

Hazel Flett

From: [REDACTED] Licensing
Sent: 22 August 2018 12:56
To: Hazel Flett
Cc: Licensing
Subject: LLF Meeting 29 Aug 2018: Personal Licence Renewals
Attachments: 2018-08-22-PLH-Renewal-Letter.docx; SGCD.docx

Hi Hazel

I refer to our telephone conversation this morning.

It may be helpful to advise the Forum that the Scottish Government has published a Communications Document about renewal of personal licences at <https://www.gov.scot/Publications/2018/08/6715>.

We have published an updated version of that document on our website at http://www.orkney.gov.uk/Service-Directory/L/Alcohol_Licensing.htm, as Related Download 6A. I attach that document for your ease of access. It includes directions about local requirements on how to apply for renewal, with directions to our application form and notification that applications must be accompanied by 2 new passport photos and evidence of recent refresher training.

We are currently issuing letters to all personal licence holders who require to renew their licences before 31 December 2019. There are 136 persons affected. Please find attached a copy of our style letter for the Forum's information.

I have also contacted Orkney College to advise them of the potential increased demand for personal licence refresher training courses.

Regards

Elaine Sinclair

Legal Clerk
Corporate Services
Orkney Islands Council, Council Offices, Kirkwall, Orkney KW15 1NY
Telephone: 01856 873535 ext. 2232 (Tues – Fri)

The Licensing (Scotland) Act 2005

Personal Licence Holder Communications Document

Liquor Personal Licence Holders

Important update – if your personal licence was issued on or before 1 September 2009, this applies to you and you need to act now!

Key dates:

- 31 August 2018 – Personal Licence Holders can apply to renew their personal licence.
- 31 May 2019 – absolute deadline for submitting your personal licence renewal application, but if you leave it this late you risk losing your licence.
- 1 September 2019 – expiry date for personal licences granted up to 1 September 2009.

Personal Licence Holders have a vital job within the licensed trade. They authorise the sale of alcohol in both on and off sales businesses and ensure that each and every sale is legal. This is a considerable responsibility and, as such, Personal Licence Holders have two important obligations:

- They must undergo refresher training every 5 years to refresh their knowledge of the licensing regime, and send the training certificate to the relevant Licensing Board; AND
- They must apply to renew their personal licence every ten years, and lodge the renewal application no later than 3 months before expiry date of the licence.

What do I need to do now?

To make this as straight-forward as possible, the Scottish Government is recommending to Personal Licence Holders and Licensing Boards that these processes should be dealt with at the same time, by sitting a further refresher training course and then sending the certificate to the relevant Licensing Board along with the renewal application.

When should I apply for the refresher training?

There is likely to be high demand for the half-day refresher training as we approach the refresher and renewal deadlines. Personal Licence Holders are, therefore, recommended to book a place on the refresher training now to ensure that this is completed ahead of the 5-year refresh deadline and the deadline for submitting renewal applications. Remember that training bodies may take some time to produce your training certificate and you cannot complete the renewal and refresher process without it.

The currently available half-day refresher training course is the appropriate course to take for both the requirement to undertake updated refresher training after five years and the requirement to apply to renew your licence.

Work is underway to update both the half-day Personal Licence Holder refresher and the separate full-day Personal Licence Holder courses, however, there is no need for Personal Licence Holders to wait for the new courses to be available. Certificates from existing courses will be acceptable for the five-year refresh and ten-year licence renewal.

When should I apply for my 10-year renewal?

Through the Air Weapons and Licensing (Scotland) Act 2015, the Scottish Parliament significantly extended the period in which Personal Licence Holders can apply for their 10-year licence renewal and for Licensing Boards to consider applications. **If your personal licence is due for renewal on 1 September 2019, the absolute deadline for submitting a personal licence renewal application is 31 May 2019.**

However, leaving it this late puts you at a real risk of losing your licence. Licensing Boards only have a narrow window to consider applications. If a lot of applications come in at the last minute then yours may not be approved in time and will be lost. It is therefore important that you book on your course now and prepare to lodge your renewal application along with your new training certificate as soon as possible.

What happens if you don't do this in time?

