

The Licensing (Scotland) Act 2005 – Consultation on reviewing the fee for occasional licences and considering a limit on the number and duration of occasional licences

Summary of responses

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Background

1. Alcohol licensing is principally regulated by the Licensing (Scotland) Act 2005 (the 2005 Act) and secondary legislation made under the 2005 Act.
2. The operation of the alcohol licensing system is the responsibility of Licensing Boards. Licensing Boards are independent regulatory bodies and their activities are governed by the 2005 Act. Boards carry out a range of functions, including granting and reviewing licences to sell alcohol.

The occasional licence

3. The purpose of the occasional licence is to cater for the multitude of events which take place on premises which do not hold premises licences but nonetheless the premises can feature the sale of alcohol from time to time, for example fetes, wedding receptions and arts events. When used in their envisaged role, occasional licences offer a flexible regime for the hospitality and entertainment sector to provide alcohol at events where a premises licence is not in place.
4. However, concerns have also been raised that some applicants have sought to use the occasional licence process to apply for consecutive occasional licences as an alternative to a full premises licence, allowing them to circumvent parts of the licensing regime.
5. The procedures for handling occasional licences are set out in the 2005 Act. Those persons eligible to apply for an occasional licence are:
 - The holder of a premises licence;
 - The holder of a personal licence; and
 - A representative of any voluntary organisation.
6. The 2005 Act also enables Scottish Ministers to make provision for the charging of alcohol licensing fees by Licensing Boards in a range of situations such as applying for premises licences, personal licences and occasional licences.
7. The Licensing (Fees) (Scotland) Regulations 2007 (SSI 2007/553) set the fee for making an occasional licence application at a flat rate of £10 for all applicants.
8. The 2005 Act also provides Scottish Ministers with a power to make Regulations limiting when a Licensing Board may issue an occasional licence.
9. At present there are no restrictions on the number of occasional licences that may be granted to a premises licence holder or a personal licence holder. The power to make Regulations includes the ability to:
 - set out limits on the number of occasional licences that could be issued to the same applicant in a 12 month period,

- set out limits on the number of occasional licenses that could be issued in relation to the same premises in a 12 month period,
- set out limits on the number of days that the occasional licences issued to the same applicant in a 12 month period could have effect,
- set out limits on the number of days that the occasional licences issued in relation to the same premises in a 12 month period could have effect, and
- set out limits on the number of continuous days that a series of occasional licences can have effect in relation to the same premises.

The consultation

10. A consultation in respect of occasional licences was published on the Scottish Government website and the Scottish Government's consultation platform Citizen Space on 23 April 2019: <https://consult.gov.scot/criminal-law/occasional-licences/>

11. The consultation welcomed views from respondents on whether the Scottish Government should raise the fee for an occasional licence from the current price of £10, and sought views on whether or not £50, £75 or £100 would be an appropriate new fee level.

12. The consultation also welcomed views on prescribing a limit on the number and duration of occasional licences for holders of a premises licence and holders of a personal licence. The consultation period ended on 16 July 2019.

Summary of consultation responses

13. In total, seventy six responses were received, and sixty six respondents consented to the publication of their response. Those sixty six published responses can be viewed on the Citizen Space website at: https://consult.gov.scot/criminal-law/occasional-licences/consultation/published_select_respondent

14. Of the seventy six responses received, fifty were received from organisations, and twenty six were received from individuals.

15. Organisations that responded to the consultation included (in no particular order): Fyne Ales, Fintry Community Bowling Club, North Ayrshire Licensing Board, Killin Dramatic Club, Pinsent Masons, NHS Lothian Department of Public Health and Health Policy, West Lothian Licensing Forum, UK Hospitality Industries, South Lanarkshire Licensing Board, Falkirk Council, Scottish Health Action on Alcohol Problems, Alcohol Focus Scotland, The Law Society of Scotland, Orkney Islands Area Licensing Board, 104th ENE Scouts, The City of Edinburgh Council, The Scottish Licensed Trade Association, Steilhead Cider, Stirling Council, sportscotland, East Ayrshire Licensing Board, Stockbridge and Inverleith Community Council, and Red Deer Bowling Club.

Question 1. Do you agree that the fee for an occasional licence should be increased from the current level of £10?

16. In total, fifty two respondents agreed that the fee for an occasional licence should be increased from the current level of £10, and twenty three felt it should not. One respondent did not answer this question.

17. Of the fifty two respondents that agreed that the fee should be increased, nineteen were responding as individuals, and thirty three as organisations. Meanwhile, of the twenty three respondents that did **not** agree that the fee should be increased, seven were responding as individuals, and sixteen as organisations.

Question 2. Why?

18. A number of individuals who supported increasing the fee said they had experience of working in licensing, and remarked on the amount of work that goes into processing occasional licence applications. Reasons put forward by organisations for increasing the renewal fee included a number of comments from Licensing Boards that the current £10 fee does not cover the administrative costs of processing occasional licence applications. Some Boards highlighted the burden that the processing of these applications places on them. Comments included:

