

# **CENTRAL LOCAL COMMUNITY PLANNING FORUM**

**23 OCTOBER 2007**

## **LICENSING (SCOTLAND) ACT 2005 - DRAFT STATEMENT OF LICENSING POLICY**

### **Report by Clerk to the Licensing Board**

#### **1. PURPOSE OF REPORT**

- 1.1 The purpose of this report is to apprise Forum members of the details of the East Ayrshire Licensing Board's statutory obligations in relation to the publication of a statement of licensing policy, to invite the Forum to consider the enclosed draft policy statement and to invite responses from the Forum on the consultation exercise.

#### **2. THE LEGISLATIVE BACKGROUND**

- 2.1 In terms of section 6 of the Licensing (Scotland) Act 2005 every Licensing Board is required, before the beginning of each 3 year period, to publish a statement of their policy with respect to the exercise of their functions under the Act. Article 2 of The Licensing (Appointed Day and Transitional Provisions)(Scotland) Order 2007, prescribes 30th November 2007 as the date by which each Board must publish its licensing policy statement.
- 2.2 As part of the statement's preparatory process the legislation requires that a period of consultation take place with the Local Licensing Forum for the Board's area and such other persons as the Board thinks appropriate.

#### **3. THE DRAFT STATEMENT OF LICENSING POLICY**

- 3.1 In the exercise of their functions under the Act, the Licensing Board must have regard to the licensing objectives which are:-

- preventing crime and disorder
- securing public safety
- preventing public nuisance
- protecting and improving public health, and
- protecting children from harm

The draft statement therefore strives to ensure that Board policies are consistent with these objectives whilst at the same time setting out details of the general approach the Board will adopt in the making of licensing decisions.

- 3.2 Section 7 of the Act requires that the policy statement includes a statement as to the extent to which the Board considers there to be overprovision of licensed premises or licensed premises of a particular description in any locality within the Board's area. Notwithstanding the requirement to publish the statement by 30th November 2007, the Board's statutory duty to assess overprovision will not come into force until September 2009. The Scottish Government reached this conclusion in recognition that the task of assessing the capacity of licensed premises is significant. However, by Autumn 2009, the Board will have processed all transitional applications which will provide an accurate baseline of information which will accordingly allow a more accurate assessment of overprovision to be made.
- 3.3 Notwithstanding the foregoing, it is already apparent that the "localities" which the Board may conclude either have been determined to be overprovided for or are approaching overprovision are Kilmarnock Town Centre and Cumnock. Accordingly, the draft statement makes reference to these "localities" in an effort to provide consultees and local communities with a clear indication of the Board's initial views on this matter.
- 3.4 The draft statement has been prepared having due regard to the guidance issued by The Scottish Government but it must also be noted that it has been prepared at a time when the publication of further regulations on the Act are awaited. Accordingly, the draft may require to be updated as and when those regulations are issued and also as a consequence of any further guidance issued by The Scottish Government.

#### **4. THE CONSULTATION PROCESS**

- 4.1 On 26 September 2007 East Ayrshire Licensing Board determined to embark upon a period of consultation on the draft between Wednesday 26 September and Friday 9 November 2007 which is a period of just over six weeks. Thereafter, subject to any amendments or revisions to the draft statement arising from the consultation exercise, a special meeting of the Board on Wednesday 21 November has been arranged to seek approval of the finalised statement. This will allow a sufficient period of time for the publication of the statement by 30 November in accordance with the Board's statutory obligations.
- 4.2 The Board is consulting with a wide range of interested parties to include:-
- The East Ayrshire Local Licensing Forum (whose membership includes trade, community, health and Strathclyde Police representatives as well as the East Ayrshire Council Licensing Standards Officers );

- Members and Officers of East Ayrshire Council (particularly in relation to planning, building standards, environmental health and education and social services);
- The operational Community Councils within East Ayrshire;
- The East Ayrshire Community Planning Forums;
- The East Ayrshire Child Protection Committee;
- Alcohol Focus Scotland;
- Strathclyde Fire and Rescue;
- Existing licence holders;
- Local faculties of solicitors; and
- The general public (by way of advert and East Ayrshire Council's website )

4.3 In addition, two open meetings have been held (one in Kilmarnock and one in Cumnock) to which all licence holders in East Ayrshire were invited. The principal purpose of these meetings was to begin the process of providing as much assistance as possible to licence holders in relation to the requirements of the Act but as the meetings took place on 3 and 4 October, the opportunity was also taken to raise awareness of the consultation exercise.

## 5. **RECOMMENDATIONS**

It is therefore recommended that the Forum: -

- (i) Consider the terms of the draft statement of licensing policy with a view to the submission of any responses or views as may be deemed appropriate; and
- (ii) Otherwise note the content of this Report.

DAVID MITCHELL  
Clerk to the Licensing Board

4 October 2007

### LIST OF BACKGROUND PAPERS

1. East Ayrshire Licensing Board's Draft Statement of Licensing Policy  
November 2007 - November 2010

For further information on any matter contained within this Report please contact David Mitchell, Clerk to the Licensing Board, Tel. (01563) 576061.

# **EAST AYRSHIRE LICENSING BOARD**

## **DRAFT STATEMENT OF LICENSING POLICY UNDER THE LICENSING (SCOTLAND) ACT 2005**

**November 2007 – November 2010**

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## 1. PREAMBLE

Section 6 of the Licensing (Scotland) Act 2005 (the Act) requires all Licensing Boards to publish every three years a Statement of Licensing Policy. This statement fulfils that statutory requirement for East Ayrshire Licensing Board.

A Licensing Board may, during a three year period, publish a supplementary statement of their policy with respect to the exercise of their functions during the remainder of that period.

In carrying out its statutory role and fulfilling its responsibilities under the Act the East Ayrshire Licensing Board is required to have regard to its Licensing Policy Statement, and any supplementary licensing policy statement published by the Board.

The Licensing Board will consider all applications on their merits within the context of the Licensing Policy Statement. In particular the Board will give due consideration to an application whether or not it conforms to any requirements set out in the Licensing Policy Statement.

In exercising their functions under the Licensing (Scotland) Act 2005, the Licensing Board will have regard to the statutory licensing objectives, which are set out at section 4 of the Act:

- **Preventing crime and disorder;**
- **Securing public safety;**
- **Preventing public nuisance;**
- **Protecting and improving public health;**
- **Protecting children from harm.**

The Policy Statement will be subject to review as issues arise.

The Board is aware that the Scottish Government intends to issue further regulations and guidance in respect of the Act. This Draft statement will accordingly be amended to take account of any such future legislative changes.

The Board is consulting widely on this statement and will take account of the views submitted in its adoption. Consultation on this document will take place between 18 September and 9 November 2007. The Board requires to have its policy in place by 30 November 2007.