If you do not undergo refresher training AND provide the updated certificate while renewing your personal licence in time, your personal licence will expire on the expiry date and so cease to have effect. If your personal licence expires you will need to submit a brand-new licence application which could take several weeks or months to process. If you have to apply for a new personal licence then the Licensing Board may hold a hearing where a personal licence has expired or been surrendered within the previous three years.

What happens if I cannot get booked onto a refresher training course in time?

You will not be able to renew and refresh your personal licence.

What happens if I apply for renewal of my personal licence in the three months before expiry?

You will have left it too late, and the Licensing Board will not be able to renew your licence.

What happens if a premises manager's personal licence ceases to have effect?

If a designated premises manager's (i.e. a person named on a licence as the day to day manager) personal licence ceases to have effect, notice must be given to the relevant Licensing Board by the premises licence holder (rather than the outgoing designated premises manager) within 7 days of that happening, in order to activate a 6-week window where alcohol can still be sold to allow time for another person with a valid licence to be named. **If that notice is not given by the premises licence holder within 7 days of that happening, alcohol sales must cease until such time as a new premises manager with a valid personal licence is named.** If the 6-week period passes with no new manager being named, then alcohol sales must cease until such time as a new manager with a valid personal licence is named. See FAQ 3 below for further details.

If this affects you, you are strongly advised to seek independent legal advice.

Will there be a form or a fee?

The renewal form is the standard personal licence application form, available on your Licensing Board's website. There are relevant sections to complete if your application is a renewal. A training certificate must accompany the application.

Orkney Islands Area Licensing Board (OIALB) publishes the application form as Related Download numbered 6 at:

http://www.orkney.gov.uk/Service-Directory/L/Alcohol_Licensing.htm.

Applications for renewal of personal licence submitted to OIALB must be accompanied by two new passport photographs of the applicant.

A fee is likely to be set for lodging the renewal application. The Scottish Government has consulted on setting a £50 fee – although this is subject to change. You do not need to wait for the renewal fee to be confirmed to book on the relevant refresher training.

The consultation on a renewal fee closed on 15 August 2018.

Further information will be provided if it is decided to set a renewal fee, but until a renewal fee comes into effect, the Licensing Board should process any fully completed renewal applications without charge.

Frequently Asked Questions

1. What happens if I do not submit EITHER my personal licence application OR refresher training award certificate on time?

Your personal licence will cease to have effect.

2. What happens if my personal licence ceases to have effect?

You will not be able to:

- Train staff.
- Authorise alcohol sales.
- Apply for occasional licences.
- Be named as a premises manager (DPM).
- Appeal.

3. I am a Personal Licence Holder and also named as a premises manager (DPM) on a premises licence. What happens if my personal licence ceases to have effect?

Only a person who holds a valid personal licence can be named as a DPM. If your personal licence ceases to have effect, then your name is also taken off the premises licence. A notification of this must be given by the premises licence holder to the relevant Licensing Board within 7 days or alcohol sales must cease. A minor variation application naming a new manager (who must hold a valid personal licence) must be lodged within 6 weeks of the premises manager losing their personal licence.

If this affects you, you are strongly advised to seek independent legal advice.

4. My personal licence was issued before 1 September 2009. When should I do my refresher training and apply to renew my licence?

Many Personal Licence Holders undertook training and secured a personal licence well in advance of 1 September 2009 when the 2005 Act came into force. The relevant date here is not the date that you undertook the qualification but the date of the issue of the personal licence. Any personal licences issued prior to 1 September 2009 are to be treated as being issued on 1 September 2009. Therefore, you should apply now to do your refresher training and apply to renew your personal licence as soon as possible.

Remember, the **absolute deadline for submitting personal licence renewals for licences which expire on 1 September 2019 is 31 May 2019**. However, leaving it this late puts you at a real risk of losing your licence. Licensing Boards only have a narrow window to consider applications. If a lot of applications come in at the last minute then they may not be approved in time. The Scottish Government therefore recommends that affected Personal Licence Holders book and undertake their refresher training now and submit their renewal applications as soon as possible.

5. My personal licence was issued after 1 September 2009. When should I do my refresher training and apply to renew my licence?

Any personal licences issued after 1 September 2009 will have their own 10-year deadline to work to based on the date the licence was granted. For example, if your personal licence was issued on 1 October 2009, then add one month to the dates provided at the top of this document.