- “A lot of work involved by staff in producing the licence. The current fee is far too low. Can be abused by members of the public running premises for long periods of time at very little expense and an unfair advantage over licence holders.”
- “The amount of work that the administrative staff, police and LSO have to do for one application does not justify £10 application fee and also some events are huge, like festival concerts, that generate thousands if not hundreds of thousands of pounds and all the organisers are charged is £10.”
- “I work in licensing and see at first hand the amount of work that has to go into the processing of applications. As soon as the application is lodged the £10 fee is, or is almost gone. Further processing including logging information onto the system, scanning and sending it for consultation, results in the current fee being eaten up in the early part of the process. This is before any follow up visits need to be done in order to assess the possible impact on the licensing objectives.”
- “The current fee level does not cover the administrative costs of processing these applications. On average, a straightforward occasional licence application takes approximately 1 hour of staff time to process and a more complex application takes approximately 2 hours of staff time. Staff costs alone do not cover the current fee without taking into account any other associated administrative costs nor the more complex applications.”
- “...in the last three financial years since the requirement for publishing an Annual Financial Statement was introduced, Renfrewshire Licensing Board has reported a deficit of income in relation to expenditure. As a minimum, occasional licence applications require to be checked on receipt by Licensing Board staff (returned to the applicant if necessary), notified to Police Scotland and the Licensing Standards Officer and advertised by the Board... ..Given the procedure involved in an occasional licence application and having regard also to the level of licensing fees charged by local authorities for processes

with similar requirements, we are of the view that the current fee of £10 should be increased.”

- “The processing of occasional licence applications places a considerable resource burden on Boards. The District of Stirling Licensing Board determined 587 occasional licence applications in financial year 2018/19...”
- “...The Board did a costing exercise in relation to some examples of applications which are processed... ...In respect of an example of the simplest kind of occasional licence application going through processing, it was noted that the cost involved was approximately £25... ...The Board often receives applications for small one-off events such as weddings, quiz nights etc... ...The Board estimates that it costs around £40 in staffing time to process applications like these. The Board also receives more complex applications which are more labour intensive. In these situations, the £10 fee does not come near to covering the work involved with such an application. Taking, for example, The 147th Open Golf Championship 2018 in Carnoustie... ...An event of this magnitude would have a staffing cost well in excess of £1000.”

19. Individuals and organisations who responded to the consultation to say that they did **not** support any increase in the fee were generally concerned about the impact that any increase would have on the likes of small businesses and non-profit organisations.. Comments included:

- “We make a limited amount (under 7,000 litres) of craft cider. We sell this as off-sales only, mainly at Farmers' Markets across the region in which we live. This is a very small scale business with a turnover of less than £25,000...”
- “As a non-profit making organisation I.E. Junior Football Team we need the profit from our occasional licences for us to operate. On Some match days we don't even sell enough to cover the £10 fee.”
- “The proposed level of new price from £50 - £100 would put it beyond the scope of many small events which are not part of the problem. I apply 2 or 3 times a year to bring our village together for outdoor music afternoons, or craft events or just to get older lonelier people to meet up and have an occasional glass of wine. At £10 it is no hardship but at £50 - £100 we would be losing as we have to pay rental, publicity, food costs etc. it would effectively stop a good mental-health-beating, social event.”
- “As a small charity organisation who uses the occasional license to be able to have alcohol for about four or five evening fundraisers throughout the year which sometimes only raise a few hundred pounds an increase in the fee will impact the funds we raise for the charity.,,.”
- “As a new start up business in the South West of Scotland our sole route to customers at present is via craft fairs, farmers markets and small events. The £10 charge can be absorbed into our costs but an increase makes the likelihood of us expanding or even breaking even very uncertain...”
- “We are a community group and use the occasional licence 2-3 times a year for community fundraising events. Being able to offer a glass of wine for sale at such events helps draw people in and provides added ambiance. It makes it more a night out for local people. If the fee was to increase it could easily become prohibitive. This would reduce our capacity for local fundraising.”
- “Small Clubs are struggling financially to make ends meet as it is. Increasing the fee would place an added burden on such Clubs.”

20. The Scottish Licensed Trade Association also highlighted “surpluses” recorded by a number of Licensing Boards in their Annual Reports:

- “...The Association accepts that some Licensing Boards do run at a loss, but the Scottish Government must take into account the “surpluses” recorded by a number of Licensing Boards in their Annual Reports when determining any changes to the current level of fees for Occasional Licences, particularly when a number of Boards have regularly reported surpluses amounting to, in some cases, tens of thousands of pounds each year...”

Question 3. Do you agree that £50 is an appropriate new fee level?

21. In total twenty one respondents agreed that £50 was an appropriate new fee level, while forty seven did not. Eight respondents did not answer this question.

22. Of the twenty one respondents that agreed that £50 was an appropriate new fee level, ten were responding as individuals, and eleven as organisations. Of the forty seven respondents that did **not** agree that £50 was an appropriate new fee level, sixteen were responding as individuals, and thirty one as organisations.

Question 4. Why?

23. Individuals and organisations who supported the fee being increased to £50 were generally of the opinion that £50 better reflected the cost of processing an occasional licence application. Comments included:

- “Although the lowest of the proposed increases it is still a substantial rise and likely to be the most acceptable to trade and voluntary organisations who legitimately apply for licences.”
- “£50 should cover the majority of the administration of the application. It is also a reasonable sum of money considering most applications are for events which will sell alcohol to make a profit. However it is still a low enough sum for voluntary groups / organisations etc not to prevent them from holding an event.”
- “The increase is relatively modest and seems to reflect a reasonable cost for the processing of an occasional licence. Such a cost would be affordable by voluntary bodies applying for occasional licences and will also represent a reasonable cost to unlicensed hospitality, event or outside catering businesses which legitimately cater for a myriad of events in a variety of locations and premises.”
- “It has been determined that this would cover the cost of processing an application. Additionally, this fee level takes into account any future inflationary rate as it is uncertain when a further review of the application fee for an occasional licence will take place. Inflation therefore must be taken into account so that the cost does not diminish in real terms.”
- “...An analysis of the time taken to process these applications and the costs involved shows that the cost per unit varies markedly depending on whether or not an application requires a hearing. If an application is relatively straightforward an application costs £48 to process and issue. Incorporating the cost of a hearing increases overall processing cost to £310 per application. These figures are conservative...”