Comments on the policy may be submitted, no later than 9 November 2007 as follows :-

In writing to :                      Clerk to the Licensing Board  
East Ayrshire Council  
Council HQ  
London Road  
Kilmarnock  
KA3 7BU

By e-mail to :                   stuart.mccall@east-ayrshire.gov.uk  
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## 2       **INTRODUCTION**

East Ayrshire covers a land area of 490 square miles in west central Scotland, 30 miles southwest of Glasgow. The total population of the area is 120,000, with just under half the population living within the two main towns of Kilmarnock (44,000) and Cumnock (9,000).

There are 21 main communities and settlements in a diverse geographical area, embracing both rural and urban areas. Established as a result of local government reorganisation in 1996, the area does not reflect any natural or traditional community, stretching as it does down the eastern length of the County of Ayrshire.

East Ayrshire's population has been declining and ageing in recent years. An overall decline of 3% between 1993 and 2003 was characterised by a significant decline amongst the working age population, offset by an increase of 15% amongst the 50-64 age group. These demographic shifts are forecast to become increasingly stark in future; the population is projected to increase within the 50 plus age band, but between 2003 and 2013 the working age population is projected to fall by 7%.

Notwithstanding these issues significant progress has been made with efforts to regenerate communities which have witnessed the complete loss of traditional industries in the context of economic development and tourism.

As at August 2007, under the current legislation there were in force within East Ayrshire in each of the relevant categories of licences the following:-

Public House	128
Hotel	27
Restricted Hotel	0
Restaurant	20
Refreshment	7
Entertainment	18
Off-Sales	146
Registered Club	61

Registered Clubs are currently authorised to supply alcoholic liquor by a certificate of registration granted by the Sheriff. In terms of the Licensing (Scotland) Act 2005 they will now be administered by the Board, however will be subject to certain statutory exceptions.

### **3 BYELAWS**

East Ayrshire Council has introduced bye-laws prohibiting the consumption of alcohol in designated places. These bye-laws in terms of the Local Government (Scotland) Act 1973 currently apply to the East Ayrshire area.

The effect of the bye-laws is that any person who consumes alcoholic liquor in a designated public place shall be guilty of an offence. Licensed premises are exempt from the bye-laws. The bye-laws also state that they shall not have effect on 31 December from 6.00pm until the end of that day and on 1 January until 6.00am.

The Byelaws are currently subject to review and a report has been submitted to the Council and will be considered on 11 October 2007. The principal changes to the existing byelaws are to include new housing areas and also to make it an offence to be in possession of an open container, containing alcoholic liquor, in a public place.

### **4 LINKS TO OTHER POLICIES, STRATEGIES & LEGISLATION**

The East Ayrshire Licensing Board consulted widely before finalising and publishing this Statement of Policy and has given due consideration to the views of all those who responded to that consultation process.

In administering its responsibilities, the Board believes that it is important that it does not operate in isolation. Due regard will be given to the policies and decisions of East Ayrshire Council.

The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way which is incompatible with a Convention Right. The Board will have particular regard to the following relevant provisions of the European Convention on Human Rights in respect of its licensing responsibilities:

- Article 1 of the First Protocol: that every person is entitled to the peaceful enjoyment of their possessions, including for example the possession of a licence
- Article 6: that in the determination of civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law and
- Article 8: that everyone has the right to respect for their home and private life.

The Board will take advice on ECHR issues generally as and when required, as is currently the case with all other legal matters.

The Board will at all times have due regard to The Disability Discrimination Act 1995 or any subsequent and similar legislation, and the need to eliminate unlawful discrimination and to promote equality of opportunity. The Board

has adopted a Disability Equality Scheme and Action Plan under this 1995 Act, which is subject to review every three years.

The Board will at all times have due regard to The Race Relations Act 1976 as amended or any subsequent and similar legislation, and the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups. The impact of this policy on race relations will be monitored through the Board's Race Equality Scheme.

The Board will at all times have due regard to The Sex Discrimination Act 1975 or any subsequent and similar legislation, and the need to eliminate unlawful discrimination and to promote equality of opportunity for women and men. The impact of this policy on sex discrimination will be monitored through the Board's Gender Equality Scheme.

In carrying out its statutory role and fulfilling its responsibilities under the Gambling Act 2005, the Board will at all times act in an open and transparent manner and in accordance with the public interest and will have regard to the statutory licensing objectives, which are

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- Ensuring that gambling is conducted in a fair and open way
- Protecting children and other vulnerable persons from being harmed or exploited by gambling

The Board will liaise closely with the Local Alcohol and Drugs Action Team, the importance of such co-operation being recognised as part of the wider alcohol agenda, especially in relation to public health and child protection Licensing Objectives.

The Board will have regard to any strategy of the Scottish Executive designed to address the social, health and crime and disorder issues raised by the misuse of alcohol.

So far as possible, the Board will avoid duplication with other regulatory regimes and will not use its powers under the Licensing (Scotland) Act 2005 to arrive at outcomes that can be achieved under other legislation or by other enforcement agencies. In particular, the Board's licensing functions will be discharged separately from the functions of East Ayrshire Council as the local planning authority. The Board recognises that planning and licensing regimes are separate and that the processing of licensing applications should be an exercise distinct from the processing of planning applications. The Board as the licensing authority will not be bound by decisions made by East Ayrshire Council as the local planning authority.

Applicants for licences are reminded that planning permission may be required for certain uses and that planning consents may carry conditions

It is appropriate that planning permission is obtained first, or alternatively that a certificate of lawful use or development has been obtained in terms of the proposed activities and trading hours.

In general, planning permissions authorise a broad type of use of premises, whereas licences are granted for a particular type of activity. A planning permission may cover a number of activities that can have a wide range of different impacts in the locality.

There may be a common approach in the reasoning behind planning and licensing decisions and conditions attached to planning permissions may relate to one or more of the five licensing objectives. Where this is the case, operating plans should make reference to those planning conditions.

The Council's planning policies are set out in its Development Plan. Government guidance in the form of Planning Policy Guidance notes (PPG) and National Planning Policy Guidance notes (NPPG) are also relevant.

The formulation of this policy involved consultation with the Local Licensing Forum, which will keep under review the operation of the Act in this Board's area and will advise and make recommendations to the Board as appropriate. The Board will have regard to any advice given or recommendation made to it. If the Board does not follow the advice or guidance this will be for good and substantial reasons, which reasons will be given in writing within 14 days of the decision.

To ensure proper communication with the Local Licensing Forum, the Board may provide reports particular to it from time to time to enable it to have regard to the detail of such matters when deliberating.

All premises for which a licence is being sought will be expected to comply with the building standards requirements in force at the time of their construction, or at the time of any alteration. This is particularly relevant in respect of the licensing objectives relating to public health and public safety. Where construction work is proposed or completed, the applicant should be able to produce appropriate certificates issued by the local authority.

