were made to the character and condition of the premises, the Board must grant the application. The applicant will then have a period of 12 months (which may be extended) to carry out the modifications.

#### **Representations**

Any person may notify the Licensing Board, that they wish to make representations concerning the application –

- (i) in support of the application;
- (ii) about modifications which the person considers should be made to the operating plan accompanying the application; or
- (iii) about conditions which the person considers should be imposed.

#### **General**

Where the Licensing Board receives a notice of objection or representation, the Board will copy that to the applicant at least 7 days before the date of the Board's hearing on the application, unless the Board rejects the notice because it considers the objection or representation to be frivolous or vexatious. Where the Board rejects an objection or representation on those grounds, it may recover from the person who gave the notice any expenses incurred by the Board in considering the notice.

#### **Licensing Board Staff – Contact Details**

by writing to: Clerk to Shetland Islands Area Licensing Board  
Governance & Law  
Shetland Islands Council  
8 North Ness Business Park  
Lerwick  
Shetland  
ZE1 0LZ

by telephone to: 01595 744550

by email to: [licensing@shetland.gov.uk](mailto:licensing@shetland.gov.uk)