24. A number of reasons were also put forward by individuals and organisations for £50 **not** being an appropriate new fee level. It should be noted however that some of those who responded were of the opinion that £50 was too expensive, while others believed that £50 was not a big enough increase.

25. Comments by those who thought that £50 was too expensive included:

- “A fivefold increase is too high and would result in less applications and potentially more events being organised illegally. Justification for a fivefold increase cannot be provided. I would suggest £25 is proportionate and justified.”
- “Twelve Licences in the year represents £600.00. This is an undue burden on small Clubs.”
- “It would make our business unviable - and possibly encourage some people to avoid selling alcohol with a license?”
- “It is too expensive and unjustifiable especially given that I already have a full licence for the pub as well.”
- “As a small group and a charity who only sell relatively small amounts of alcohol on approximately 6 evenings per year (3 separate events) £150 would hit us very hard.”
- “This is too expensive for small time craft alcohol sellers and producers while still being easily exploited by establishments who can easily pay this amount.”
- “A 500% increase is exorbitant and way beyond inflation. Such a fee would seriously affect my business.”
- “It’s too much. It would not be worth doing for us. We would lose more money than we take in.”

26. While comments from those who thought that a £50 fee was not a big enough increase included:

- “General costs to process an application is about £50, when there is no follow up enquiry required, however, Licensing Admin teams, LSOs and police licensing officers frequently have to make further enquiry into what events are about and what the sale and supply of alcohol relates to. Follow up visits are also not covered in the costs to ensure compliance with conditions and the licensing objectives. Therefore a higher fee is merited.”
- “£50 fee charge won’t cover the cost of the administration process.”
- “The fee for the licence should reflect the value in time and effort to administer the system by the licensing board, and it should also serve to draw attention to the value of holding a licence and the need to ensure the appropriate safeguards for alcohol sales are in place. The lowest fee of £50 is still relatively cheap in terms of alcohol prices...”
- “Based on information from the Board’s time recording system a fee of £50 is also insufficient to cover the costs of administering applications for occasional licences.”
- “...It is the view of members that a fee level of £50 would not cover the cost to the authority for the more complex occasional licence applications, nor would it have any consideration of future inflationary rises which would affect the cost of delivering this service...”

27. Meanwhile, some of those who responded thought that the cost of the occasional licence should depend on what the event is, and who is applying. Comments in support of that view included:

- “One fee does not fit all. The £50 fee may be appropriate for voluntary organisations and or members clubs but not so for established companies running a business. These companies usually use a personal licence holder. To have a large event such as a concert, where hundreds, or even thousands of people gather, the fee should be appropriate and £50 is nowhere near enough. The fee for large scale events could perhaps be based on numbers attending. It is unfair that large events are charged at such a low fee.”
- “I think the fee should be dependent on what the event is and how many people will be attending the event. It’s unfair I think to charge £50 for a birthday celebration when you charge the same amount for an event like St Andrew’s golf or T in the Park.”

Question 5. Do you agree that £75 is an appropriate new fee level?

28. In total eleven respondents agreed that £75 was an appropriate new fee level, while fifty six did not. Nine respondents did not answer this question.

29. Of the eleven respondents that agreed that £75 was an appropriate new fee level, four were responding as individuals, and seven as organisations. Of the fifty six respondents that did **not** agree that £75 was an appropriate new fee level, twenty one were responding as individuals, and thirty five as organisations.

Question 6. Why?

30. Individuals and organisations who considered that £75 was an appropriate fee level were generally of the opinion that this new fee level would better reflect the cost of processing occasional licence applications. Comments included:

- “To cover costs of advertising, administration fees (recording, circulation to consultees, collation of responses, consultees time and responses, licensing board determinations when required, recording of licences and sending them out to applicants when granted) and visits to check compliance with conditions and the licensing objectives...”
- “This would go a long way to covering the cost of the administration process and carrying out routine checks in order to maintain standards. It will also ensure that people applying for an occasional licence are serious about their responsibilities and the requirements the licence sets out for them...”
- “We consider that this fee would reflect the amount of work involved in processing occasional licence applications. We also recognise that occasional licence applications may be for an event/ occasion, as distinct from an application to allow unlicensed premises to be licensed for a period of 14 days at a time. We would be concerned that, if the fee for an occasional licence were to be any higher than £75, the level of fee would be prohibitive for those organising small events such as Christenings or birthday parties...”
- “...in the month of April 2019 a total of 33 occasional licences were processed and 62 staff hours were recorded. When multiplied by the hourly rate for each separate staff member this equates to average staff costs of

around £60 per application. When the average cost of postage and overheads is added the figure rises to an average of £75 per application.”