Other statutory requirements may apply to the provision of any activities at premises and the responsibility for compliance lies with the licence holder. For example, if the activity involves the preparation and/or sale of food then it is the responsibility of the applicant to ensure that all appropriate food safety legal requirements are met. It is not a requirement of any licence decision to address these matters but a responsible licence holder will be expected to conform to all relevant legislation.

There is considerable overlap between the licensing regime and wider health and safety regulatory regimes. Many specific licensing requirements relate to matters potentially affecting public health and public safety, two of the licensing objectives.

## **5 BOARD BUSINESS**

The Board will deal with all of its business in an open and transparent way.

When assessing applications submitted for premises licences, the Board will require to be satisfied that the applicant will be able to fulfil the five licensing objectives.

The Board will expect all applicants to address the five licensing objectives in their operating plan. The operating plan should contain :-

- a description of the activities to be carried on in the premises;
- a statement of the times during which it is proposed that alcohol be sold on the premises;
- a statement as to whether the alcohol is to be sold for consumption on the premises, off the premises or both;
- a statement of the times at which any other activities in addition to the sale of alcohol are to be carried on in the premises;
- where alcohol is to be sold for consumption on the premises, a statement as to whether children or young persons are to be allowed entry to the premises;
- if children or young persons are to be allowed entry to the premises, a statement of the terms on which they are allowed entry including, in particular:-
  1. the ages of the children or young persons to be allowed entry;
  2. the times at which they are to be allowed entry;
  3. the parts of the premises to which they are to be allowed entry.
- information as to the proposed capacity of the premises;
- prescribed information about the individual who is to be the premises manager; and
- such other information in relation to the premises and the activities to be carried on there as may be prescribed.

Information will be made available to those persons who wish to apply for a licence, to make representations to the Board or to lodge objections. The Board will remain at all times mindful of the need to be accessible to all and assistance will be available on request to those who require any special arrangements made.

The Board will operate in the East Ayrshire Council Headquarters. The Board will meet on a regular basis and the date of meetings will be widely advertised.

## **6 DELEGATION OF LICENSING FUNCTIONS**

The Licensing Board, for the purposes of the Licensing (Scotland) Act, 2005 is responsible for the consideration of:

- Premises licences
- Occasional licences
- Temporary licences
- Provisional licence
- Personal licences
- Variations of licences
- Review of licences
- Transfer of licences
- Extensions of licences hours
- The sale of alcohol by retail
- The supply of alcohol in members' clubs

As it is the Board's policy to provide a speedy, efficient and cost effective service to all parties involved in the licensing process, East Ayrshire Licensing Board has delegated to the Clerk (which includes such Depute or Assistants as may be appointed by the Clerk for the purpose) authority to grant the following descriptions of applications:

- Minor variation of premises licence (section 29);
- Variation to substitute new premises manager – where the applicant has not been convicted of any relevant or foreign offence (section 31 and with reference to section 54);
- Transfer of premises licence – where transferee has not been convicted of any relevant or foreign offence (reference to sections 33 to 35);
- Confirmation of a provisional premises licence – where no objections or representations have been received (section 46);
- Occasional licence – where no objections or representations have been received and Strathclyde Police have not lodged a notice recommending refusal of the application (section 56);
- Extension of licensed hours – within the Board's normal licensing hours policy – where no objections or representations have been received, Strathclyde Police have not lodged a notice recommending refusal of the application and the report by the Licensing Standards Officer does not recommend refusal (section 68);
- Personal licence or renewal of a personal licence where the applicant has not been convicted of a relevant or foreign offence (section 129). At the time of preparation of the Scheme of Delegation, publication of regulations under section 129 was awaited.

In order to maintain an overview the Board will receive regular reports regarding licences determined by the Clerk.

Unless there are justifiable reasons or, as provided in regulations made under the Act, the Board will meet in public, although Members may retire into private session to take any advice which may be required and to consider their decision.

## **7 NOTIFICATION OF APPLICATIONS, OBJECTIONS AND REPRESENTATIONS**

The Board will give notice of each premises licence application it receives to those persons referred to in Section 21 of the Act, namely:

- a) each person having a notifiable interest in neighbouring land;
- b) any community council within whose area the premises are situated;
- c) East Ayrshire Council;
- d) Strathclyde Police; and
- e) Strathclyde Fire and Rescue

Within 21 days of the date of receipt of the notice, the Board expects Strathclyde Police to consider all applications and respond by giving the Board one of the statutory notices, as appropriate, referred to in section 21(4) of the Act.

The Board will consider all relevant representations or objections received from any person as defined in section 22 of the Act. Any objection must relate to one of the licensing objectives.

The Chief Constable of Strathclyde Police may lodge an objection but only if a connection with serious organised crime is detected and the crime prevention objective is threatened.

The Licensing Board may reject representations or objections received if the Board considers any representation or objection to be frivolous or vexatious.

## **8 CONSIDERATION OF APPLICATIONS**

When considering whether any licence should be granted, the Board will take into account relevant matters, including:

- the nature of the premises, the style and type of use, the potential number and profile of the customers likely to attend the premises;
- the proposed hours of operation;
- the means of access and egress (including emergency provision) to the premises including the location of customer entrances and exits;
- the level of public transport accessibility for customers either arriving or leaving the premises and the likely means of public or private transport that will be used by them;
- the level of likely car parking demand on principal roads and surrounding residential streets and its effect on local residents, in comparison with the existing situation, and the effect on residential parking and emergency access;
- the provision of toilet facilities and ventilation of the premises.

Where it is possible to take steps to mitigate or prevent any potential impact the Board may still be able to grant a licence subject to conditions; each case will be considered on its merits and appropriate advice will be sought by the Board.

When considering any application for premises which have been previously licensed, or in any review of an existing licence, the Board will take into account any historical evidence, especially of the impact on local residents and will also look at the measures put into effect by the applicant to mitigate the adverse impact.

## **9 CONDITIONS ATTACHED TO LICENCES**

Schedule 3 of the Act provides mandatory conditions for premises licences. The Board also has power to impose further discretionary conditions which would be attached to licences on an individual basis. These conditions will not be inconsistent with or seek to strengthen or restrict mandatory conditions and will only be imposed when considered necessary for the promotion of the licensing objectives. A list of mandatory conditions are attached at Appendices I and II. However, it is understood that the Scottish Government intends to produce Regulations relating to further mandatory and discretionary conditions which may necessitate a variation to the terms of the Appendix.

The decision whether to impose a condition will be made on an objective basis having regard to the operating plan and any representation made and any other relevant information available to the Board when considering the application.

## **10 OVER PROVISION**

Under section 7 of the Act, the Board is required to produce a statement as to the extent that the Board considers there to be over provision of licences premises or licences premises of a particular description in any locality within the Board's area.

Overprovision of licensed premises in a particular locality impacts on the promotion of the licensing objectives. The Board will consider whether there are areas within East Ayrshire where the concentration of particular types of licensed premises is having an adverse impact. It is likely that the main areas for consideration will be Kilmarnock town centre and Cumnock.