31. A number of the individuals and organisations that responded to say that £75 was **not** an appropriate new fee level were of the opinion that £75 was too expensive. Comments included:

- “Out of the reach of Sports Clubs.”
- “While it may prevent individuals / organisations flouting the system it may have a negative impact on a number of other individuals/organisations who genuinely require an occasional license.”
- “It would make our business unviable - and possibly encourage some people to avoid selling alcohol with a license?”
- “Feel that this could be detrimental to voluntary organisations who are running small events.”
- “Again the fee should be dependent on what the event is. After all there are more occasionals coming in now that are basically for people running a business without applying for an actual premises licence and this is unfair for the trade that are struggling to make ends meet by having the correct licence in place. No annual fees are required either so the trade always seems to be out of pocket.”
- “Definitely not - that would be curtail a lot of smaller local community events from happening.”
- “This would be too great an increase to occur at this time.”
- “The fee should not be set so high that it acts as a deterrent.”
- “As a small group who only sell relatively small amounts of alcohol on approximately 6 evenings per year (3 separate events) £225 would hit us very hard.”
- “A 750% increase in one measure is too high and may be cost prohibitive to voluntary organisations.”
- “A 750% increase is exorbitant and way beyond inflation. Such a fee would VERY seriously affect my business.”

Question 7. Do you agree that £100 is an appropriate new fee level?

32. In total nine respondents agreed that £100 was an appropriate new fee level, while fifty nine did not. Eight respondents did not answer this question.

33. Of the nine respondents that agreed that £100 was an appropriate new fee level, five were responding as individuals, and four as organisations. Of the fifty nine respondents that did **not** agreed that £100 was an appropriate new fee level, twenty one were responding as individuals, and thirty eight as organisations.

Question 8. Why?

34. Reasons put forward in support of £100 being an appropriate fee included:

- “The application fee needs to cover all costs of processing and granting an application. These types of licences are meant to be for a special occasion or event and not for people to run a business from. The higher application fee may put people off.”

- "...think this would be a fair amount for longer term occasional licences for voluntary organisations/members clubs and for premises/personal licence holders and feel that the higher fee would discourage attempts by some to use occasional licences as opposed to applying for full premises licences."

35. Meanwhile, those that did **not** think that £100 was an appropriate new fee level were generally of the opinion that such a fee was excessive. Comments included:

- "Fee should be increased to £80 as this properly reflects the amount of work undertaken in processing and issuing the occasional licence."
- "Too high for voluntary organisations."
- "A ridiculous amount, most occasional licences will be from non-profit making organisations."
- "I think this is an excessive amount and could be viewed negatively and as greed by the public."
- "A number of our events would have to move to Juice Bar only operation as the revenue will not justify the costs."
- "As a small charity organisation who uses the occasional license to be able to have alcohol for about four or five evening fundraisers throughout the year which sometimes only raise a few hundred pounds an increase in the fee will impact the funds we raise for the charity. It is currently a very tough environment for charities and if the fee were to raise to say £100 then that would cost us £400 or £500 per year just to get the licences never mind any other costs of putting on a fundraising event."
- "A 1000% increase in one measure is too high and may be cost prohibitive to voluntary organisations."
- "£100 is an absurd level, and would be ruinous to my business and to innumerable other businesses and events across Scotland."
- "This would kill off 90%+ of small time craft alcohol producers and up and coming alcohol business enterprises and make any future breakthroughs in the alcohol market space, such as the explosion of gin producers, exclusive to the big, already established, multinational companies. Once again £100 is easily achievable by establishments such as pubs and clubs but is increasingly daunting for small craft traders to bring in per market after considering all other expenses and tax duty."

Question 9. If you do not think that any of the proposed fee levels are appropriate, what do you believe would be a suitable fee level?

36. In total forty eight substantive responses were received to this question. With fourteen individuals responding and thirty four organisations responding.

37. Various figures were provided by both individuals and organisations for what would be a suitable fee level. Examples of some of the figures suggested, and comments made, are provided:

- "£0"
- "For my club in particular £10 is more than enough, but if pushed £15."
- "£15."
- "£20 would be reasonable."

- “£20 to 25.”
- “Less than £25.”
- “Maximum £25.”
- “Charitable events free, weddings £25, funerals free, religious events free.”
- “£25 otherwise you will affect the ability of some small clubs to apply for these and run events.”
- “I strongly believe that fees should be categorised according to the applicant status. An example would be; Voluntary organisation: £50, Members club: £50, Personal licence holder: £100 (or fee to be based on capacity of event ranging up to a maximum of £300), Premises licence holder: as above...”
- “A £30 fee should be introduced if the applicant is a voluntary organisation though there should be a £50 fee for other applicants as per above.”
- “A fee of £50 is an appropriate fee to cover the costs of processing routine applications. There is however merit in introducing a reduced fee of £25 for single day small community events applied for by voluntary organisations due to their benefit to the wider community although this fee level may not result in full cost recovery for such applications. Greater scrutiny and investigation is required for applications for large scale (i.e. likely to be more than 150 attendees) commercial events and the fee for such applications should be £100.”
- “In some areas and for some kinds of events, £50 may cover the costs e.g. small, local fundraising event. For other events, even £100 may not cover the costs e.g. large, commercial events. There are concerns that increasing the fee more than £50 could disadvantage some community groups ...”
- “...there is a distinction to be made between Occasional Licence applications made by the holders of Premises and Personal Licences and those made by voluntary organisations... ... a tiered fee structure whereby the fee for Occasional licence applications made by holders of Premises or Personal Licences should be £50 with a lesser fee of £30 being charged for applications made by voluntary organisations.”
- “...The Rutherglen and Cambuslang Divisional Board was of the view that a £25 fee for an individual or voluntary organisations and £100 for any other application was appropriate...”

Question 10. What evidence, based on cost recovery, can you supply for an appropriate fee level for occasional licences?