The Board will undertake to engage in an exercise to assess overprovision and in so doing will take into account the Ministerial guidance which is to be issued in terms of Section 145 of the Act. There will be close liaison in this matter with East Ayrshire Council building standards officers and the Local Licensing Forum.

As well as consulting licence holders and persons resident in the locality, as required by Section 7(4) of the Act, the Board will consult more generally

throughout East Ayrshire and will take into account all observations as part of its commitment to the wider alcohol agenda.

Account will be taken of the type, size and capacity of premises and the Board will pay close attention to licensed premises of particular descriptions, which have distinct styles of operation, recognising that they may have a greater impact on the local community.

## **11 OCCUPANCY CAPACITY**

The occupancy capacity for premises and events is an important factor in the achievement of the five licensing objectives, except in respect of premises licensed only for the consumption of alcohol off the premises. The Board may consider setting maximum occupancy limits in circumstances where this is deemed appropriate to ensure the safety of persons in the premises and safe escape in the case of an emergency. If there are additional concerns about crime and disorder or public nuisance, the Board may consider setting a lower maximum occupancy limit than that recommended by the Council's Building Control Service.

The Board will expect applicants to consider various factors when assessing the appropriate capacity for premises or events. These include:-

- The design and layout of the premises
- The location, availability and size of exits including emergency exits
- The nature of the premises or event
- The nature of the activities being provided
- The provision or removal of temporary structures such as stage or furniture
- The number of staff available to supervise customers both ordinarily and in the event of an emergency
- The attendance by customers with disabilities
- The availability of suitable and sufficient sanitary accommodation
- The nature and provision of facilities for ventilation

Licence holders will be expected to have monitoring arrangements in place to verify the number of persons present at any point to ensure that the occupancy capacity is not exceeded.

Particular attention will be paid to any applications for a premises licence which demonstrates that large numbers of patrons will be provided only with standing accommodation. It is considered that likely levels of disturbance and public nuisance caused by the number of licensed premises in a locality would be exacerbated where those premises had very high capacity levels.

Although each application for a premises licence will be considered on its own merits the Board will consider very carefully the type, size and capacity of licensed premises in a particular locality in respect of which the application is made. The Board recognises its responsibility to assess overprovision, not only

on the number of licensed premises but on the number of premises of a particular description in any locality.

## **12 REVIEW OF PREMISES LICENCES**

Any person, specifically Licensing Standards Officers, may apply to the Board in respect of any licensed premises in relation to which a premises licence has effect for a review of the licence on any of the grounds for review. These are:-

- That one or more of the conditions to which the premises licence is subject has been breached, or
- Any other ground relevant to one or more of the licensing objectives.

At a review hearing the Board may, if satisfied that a ground for review is established, make a variation of the licence, suspend or revoke the licence or alternatively issue a written warning.

The Board may reject a premises licence review application if it is considered to be vexatious or frivolous or if it does not disclose any relevant matter.

## **13 OCCASIONAL GRANTS**

An occasional licence authorises the temporary sale or supply of alcohol which is not authorised by a premises licence.

It may be applied for by:-

- The holder of a premises licence
- The holder of a personal licence
- A representative of any voluntary organisation

An occasional licence can only last up to a maximum of 14 days

The holders of a premises licence or a personal licence may make unlimited applications. There are restrictions on the number of applications a voluntary organisation can make in any period of 12 months:

- Not more than 4 occasional licences of 4 days or more in duration
- Not more than 12 occasional licences of less than 4 days in duration

However, the total number of days on which an occasional licence has effect must not exceed 56 during any 12 month period.

The Board recognises the right of any person to object to an application for an occasional licence. To allow time to consult the Police and for objections to be made, applications should be submitted as far in advance of the event as possible but certainly by no later than 28 days before the event is due to take

place. Due to the strict deadlines in terms of the new Act failure to submit the application on time may result in the application not being considered.

Any applicant for such a licence should be aware of their responsibility to apply for a public entertainment licence and/or late night catering licence, issued under the Civic Government (Scotland) Act 1982, where appropriate.

The Board is aware of the mandatory conditions laid out in Schedule 4 of the Act. The Board will consider on an individual basis whether it is necessary or expedient to impose additional conditions to promote one or more of the licensing objectives. The decision whether to impose a condition will be made on an objective basis, any representations made and any other relevant information available to the Board when considering the application. The Board will seek to avoid the imposition of disproportionate conditions. A copy of the mandatory conditions is attached at Appendix III.

Extended hours applications allow for an occasional extension of licensed hours and operate only for a period of up to one month. If the Board receives a number of applications to extend licensed hours it will expect the applicant to consider whether an application should be made to vary the premises licence, by adjustment of the operating plan.

Notwithstanding the Board's general position in relation to the hours of trading as set out in Section 19 of this Statement, a general extension of licensing hours under Section 67 of the Act may be granted to enable premises to remain open longer in connection with a special event of local or national significance. The Board will request observations from the Police on the issues of crime prevention and public safety. The Board believes that in many cases, such events can be appropriately accommodated within the Board's normal licensing hours policy and should not be regarded as routinely in need of extended licensing hours. Any extension beyond normal licensing hours policy will only be granted after careful consideration of the particular event and will require increased control measures in place aimed at preventing or limiting problems with their potential impact on the five licensing objectives.

## **14 ENFORCEMENT AND LICENSING STANDARDS OFFICER**

East Ayrshire Council have employed two Licensing Standards Officers (LSOs) to investigate allegations of unlicensed activities, to ensure that licence conditions are complied with and to provide information and guidance and a mediation service. It is a mandatory condition of the Act that the LSOs are fully trained thus enabling them to carry out their functions efficiently. The LSOs are members of the Local Licensing Forum.

Resources will be targeted towards high-risk premises and activities that require greater attention whilst a lighter touch will be provided in respect of low-risk premises which are well operated.

The Board will liaise closely with its partners to assist licence holders to comply with the law and the five licensing objectives it seeks to promote. Proportionate but firm action will be taken against those who commit offences. In particular the Board anticipates co-operation with the police and to share information where appropriate in order to enhance the promotion of the five licensing objectives.

In addition, the LSOs will carry out the Council's responsibilities for monitoring and enforcement of legislation under the Gambling Act 2005, and the Smoking Health and Social Care (Scotland) Act 2005.

## **15 MANAGEMENT OF LICENSED PREMISES**

Within the operating plan for the premises on which alcohol will be sold a premises manager must be specified. The Board will expect the premises manager to have the day to day responsibility for the management of the premises and to be present at the premises on a regular basis when alcohol is being sold. The premises manager must hold a personal licence and possess a licensing qualification

The premises licence holder is expected to ensure that the premises manager has experience commensurate with the size, capacity, nature and style of the premises.

Within all licensed premises, the Board will expect there to be a proper management arrangements in place which will ensure that there is an appropriate number of responsible, trained persons on the premises and will also ensure compliance with all statutory responsibilities and the terms and conditions of the premises licence.

There are various aspects of managing licensed premises which are of particular concern to the Board. The Board has therefore determined to implement policies in these areas, as follows:-

**Smoking / Noise Nuisance** – The Board welcomes the legislation prohibiting smoking in enclosed public places. Licensees will have regard to good practice ensuring patrons do not smoke within their premises. Other issues can arise in the area around the premises such as noise nuisance, litter, disorder and smoke drift into neighbouring residences or back into the licensed premises. Licensees and their staff are expected to have sufficient measures in place to prevent such problems arising. The Board require that licensees should operate on a good neighbour basis and ensure that all measures are taken to prevent noise escape. Operating plans should indicate any outside areas set aside for smoking.

**Door Supervision** - As from 1 November 2007 all door stewards will require to be registered with the Security Industry Authority under the Private Security Act 2001. To employ a door supervisor who is not registered is a criminal offence. The Board, taking into account the licensing objectives of preventing

crime and disorder, securing public safety and preventing public nuisance may consider door supervision appropriate to premises over a certain occupancy capacity and which open late at night. Particular attention will be paid to premises within town centres.

**Outside Seating Areas** - Where applicants propose to provide outside seating, tables or other facilities in any outdoor area (whether covered or not), the area should be included in the plan of the premises to be licensed. Further, the operating plan should indicate that due consideration has been given to the need to ensure that the use of such areas will not cause disturbance or nuisance to the occupiers of other premises in the vicinity and effective management controls, supervision and other measures will be put in place to ensure that the use of such areas by patrons or by any other persons does not have a negative impact in the vicinity.

## **16 PERSONAL LICENCES**

The Board will consider applications for personal licences from individuals living in the area of East Ayrshire.

Any individual may seek a personal licence. The Board will grant a personal licence if it is satisfied that the applicant:-

- Is over 18 years of age
- Possesses a relevant licensing qualification
- Has not had revoked in the previous five years, ending with the day on which the application was received, a personal licence
- Has not been convicted of any relevant or foreign offence

Where the police have advised that the applicant has an unspent conviction for a relevant offence, the Board will consider whether the application should be refused under the Act. In making a decision the Board will have regard to the seriousness and age of the conviction along with any other circumstances it considers to be relevant.

## **17 ADULT ENTERTAINMENT**

The policy of the Board in East Ayrshire is not to permit adult entertainment involving male strippers, female strippers, erotic dancers and/or exotic dancers within any licensed premises. The Board will continue to adhere to this policy. This policy was brought in under the soon to be replaced 1976 Act. The Board will review this Policy under the new 2005 Act and will invite comment and observations from relevant agencies.

The Board in East Ayrshire does permit performances of stage hypnotism, however any event will be subject to stringent guidelines (a copy of the conditions to be attached are at Appendix IV).

## **18 OFF-SALES**

Applicants for licences for premises which are to be used for the sale of alcohol for consumption off the premises will be expected to address the five licensing objectives in their operating plan.

The Board is concerned to ensure that all possible steps are taken in this area to promote the licensing objectives. The Board anticipate regulations being issued relative to the display of alcohol on off-sale premises and accordingly further details will be provided in terms of a policy statement once this information becomes available.

East Ayrshire Licensing Board welcomes the ability of Strathclyde Police to initiate a test purchase scheme within the Board's area and will support Strathclyde Police in any test purchase initiative embarked upon.

## **19 HOURS OF TRADING**

While each application is assessed on its own merits, the following section sets out the Licensing Board's policy on licensing hours. For applications for licensed premises at times outwith the Board's policy, applicants will require to demonstrate to the board that the additional requested hours are appropriate in the circumstances.

### Off-Sales

For applications relating to premises licences and to occasional licences, the licensed hours for the sale of alcohol for consumption off the premises (off-sales hours) are 1000hrs (10am) until 2200hrs (10pm) every day of the week. The Licensing Board has no discretion to permit licensed hours outwith these times. In determining applications and licensed hours within these times, the Board will, in considering the merits, have particular regard to the effect (if any) which the proposed off-sales hours would have on the occurrence of anti-social behaviour.

### On-Sales

For applications relating to premises licences including extensions to hours, the licensed hours for the sale of alcohol for consumption on the premises (on-sales hours), the Licensing Board considers the commencement of alcohol sales shall be no earlier than 1100hrs (11am)

Currently within East Ayrshire, licensed premises with on-sales hours are currently open for the following permitted extended hours :-

- Sunday through until Wednesday until Midnight

- Thursday through until Saturday until 0100hrs (1am)

In addition, night clubs and discotheques within East Ayrshire are currently open for the following permitted extended hours :-

- Sunday through until Wednesday until 0200hrs (2am)
- Thursday through until Saturday until 0230hrs (2.30am)

Night clubs and discotheques, in addition, currently impose a 0115hrs (1.15am) curfew whereupon no persons will be allowed entry to the premises after this time. The Board supports this measure and would encourage it to remain in place.

The Board generally remains satisfied with the opening hours which have operated under the existing guidelines but would welcome any observations or comments on this issue prior to finalising its policy statement in this respect.

## **20 PROMOTION OF THE LICENSING OBJECTIVES**

The Board will continually promote the licensing objectives and calls on licence holders and other stakeholders to be mindful of them when providing their services.

The five licensing objectives are:-

- Preventing crime and disorder
- Securing public safety
- Preventing public nuisance
- Protecting and improving public health
- Protecting children from harm

Each of the above objectives are of equal importance.

The Board considers that the applicant should provide in the operating plan details of the arrangements for effective and responsible management of the premises and for instruction, training and supervision of staff. This is considered to be an essential control measure for the achievement of all the licensing objectives.

## **21 LICENSING OBJECTIVE – PREVENTING CRIME AND DISORDER**

East Ayrshire Council together with other partner agencies, support a strategy aimed at making East Ayrshire a safe place to live in and visit. The Board is committed to further improving the quality of life for people within East Ayrshire by continuing to adopt policies and to introduce measures designed to increase community safety and to reduce crime, the fear of crime and disorder and anti social behaviour.