38. In total fifty nine substantive responses were received to this question. With seventeen individuals responding, and forty two organisations responding. Evidence provided for an appropriate fee level included:

- “Based on salaries, staff processing time, dealing with queries, receiving consultation responses and approval for a straight forward application or low risk event, a quick calculation equates to a cost of £12.50. So the current £10 fee does not cover our basic costs. Large scale events often require further clarification with regard to the information submitted on the occasional licence and this takes considerably longer than a standard application and additional staff time is required to liaise with the applicant of such an application.”
- “We have consulted with some of the Licensing Standards Officers in Lothian who have advised that £10 does not cover the cost. There seems to be

considerable range in costs depending on the type of event, from just under £50 to well over £500.”

- “...on the basis that the licensing board received 1483 occasional licence applications in the 2018-2019 financial period and a straightforward application takes approximately 1 hour of staff time to process, this would mean that a minimum of 1483 staff hours per year is spent on occasional licence applications... ..Based on an average of staff costs per application and estimated costs for direct and indirect expenditure, it is anticipated that £50 would be sufficient to cover the expenses incurred by the Board.”
- “In Renfrewshire, 544 occasional licence applications were considered in 2018-2019. It is our view that fees for occasional licence applications require to be increased to ensure that Licensing Boards recover their costs.”
- “... in Edinburgh [a straightforward application] includes 26 separate actions recorded against the occasional licence application, involving receiving, recording, checking, scanning, circulating, collating the responses, printing and postage of the licence. These actions are carried out by 6 different staff... Total [cost] £76.36”... ..a Complex/High risk application “takes up far more time of each officer, there are more people involved, and there is additional time set aside for the Event Planning and Operation Group meeting(s) to facilitate the event and ensure it operating in accordance with the licensing objectives... Total [cost] £574.81”
- “For an occasional licence application which is not controversial (i.e.an application which does not attract any objections, nor does any aspect of the application require to be clarified) it is estimated that the cost of processing this application is approximately £33.13.... ..Where an occasional licence application is for a larger scale event, such as a large scale music event... ..It is estimated that the cost to WDC of processing such an application would be at least £76.55...”
- “It has been calculated that the minimum cost of processing an application for an occasional licence will be approximately £25... ..However, where an application attracted an objection or representation, this cost rose significantly due to input from senior Licensing staff and the Licensing Board.”
- “...The Board has calculated that an application that is fully competent on receipt, requires no further information from or contact with the applicant, no site visit and which receives no objections and/ or representations costs £28.45 of staff time to process... ..In contrast the staffing costs associated with a recent application for an outdoor music festival for 5000 people were £469.21...”
- “...the Board received 362 applications in respect of occasional licences in 2008. In 2017, the Board received 619 and in 2018, the Board received 737. This represents a 103.6% increase over that period of time.”

Question 11. Do you agree that limits should be placed on the number and duration of occasional licences for holders of a premises licence and holders of a personal licence?

39. On the issue of placing limits on the number and duration of occasional licences for holders of a premises licence and holders of a personal licence, thirty seven respondents agreed that limits should be put in place, while thirty three did not. Six respondents did not answer this question.

40. Of the thirty seven respondents that agreed that limits should be put in place, sixteen were responding as individuals, and twenty one as organisations. Of the thirty three respondents that did **not** agree that limits should be put in place, ten were responding as individuals, and twenty three as organisations.

Question 12. Why?

41. Reasons put forward by individuals and organisations in support of limits being placed on the number and duration of occasional licences for holders of a premises licence and holders of a personal licence generally focused on concerns over abuse of the occasional licence system. Comments included:

- “There is a growing trend for some premises to abuse the system and fail to apply for a premises license and try and run on occasionals for lengthy periods of time and that is not the spirit of how they were designed to be used.”
- “Many profit making operators try and reduce costs by applying for cheap occasional licences as opposed to applying for a full premises licence in respect of the use of the same premises and running the same activities time after time. i.e. frequent wedding receptions in country houses and the like.”
- “The current system is open to abuse and there are too many instances of repeat occasional licences being applied for when a full Premises Licence application would be more appropriate.”
- “We have concerns in relation to the same premises being able to be licensed continuously by way of a series of occasional licences without the regulatory requirements which apply in relation to premises licence applications being fully met. It is the ability to license the same premises for a continuous and indeterminate period which concerns us...”
- “...the Edinburgh Licensing Board has long been concerned about the potential for occasional licences as a short term means of licensing premises being abused... ... The Board recognises that applications will be made by premises or personal licence holders for numerous occasional licences, for different locations within the Board’s area, throughout the year. Of greater concern to the Board however is the repeated use of occasional licences for a single location or premises, where a short term licensing mechanism is being used for longer term licensing cover.”
- “...The Board would suggest that the mischief to be addressed here is the use of repeated occasional licences at the same premises, which would suggest a premises licence is more appropriate...”
- “Dumfries and Galloway Licensing Boards have experienced apparent abuse of the occasional licence system whereby they are receiving multiple, concurrent occasional licence applications, submitted by both personal and premise licence holders in respect of the same premises.”

42. Reasons put forward by those opposed to limits being placed on the number and duration of occasional licences for holders of a premises licence and holders of a personal licence, commonly focussed on concerns about the impact on businesses. Comments included:

- “People who want to have events use certain people who have a personal or premises licence because they are good at organising the bar for the event

and they have a good reputation so why should there be a limit on the amount of applications that they can apply for.”