Applicants will be expected to demonstrate in their operating plan how they intend to promote the prevention of crime and disorder, consideration should be given to some, if not all of the following :-

- Underage drinking
- Drunkenness on premises
- Public drunkenness
- Dealing, possession and/or use of illegal drugs
- Violent behaviour
- Anti-social behaviour
- Selling of counterfeit or stolen goods
- Unauthorised advertising
- Litter

The following examples of control measures are given to assist applicants who may need to take account of them in their operating plan having regard to their particular type of premises and/or licensable activities :-

- Effective and responsible management of premises
- Training and supervision of staff
- Acceptance of accredited proof of age cards, photographic driving licences or passports
- Adoption of best practice guidance where available including those relating to drinks promotions
- Provision of effective CCTV in and around the premises which complies with all the current legislative provisions
- Provision of external lighting and other security measures
- Employment of Security Industry Authority licensed door stewards
- Active membership of Pubwatch or a similar scheme
- Provision of plastic or reinforced drinking vessels during certain events ( eg football matches )
- Provision of litterbins and/or waste receptacles for smokers' debris outside premises

Licence holders are called upon to actively discourage drink driving which is a serious offence and can have catastrophic effects on families of both victims and offenders. Licence holders are therefore encouraged to play an active part in preventing drink driving by :-

- Displaying anti drink drive materials
- Supplying reasonably priced soft and non alcoholic drinks
- Promoting awareness of campaigns such as the designated drivers scheme
- Offering free or reduced priced soft drinks to designated drivers

## 22 LICENSING OBJECTIVE – SECURING PUBLIC SAFETY

The Board is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised. In view of this, applicants will be expected to demonstrate in their operating plan that suitable and sufficient measures have been identified and will be implemented and maintained to ensure public safety relevant to the individual style and characteristics of their premises and the licensable activities for which the licence is being sought.

When addressing the issue of public safety, an applicant must demonstrate that those factors which impact on standards of public safety have been considered, these include:-

- The occupancy capacity of the premises
- The age, design and layout of the premises including means of escape in the event of a fire or similar emergency
- The nature of activities such as music and dancing
- The hours of operation
- The customer profile (e.g. Age, disability )
- Use of special effects such as lasers, strobe lighting, pyrotechnics, smoke machines and foam machines

The following examples of control measures are given to assist applicants who may need to take account of them in their operating plan having regard to their particular type of premises and/or activities :-

- Suitable and sufficient risk assessments
- Effective and responsible management of premises
- Provision of a sufficient number of staff employed or engaged to secure the safety of the premises and patrons
- Appropriate instruction, training and supervision of staff employed or engaged to secure the safety of the premises and patrons
- Provision of an effective CCTV system which complies with current legislative requirements in and around premises
- Provision of toughened or plastic drinking vessels during certain events (e.g. Football matches )
- Implementation of crowd management measures
- Adoption of best practice guidance
- Proof of regular testing and certification where appropriate of procedures, appliances and safety systems

The Board may request sight of Electrical Safety Certificates, Ceiling or Structural Certificates, Fire Safety Certification, Risk Assessments and a Health & Safety Policy. As other agencies and services may have enforcement powers in connection with these forms of documentation, it is anticipated that such a request by the Board will be fairly rare and taken in consultation with those other agencies and services.

## **23 LICENSING OBJECTIVE – PREVENTING PUBLIC NUISANCE**

The Board believes that licensed premises may have a significant potential to impact adversely on communities through public nuisance that may arise from their operation. The Board wishes to maintain and protect the amenity of residents and local businesses from the potential consequences of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.

The Board will interpret public nuisance in its widest sense and will take it to include such issues as noise, light, odour, litter and anti social behaviour where these matters impact on those living, working or otherwise engaged in normal activity in an area.

‘Anti Social Behaviour’ is defined in the Antisocial Behaviour etc (Scotland) Act 2004 as where a person acts in a manner that causes alarm, fear or distress or pursues a course of conduct that causes or is likely to cause alarm, fear or distress to at least one person who is not from the same household as the person engaging in the behaviour. Conduct includes speech.

The Board acknowledges that smoking is not a licensing matter but one for other legislation. The Board expects that licence holders will be aware of their own statutory responsibilities concerning smoking in public places.

The Board expects that licence holders will have regard to good practice. It is their responsibility to ensure that patrons do not create a nuisance or disturbance for residents living nearby. This includes noise arising as a result of patrons smoking outside the premises and any other associated littering of the area. The Board may impose conditions requiring licence holders to provide litter bins or other appropriate receptacles outside their premises.

Every business has a duty to ensure that waste is disposed of securely and showing due consideration to noise when doing so in order to keep their premises clear of all litter generated by staff and customers.

In addition when applicants propose to provide outside seating, tables or other facilities in any outdoor area, whether covered or not, regard should be had to the need to ensure that the use of such areas will not cause disturbance or nuisance to the occupiers of other premises in the vicinity.

Applicants will be expected to demonstrate in their operating plan that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance, relevant to the individual style and characteristics of their premises and events.

When addressing the issue of preventing public nuisance, the following facts are relevant and should be considered :-

- The location of premises and proximity to residential and other noise sensitive premises such as hospitals, hospices, care homes and places of worship
- The hours of opening, particularly after 2300hrs (11pm)
- The nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside the premises
- The design and layout of premises and in particular the presence of noise limiting features and a CCTV system, which complies with current legislative requirements
- The occupancy capacity of the premises
- The availability of public transport and taxis
- The wind down time between the end of the licensable activities and the closure of the premises
- The last admission time

The following examples of control measures are given to assist applicants who may need to take account of them in their operating plan, having regard to their particular type of premises and/or activities :-

- Effective and responsible management of premises
- Appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance
- Control of operating hours for all or parts of the premises – for instance, garden areas, bottle disposal and deliveries
- Adoption of best practice guidance
- Installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices
- Management of people, including staff and vehicular traffic and resulting queues, arriving and leaving the premises
- Liaison with public transport providers
- Siting of external lighting, including security lighting and installation of an effective CCTV system which complies with current legislative requirements
- Effective ventilation systems to prevent nuisance from odour

## **24 LICENSING OBJECTIVE – PROTECTING AND IMPROVING PUBLIC HEALTH**

The Board wishes to see premises thriving within East Ayrshire but not to the detriment of patrons' health and wellbeing. The Board will take advice from the relevant bodies responsible for and interested in the protection and improvement of public health in the East Ayrshire area.

Applicants will be expected to demonstrate in their operating plan that suitable and sufficient measures have been identified and will be implemented and

maintained to protect patron's health. This could include displaying and using materials such as posters and beer mats which promote moderate consumption of alcohol along with awareness of units of alcohol and the recommended guidelines for consumption.

Licence applicants, door stewards where employed and premises managers as well as other staff employed in the premises must remain vigilant at all times to the risks of excessive consumption. There should be an established practice within the premises to ensure that a standard approach is taken where patron's demeanour demonstrates an excessive consumption of alcohol. There should also be a clear understanding of the offences committed in connection with the service of alcohol to children or persons who appear drunk and allowing drunkenness on the premises.

Businesses can have in place a workplace alcohol policy in order to raise awareness, minimise harm and ensure that staff are able to access help (without fear of job loss) when a problem arises.

## **25 LICENSING OBJECTIVE – PROTECTING CHILDREN FROM HARM**

The wide range of premises licensed under the Act means that children will visit many of these premises.

The Board wishes to see family friendly licensed premises thriving within East Ayrshire and therefore encourages applications that will make venues family friendly and safe for children.

Children may be adequately protected from harm by the available actions to protect adults. When addressing the issue of protecting children from harm, the applicant must demonstrate that factors that may impact on harm to children have been considered.

These can include where:-

- There have been conviction of members of staff at the premises for serving alcohol to under age persons
- Licence holders or staff have convictions for offences against children or have otherwise been found unsuitable to work with children
- The premises have a reputation for under age drinking
- There has been a known association with drug taking or dealing
- Entertainment of an adult nature is commonly or regularly provided
- There is a serious element of gambling within the premises
- The supply of alcohol for consumption on the premises is the exclusive or primary purpose of the service provided (so called vertical drinking establishments)

The following are examples of control measures that applicants may wish to adopt. They are considered to be amongst the most essential that applicants should take account of in their operating plan.

- Effective and responsible management of the premises
- Extra measures to secure the safety of children such as Disclosure Certificates for staff working within the premises or employed as stewards
- Appropriate instruction, training and supervision of those employed to secure the protection of children from harm
- Adoption of best practice guidance
- Limitations or exclusions by age when certain activities are taking place
- Acceptance of accredited proof of age cards with photographs or photographic driving licences or passports
- Measures to ensure children do not purchase, acquire or consume alcohol
- Measures to ensure children are not exposed to incidences of strong and offensive language, violence or disorder

When preparing the operating plan, applicants must set out the terms on which children are to be allowed entry including the ages of children to be allowed entry, times and parts of the premises to which children will have access.

The Board will consult with the East Ayrshire Child Protection Committee on any application where concerns are raised regarding access for children and will have particular regard for their views.

## APPENDIX I

### PREMISES LICENCES – MANDATORY CONDITIONS

1. In this schedule, "the premises" means, in relation to any premises licence, the premises specified in the licence.
2.
  - (1) Alcohol is to be sold on the premises only in accordance with the operating plan contained in the licence.
  - (2) Nothing in sub-paragraph (1) is to be read as preventing or restricting the doing of anything referred to in section 63(2).
3. Any other activity to be carried on in the premises is to be carried on only in accordance with the operating plan contained in the licence.
4.
  - (1) Alcohol is not to be sold on the premises at any time when -
    - (a) there is no premises manager in respect of the premises,
    - (b) the premises manager does not hold a personal licence,
    - (c) the personal licence held by the premises manager is suspended, or
    - (d) the licensing qualification held by the premises manager is not the appropriate licensing qualification in relation to the premises.
  - (2) In sub-paragraph (1), "appropriate licensing qualification" in relation to any licensed premises means any licensing qualification prescribed as such in relation to licensed premises of that description in regulations under section 91 (2)(d).
  - (3) Nothing in sub-paragraph (1) or paragraph 5 is to be read as requiring the premises manager to be present on the premises at the time any sale of alcohol is made.
5. Every sale of alcohol made on the premises must be authorised (whether generally or specifically) by -
  - (a) the premises manager, or
  - (b) another person who holds a personal licence.
6.
  - (1) No person (other than a person who holds a personal licence) is to work in the premises in the capacity mentioned in sub-paragraph (2) unless that person has complied with such requirements as to the training of staff as may be prescribed for the purposes of this paragraph.
  - (2) That is a capacity (whether paid or unpaid) which involves the person
    - (a) making sales of alcohol, or
    - (b) where alcohol is sold on the premises for consumption on the premises,

serving such alcohol to any person.

- (3) Regulations under sub-paragraph (1) prescribing training requirements may, in particular -
  - (a) provide for the accreditation by the Scottish Ministers of -
    - (i) courses of training, and
    - (ii) persons providing such courses,for the purposes of the regulations,
  - (b) prescribe different training requirements in relation to different descriptions of persons,
  - (c) require that any person providing training or any particular description of training in accordance with the regulations hold a personal licence or such other qualification as may be prescribed in the regulations, and
  - (d) require training to be undergone again at such intervals as may be prescribed in the regulations.
  
7. Where the price at which any alcohol sold on the premises is varied -
  - (a) the variation (referred to in this paragraph as "the earlier price variation") may be brought into effect only at the beginning of a period of licensed hours, and
  - (b) no further variation of the price at which that or any other alcohol is sold on the premises may be brought into effect before the expiry of the period of 72 hours beginning with the coming into effect of the earlier price variation.
  
8. (1) An irresponsible drinks promotion must not be carried on in or in connection with the premises.
  - (2) Subject to sub-paragraph (3), a drinks promotion is irresponsible if it -
    - (a) relates specifically to an alcoholic drink likely to appeal largely to persons under the age of 18,
    - (b) involves the supply of an alcoholic drink free of charge or at a reduced price on the purchase of one or more drinks (whether or not alcoholic drinks),
    - (c) involves the supply free of charge or at a reduced price of one or more extra measures of an alcoholic drink on the purchase of one or more measures of the drink,
    - (d) involves the supply of unlimited amounts of alcohol for a fixed charge (including any charge for entry to the premises),
    - (e) encourages, or seeks to encourage, a person to buy or consume a larger measure of alcohol than the person had otherwise intended to buy or consume,
    - (f) is based on the strength of any alcohol,
    - (g) rewards or encourages, or seeks to reward or encourage, drinking alcohol quickly, or

- (h) offers alcohol as a reward or prize, unless the alcohol is in a sealed container and consumed off the premises.
  - (3) Paragraphs (b) to (d) of sub-paragraph (2) apply only to a drinks promotion carried on in relation to alcohol sold for consumption on the premises.
  - (4) The Scottish Ministers may by regulations modify sub-paragraph (2) or (3) so as to:
    - (a) add further descriptions of drinks promotions,
    - (b) modify any of the descriptions of drinks promotions for the time being listed in it, or (c) extend or restrict the application of any of those descriptions of drinks promotions.
  - (5) In this paragraph, "drinks promotion" means, in relation to any premises, any activity which promotes, or seeks to promote, the buying or consumption of any alcohol on the premises.
- 9.**
- (1) The conditions specified in this paragraph apply only to the extent that the premises licence authorises the sale of alcohol for consumption on the premises.
  - (2) Tap water fit for drinking must be provided free of charge on request.
  - (3) Other non-alcoholic drinks must be available for purchase at a reasonable price.
- 10.**
- (1) The condition specified in sub-paragraph (2) applies only in relation to a premises licence in respect of which an annual or other recurring fee is to be paid by virtue of regulations under section 136(1).
  - (2) The fee must be paid as required by the regulations.

**LATE OPENING PREMISES – MANDATORY CONDITIONS**

**Mandatory condition - all premises**

1. The following condition specified in paragraph (1) must be imposed by a Licensing Board on the granting by it of a premises licence falling within section 27(4) of the Act.