- “The Occasional Licence has the ability to allow events to take place regularly and also to allow businesses to operate when they would otherwise be delayed by potentially minor issues when delay might prove fatal to the new business...”
- “What about portable bar suppliers and event organisers? Are they to have their ability to work limited?”
- “...Some external caterers require multiple licences to maintain their business. Limits may jeopardise livelihoods.”
- “Limiting numbers of occasional licences which could be applied for by premises licence holders and personal licence holders would be too restrictive. In our authority, premises licence holders and personal licences holders apply for occasional licences in community halls, which are used as main venues for functions such as weddings as many licensed premises are too small to host such events. Restricting the numbers they can lodge for these events would harm the community.”
- “Whilst it is recognised that the system is open to abuse in that some premises continue to operate under consecutive occasional licences rather than apply for a full premises licence which therefore circumvents parts of the licensing regime and should be restricted, alternatively, many businesses trade solely on providing bar facilities to events and do so professionally and thoroughly. There should, therefore, be a distinction between these two different types of business model.”
- “...Scottish Borders Licensing Board do not consider that there are any justifiable reasons for imposing any such limits on Premises and Personal licence holders as in the Board’s area multiple occasional licences are applied for by the holders of such licences whose businesses rely heavily or operate solely as outside caterers often using unlicensed community venues for various social gatherings such as weddings and community events.”

Question 13. What do you think would be an appropriate limit on the number of occasional licences that could be issued to the same applicant in a 12 month period, and why?

43. Twenty one individuals responded to this question, and forty organisations responded to this question.

44. A number of individuals who responded to this question felt that twelve would be an appropriate figure for the number of occasional licences that could be issued to the same applicant in a 12 month period, while others felt that there should be no limit. Comments included:

- “12, bearing in mind they run for two weeks that is effectively half a year.”
- “12 occasional licences per year per premises.”
- “12 - 1 per month. Any more than this and there should be a premises license in place of it...”
- “...If I have a mobile catering business it would be difficult to put a limit on it.”
- “Unlimited.”
- “No Limit...”

- “I don’t think it should be limited.”

45. A number of organisations that responded did not think that there should be any limit. While some others suggested that it would be appropriate to apply the same limits that are currently applied to voluntary organisations. Examples of the different views offered include:

- “Unlimited. It's an obstruction to a right to work if there is a limit.”
- “...we think strongly that there should not be a limit which would constrain either our efforts to grow our business, or engage with our community for no benefit in terms of the licencing objectives.”
- “There should be no limit on the number of occasional licences which are granted to holders of either or both a premises or personal licence...”
- “I do not think that it is that clear cut a matter, for example for a caterer seeking occasional licences for different wedding venues through the year the occasional licence is the most suitable method of licensing the individual events. Where an applicant is applying for repeat occasional licences for the same venue it may be appropriate for a limit to be applied.”
- “We do not propose any limit... ...our concerns relate to the same premises being able to operate continually by way of a series of consecutive occasional licences.”
- “It depends on the circumstances of the applicant. In my case, as a weekly seller of alcohol at farmers' markets, etc, I need a large number over a year simply to continue in business, as do numerous other similar traders...”
- “The Board considers that any such limit should be dependent on whether the applications relate to the same premises, rather than a numerical limit being placed on an applicant.”
- “The number of occasional licence applications permitted by a personal licence holder should not exceed the number permitted by a voluntary organisation. When the premises are run as a business it is more important that the operating plan is subject to the scrutiny of the licensing board and evidence is produced that the operation is upholding the licensing objectives...”
- “...The Board questions whether voluntary organisations should be permitted to sell alcohol on more than a truly occasional basis without training...”
- “SHAAP suggests that it may be appropriate to apply the same limits as are currently applied to voluntary organisations, meaning that the same applicant could have up to four occasional licences of four days or more in duration, and 12 occasional licences of less than four days.”
- “AFS believes the starting point should be to consider whether it is sensible to apply the same limits as are currently applied to voluntary organisations. This would mean that the same applicant could have up to 4 occasional licences of 4 days or more in duration, and 12 occasional licences of less than 4 days, with a maximum number of 56 days of occasional licence in any one year. However, as detailed below, a shorter period of around 30 days may better reflect the intended use of occasional licences, and the possibility of a lower limit on the total number of days should be considered...”

Question 14. What do you think would be an appropriate limit on the number of occasional licences that could be issued to the same premises in a 12 month period, and why?

46. Twenty two individuals responded to this question, and forty two organisations responded to this question.

47. Various suggestions were put forward by individuals for what would be an appropriate limit on the number of occasional licences that could be issued to the same premises in a 12 month period. With a number of those who responded suggesting that 12 would be an appropriate number, while a few others felt that there should be no limit at all. Examples of some of the comments received are:

- “lets say 12 - the licence lasts for a period of time as it is - if an enterprise is having 12 events covering 168 days in a year and if the cost rises to say a minimum of £50 then it would seem a reasonably natural threshold to look properly at a full license based on cost and activity/undertaking.”
- “12 - This allows for one occasional licence per month.”
- “12 - 1 per month. Any more than this and the appropriate premises license should be in place.”
- “I do not think it would be appropriate to limit the number of applications for the same premises, there are many community halls and venues used by many and varied organisations and individuals.”
- “the same premises could have unlimited occasional licences but a personal licence holder can only apply for 12 a year in those premises”.
- “...If a community hall is being used by a whole host of different organisations and personal licence holders it would be unreasonable to cap the number of licensed activities held in any particular hall...”