**Condition**

- (1) A person trained to the satisfaction of the Licensing Board in administering first aid must be present on the premises from 1:00 am (on any day when the premises are open at that time) until whichever is the earlier of
  - (a) the time at which the premises next close; and
  - (b) 5:00 am

**Mandatory conditions - certain premises**

2. (1) The conditions specified in paragraphs (2) to (6) must be imposed by a Licensing Board on the granting by it of a premises licence falling within section 27(4) of the Act if it appears to the Board from the operating plan for the premises that they fall within the description in paragraph (2).
- (2) That description is premises (other than premises to which paragraph (3) applies) the capacity of which is at least 250 people and which -
  - (a) will regularly provide at any time in the period between 1:00am and 5:00am
    - (i) live or recorded music with a decibel level exceeding 85dB;
    - (ii) facilities for dancing; or
    - (iii) adult entertainment; or
  - (b) when fully occupied, are likely to have more customers standing than seated.

- (3) This paragraph applies to premises
- (a) the primary function of which is the service of food;
  - (b) which include, or are part of larger premises which include, at least 6 letting bedrooms;
  - (c) in respect of which a licence under section 12 of the Theatres Act 1968(a) or section 1 of the Cinemas Act 1985(b) is in force; or
  - (d) which are, or are part of, an art gallery.

### **Conditions**

- (2) A designated person who is the holder of a personal licence must be present on the premises from 1:00 am (on any day when the premises are open at that time) until whichever is the earlier of -
- (a) the time at which the premises next close; and
  - (b) 5:00 am or such other time as the Licensing Board may specify.
- (3) There must be written policies in existence concerning
- (a) the evacuation of the premises; and
  - (b) the prevention of the misuse of drugs on the premises.
- (4) A CCTV system must be installed on the premises to the satisfaction of the appropriate chief constable and must be kept in good working order.
- (5) There must be persons responsible for checking on the safety and wellbeing of persons using any toilet facilities on the premises.
- (6) A person who holds a licence granted under section 8 of the Private Security Industry Act 2001(a) must be positioned at every entrance to the premises from 1:00 am (on any day when the premises are open at that time) until whichever is the earlier of-
- (a) the time at which the premises next close; and
  - (b) 5:00 am or such other time as the Licensing Board may specify.

## APPENDIX III

### OCCASIONAL LICENCES: MANDATORY CONDITIONS

1. In this schedule, "the premises" means, in relation to any occasional licence, the premises specified in the licence.
2. (1) Alcohol is to be sold on the premises only in accordance with the terms of the licence.  
(2) Nothing in sub-paragraph (1) is to be read as preventing or restricting the doing of anything referred to in section 63(2).
3. Any other activity to be carried on in the premises may be carried on only in accordance with the description of the activity contained in the licence.
4. (1) The condition specified in sub-paragraph (2) applies only to an occasional licence issued to the holder of a premises licence or personal licence.  
(2) Every sale of alcohol made on the premises to which the license relates must be authorised (whether generally or specifically) by the holder of a personal licence.
5. (1) The condition specified in sub-paragraph (2) applies only to an occasional licence issued to a representative of a voluntary organisation.  
(2) Alcohol may be sold on the premises only at an event taking place on the premises in connection with the voluntary organisation's activities.
6. Where the price at which any alcohol sold on the premises is varied -
  - (a) the variation (referred to in this paragraph as "the earlier price variation") may be brought into effect only at the beginning of a period of licensed hours, and
  - (b) no further variation of the price at which that or any other alcohol is sold on the premises may be brought into effect before the expiry of the period of 72 hours beginning with the coming into effect of the earlier price variation.
7. (1) An irresponsible drinks promotion must not be carried on in or in connection with the premises.  
(2) Subject to sub-paragraph (3), a drinks promotion is irresponsible if it -
  - (a) relates specifically to an alcoholic drink likely to appeal largely to persons under the age of 18,
  - (b) involves the supply of an alcoholic drink free of charge or at a reduced price on the purchase of one or more drinks (whether or not alcoholic drinks),

- (c) involves the supply free of charge or at a reduced price of one or more extra measures of an alcoholic drink on the purchase of one or more measures of the drink,
  - (d) involves the supply of unlimited amounts of alcohol for a fixed charge (including any charge for entry to the premises),
  - (e) encourages, or seeks to encourage, a person to buy or consume a larger measure of alcohol than the person had otherwise intended to buy or consume,
  - (f) is based on the strength of any alcohol,
  - (g) rewards or encourages, or seeks to reward or encourage, drinking alcohol quickly, or
  - (h) offers alcohol as a reward or prize, unless the alcohol is in a sealed container and consumed off the premises.
- (3) Paragraphs (b) to (d) of sub-paragraph (2) apply only to a drinks promotion carried on in relation to alcohol sold for consumption on the premises.
  - (4) The Scottish Ministers may by regulations modify sub-paragraph (2) or (3) so as to -
    - (a) add further descriptions of drinks promotions,
    - (b) modify any of the descriptions of drinks promotions for the time being listed in it, or
    - (c) extend or restrict the application of any of those descriptions of drinks promotions.
  - (5) In this paragraph, "drinks promotion" means, in relation to any premises, any activity which promotes, or seeks to promote, the buying or consumption of any alcohol on the premises.
- 8.**
- (1) The conditions specified in this paragraph apply only to the extent that the occasional licence authorises the sale of alcohol for consumption on the premises.
  - (2) Tap water fit for drinking must be provided free of charge on request.
  - (3) Other non-alcoholic drinks must be available for purchase at a reasonable price.

**EAST AYRSHIRE LICENSING BOARD**

**HYPNOTIST EVENT  
CONDITIONS TO BE ADHERED TO**

The exhibition shall be so conducted as not to be likely to cause harm to any person attending the event.

No person shall be caused, while under the influence of hypnotism, to say or do anything offensive to the public.

No exhibition, demonstration or performance shall include any experiment involving the age regression of the subject; the giving of hypnotherapy or any other form of treatment; any experiment in which the subject is suspended between two supports (so called "catalepsy"); or the giving of suggestions to the subject that he should perform or act or behave in any manner which is likely to be interpreted as indecent, offensive or harmful, nor that he should consume any substance which is either noxious or harmful.

All hypnotic or post-hypnotic suggestions shall be completely removed from the minds of the subjects (including those of the audience) before they leave the room or place in which the performance takes place. Likewise any post-hypnotic suggestions given shall take place only in the presence of the hypnotist and shall not continue after the performance or away from the room or place in which the performance takes place.

No inducements shall be offered to members of the public to subject themselves to the influence of the hypnotist.

No poster, advertisement or programme relating to the exhibition shall be displayed, sold or supplied by or on behalf of the licensee either at the premises or elsewhere, which is likely to be injurious to morality or otherwise offence to public feeling.

Any poster, advertisement or programme relating to the exhibition displayed sold or supplied at the premises shall draw attention, in a clear and legible manner, to the prohibition of the hypnotizing of persons under the age of 18 imposed by Section 3 of the Hypnotism Act 1952.

The licensee shall ensure adequate stewarding is provided to escort any person or persons under hypnotic trance from the premises in case of emergency.