48. A handful of organisations that responded to this question suggested that the same limits that apply to voluntary organisations should be applied to premises. Although a number of others raised concerns about the consequences for village halls etc if any limit was introduced. Examples of the comments received are:

- “The legislation does already set out prescribed limits for the number of occasional licences permitted to be granted for members clubs and voluntary organisations. The Scottish Government may wish to consider whether these existing limits would also be appropriate for other premises using occasional licences.”
- “it should be considered whether the same or lower limits that apply to voluntary organisations should be applied to premises. As highlighted earlier in this response, one board considers it reasonable for occasional licenses covering up to 30 days to be granted in any one calendar year for a single premises. AFS would agree that 30 days seems reasonable, and would be preferable to a period of 56 days.”
- “Depends on the premises, if it’s a village hall which may have events or markets every weekend whilst a licensed premises such as a pub should have a premises license as they sell all week, every month at the same designated location...”
- “...A local town hall or other premises may not be licensed, but may run events such as weddings or functions on Friday and Saturday nights, possibly

with different premises/ personal licence holders applying for the occasional licences each time. We think this flexibility should remain. Our main concern is in relation to those premises which sell alcohol continuously under a series of licences issued to the people running the premises, who delay applying for their premises licence.”

- “Limiting the number of licences that could be granted to any particular premises could have unforeseen and unfortunate consequences for many smaller venues in rural locations...”
- “There should be no limit on the number of occasional licences which are granted to holders of either or both a premises or personal licence.”
- “The Board is concerned that it has premises operating in its area on a continual basis under occasional licences. Premises operating in this way are not required to produce section 50 certificates unlike premises seeking a full premises licence. These certificates ensure that a premises is fit for the public to use. Many occasional licences are for community type premises which would not be able to obtain section 50 certificates without being brought up to date in line with current building regulations...”

Question 15. What do you think would be an appropriate limit on the number of days that occasional licences issued to the same applicant in a 12 month period could have effect, and why?

49. Twenty individuals responded to this question, and thirty nine organisations provided comments in response to this question.

50. Various suggestions were received from individuals on what would be an appropriate limit on the number of days that occasional licences issued to the same applicant in a 12 month period could have effect. With suggestions ranging from 24 hours to unlimited. Comments included:

- “Happy at twenty four hours.”
- “24 - this should allow for 12 weekend events or fewer longer events.”
- “I think the current number of days at 14 is appropriate...”
- “36. 3 days for 12 individual applications or a smaller number of longer events. Anything more than this and it feels like the occasional license process is being abused.”
- “Outside caterers for events at different venues - unrestricted number. This is their mobile business and provides a service to organisations and the public i.e bar facilities at air shows, bar and catering at local halls for small weddings. Profit making enterprises at the same venue - no more than 6 per year per business/company. Voluntary organisations - introduce a definition of what is a Voluntary Organisation and cap at 12 per year.”

51. There were also various suggestions received from organisations as to what would be an appropriate limit on the number of days that occasional licences issued to the same applicant in a 12 month period could have effect. With suggestions again ranging from one day to no limits. Comments included:

- “Reduce to 1 day only.”
- “Three to four days (for example to cover a long weekend.)”

- “It is not clear what the purpose of such a restriction would be but if it is intended to reduce the number of occasional licences granted it may be ineffective. An event organiser may well turn to an alternative applicant if their preferred choice had reached their prescribed limit.”
- “There should be no limit on the number of occasional licences which are granted to holders of either or both a premises or personal licence...”
- “...the same applicant may regularly provide a bar service at various premises which are otherwise unlicensed, in connection with weddings, parties and other events. We consider that this flexibility should continue.”
- “...certain businesses may not require a full premises licence due to the nature of the functions they cater for. Repeated occasional licence applications for designated events would continue to be appropriate in such circumstances.”
- “SHAAP considers it reasonable for occasional licences covering up to 30 days to be granted in any one calendar year for a single premise, and believes that this duration could be applied as a limit to the number of days that occasional licences are issued to the same applicant. We are also aware that the total number of days on which an occasional licence has effect must not exceed 56 days within 12 months for voluntary organisations. In our view, however, 56 days should be the maximum limit in this context, and a lower number of days may be more appropriate.”

Question 16. What do you think would be an appropriate limit on the number of days that the occasional licences issued in relation to the same premises in a 12 month period could have effect?

52. Twenty one individuals responded to this question, and thirty eight organisations provided comments in response to this question.

53. A number of individuals who responded to this question provided the same answer as they gave in response to question 15, with suggestions again ranging from 24 hours to unlimited. Other comments included:

- “I think it should if anything be reduced from 14 days - if as above 12 occasional licenses means you're good for half the year then seasonal businesses may see this as an opportunity to not commit to the responsibilities attached in spirit to a full licence.”
- “Some unlicensed profit-making premises have weddings on every weekend and operate under an occasional licence in respect of each event. This is just not right. So 1 day per month.”

54. Similarly, a number of the organisations who responded to this question also provided the same answer as they gave in response to question 15, with suggestions again ranging from one day to no limits. Other comments included:

- “On the basis that we are suggesting 6 occasional licences in a 12 month period for a maximum of 14 days, the appropriate limit in terms of the number of days would be 84 during any 12 month period.”
- “The legislation does already set out prescribed limits for the number of days that occasional licences can operate for members clubs and voluntary organisations. The Scottish Government may wish to consider whether these

existing limits for the number of days would also be appropriate for other premises using occasional licences.”

- “The limit for individual premises should be set at 56 days as the need for a special event is unlikely to run consecutively over an 8 week period. That is not the purpose for which an occasional licence is granted.”
- “...The Board is of the view that the maximum number of days per year should be 50 in order that premises which are unlicensed can only be used for alcohol sales on an occasional basis.”

Question 17. What do you think would be an appropriate limit on the number of continuous days that a series of occasional licences can have effect in relation to the same premises?

55. Twenty one individuals responded to this question, and thirty eight organisations provided comments in response to this question.

56. Several suggestions were received from individuals as to what would be an appropriate limit on the number of continuous days that a series of occasional licences can have effect in relation to the same premises. With suggestions once again ranging from 24 hours to unlimited. Other comments included:

- “This should definitely be limited to two or three. It is outrageous that some premises have run with occasional licences for over a year. Totally unfair to other businesses.”
- “7 days.”
- “14 days limit as per current restriction, with no more than 2 consecutive. This would cater for events such as Edinburgh Festival.”
- “56 days.”
- “In order to allow businesses that are processing an application for a Premises Licence to avoid being penalised by a Board sitting not being convenient for the date a premises is ready to trade or there being a delay on a S50 Certificate I would suggest that the Occasional Licence should not be limited to allow businesses to be able to operate and provide benefits of employment in the community and options to the community without the risk of failing.”

57. There were also various suggestions put forward by organisations as to what would be an appropriate limit on the number of continuous days that a series of occasional licences can have effect in relation to the same premises. With suggestions ranging from one day to unlimited. Other comments included:

- “28 days seems appropriate. It is rare that we see an event that lasts this long, but we could envisage genuine events - for instance around the commonwealth games last year, where a pop-up bar for up to a month was appropriate, but in a location where it would never make sense to get a full premises licence. These are rare in our experience, but easy enough to envisage as being a valid use of an occasional licence.”
- “It depends on the nature of the occasional licence application. For festivals this should be allowed to what is realistically required for the festival. However there comes a point when it's just a series of occasional licences when venues should be looking at permanent licence.”

- “The duration of an occasional licence should be restricted to 4 days, to take into account festivals and galas that take place over a number of days.”
- “We consider that individual premises should not be able to trade indefinitely- and certainly not for a period of more than 52 weeks (hence, 364 days) as an absolute maximum- on a series of occasional licences...”
- “...AFS believes that occasional licences having a limit of 30 days (1 month) for continuous trading may be more appropriate.”

Question 18. Are there any other comments you wish to make that relate to the occasional licence?

58. Fourteen individuals and thirty two organisations responded to this question.

Comments included:

- “Change is necessary both on fee and limit but careful consideration must be to balance the use of these for small clubs and Voluntary organisations v the abuse by larger venues.”
- “...Training - There is nothing in the mandatory conditions which supports staff training (similar to premises licence conditions) currently an occasional licence event does not have to have trained staff. Even the Voluntary Organisations should have trained staff to sell alcohol. If we do not insist on proper training then how serious can we be about enforcement of selling alcohol. Matters pertaining to VOs and the training of staff are more confused given the lack of definition on what is a VO. Staff training would help.”
- “...Care and thought needs to be given to ensuring that any changes that might correctly address people who are avoiding getting a premises licence, don't at the same time damage a wide number of widely enjoyed genuine events. On the costs model we can understand the case being made, but a solution needs to be found that addresses the costs of the more complex cases, without making the much higher number of small events unviable.”
- “...Occasional Licences should be required for all events where alcohol is being served - not just when it is being sold. Events such as "bring your own bottle" dances and ceilidhs where children and young persons are present create a risk that undermines the relevant Licensing Objective and is a matter that is easily dealt with by requiring an occasional licence. It also creates a clear audit trail of responsibility.”
- “...While prolonged use of occasional licences to avoid the necessity and cost of applying for a permanent premises licence should actively be discouraged, the ability of applicants who have secured a provisional licence, but are prevented from opening the premises due to administrative reasons or delay in obtaining other permissions, should be able to obtain occasional licences to enable them to trade pending confirmation of the premises licence.”
- “...The Act currently contains no mechanism for an occasional licence to be varied, suspended or revoked once issued. The Scottish Government may wish to consider providing such a mechanism to address any material change in circumstances or concerns in terms of the licensing objectives.”
- “...all servers of alcohol should be trained to a recognised national standard and to allow voluntary organisations to be exempt from many of the conditions pertaining to licensees and their premises is disgraceful...”

- “...given the relatively short timescales involved in dealing with applications, clarity on the definition of “voluntary organisation” would assist boards and applicants, by ensuring that applications can be processed without delays arising from checking the status of the organisation, etc.”
- “...We would highlight the need to consider the potential impact of any increase in fee levels for small sports clubs and the impact this may have for their local communities and delivery of wider Scottish Government policy. We therefore recommend consideration of an exemption or relief scheme that covers sports clubs.”
- “As the occasional licence applications are not notified to the same group of partners and to neighbour’s, and the consultation period is much shorter, it is much more difficult for neighbour’s or other partners to raise legitimate objections to the licence applications. This underlines the need to limit the use of occasional licences for the purpose for which they were intended, namely special and unique events and occasions and not for routine business.”

Next steps

59. The Scottish Government is extremely grateful to all of those who responded to the consultation exercise. The consultation responses are now being considered, as we determine whether or not it would be appropriate to make secondary legislation to increase the fee level for the occasional licence; and/ or prescribe a limit on the number and duration of occasional licences for premises licence holders and personal licence holders.

Criminal Law, Practice and Licensing Unit
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