You can apply for renewal as early as 12 months before the expiry date so with some forward planning around training dates, there should be plenty of time to complete the process. **You must apply for renewal no later than 3 months before the expiry of your personal licence but you are advised to apply long before this date to ensure that your application can be processed.**

Slightly separate deadlines operate for the submission of evidence of having undertaken refresher training, but we recommend that licence holders combine both requirements.

6. What happens if you apply for renewal of your personal licence in the three months before expiry?

You will have left it too late, and the Licensing Board will not be able to renew your licence.

7. What should I do after I have passed the refresher course?

You should complete a personal licence renewal application and send details of your personal licence, together with the refresher training certificate and the fee, to the Licensing Board which issued your licence. It is recommended that you send it recorded delivery. If you apply for renewal of your personal licence in the three months before expiry – you will have left it too late, and the Licensing Board will not be able to renew your licence.

Before posting, you should check with the website of the Licensing Board which issued your licence whether they have any additional requirements. The application form for renewal can be downloaded from your relevant Licensing Board website.

Orkney Islands Area Licensing Board (OIALB) publishes the application form as Related Download numbered 6 at:

http://www.orkney.gov.uk/Service-Directory/L/Alcohol_Licensing.htm.

Applications for renewal of personal licence submitted to OIALB must be accompanied by two new passport photographs of the applicant.

The Scottish Government has consulted on setting a fee level for renewal applications and will confirm this fee as soon as possible.

8. Which Licensing Board should I send it to?

It does not matter if you work in a different Licensing Board area since the licence was first issued – you should send it to the Board which issued the licence.

If you have moved home since the personal licence was issued and the address is out of date, you have a legal obligation to inform the Licensing Board which issued the licence. If you have moved since 1 September 2009, update the Licensing Board NOW.

9. What if I can't find my personal licence?

If you cannot locate the original copy of your personal licence to submit with the renewal application, you should report its loss to Police Scotland and obtain a reference number. You can then give this number to the Licensing Board when lodging the renewal application. The Licensing Board may wish to charge you an additional fee for a duplicate of the lost licence.

If your licence has been stolen this should also be reported to Police Scotland and a reference number obtained. If your licence has been damaged or destroyed you should apply to the Licensing Board which issued it for a replacement.

10. Should I wait for the Licensing Board to remind me about this?

No. Licensing Boards have a legal obligation to write to Personal Licence Holders prior to the renewal/refresher deadline. However, as a Personal Licence Holder it is entirely up to you to ensure you do the training and submit the renewal application. Not receiving the Licensing Board's letter will not be accepted as a valid excuse.

11. What checks will the Licensing Board undertake?

An applicant for a personal licence or renewal must be aged 18 or over, possess a licensing qualification and not have had a personal licence revoked (except for failure to submit evidence of refresher training) in the previous five years. The Licensing Board will check with the Chief Constable and the Licensing Standards Officer as part of their consideration and where concerns have been raised may undertake a hearing to determine whether to grant the licence.

12. What does refresher training involve?

The course takes three hours to complete, and covers a range of subjects such as:

- the licensing objectives,
- the responsibilities and duties of a Personal Licence Holder,
- the law relating to alcohol sales for anyone aged under 18,
- proof of age schemes,
- irresponsible promotions,
- licensing hours,
- the Licensing (Scotland) Act 2005 as amended,
- offences under Licensing legislation.

At the end of the training, you will take a 1-hour examination that you must pass. The exams consist of 40 multiple choice questions and you must correctly answer at least 28 to pass. Further details on the nature of the course will be provided to you by the training centre you book up with.

13. Who designed the refresher course?

The Scottish Government created a steering group to design the specification of the course. This process was overseen by independent consultants People 1st. The steering group consisted of licensed trade bodies (drawn from both the on and off sale sectors), awarding bodies, alcohol harm charities, and other stakeholders. The specific detail of each course is down to the individual awarding bodies to design and deliver, so long as they meet the terms of the specification.

14. Will the courses for Personal Licence Holders be updated?

Work is currently being taken forward to update both the full day and half day refresher course to ensure they reflect changes to alcohol licensing over the last 5 years. This should be seen as a separate process to personal licence renewal applications and you do not need to wait for the new course to be released before sitting your training – the existing training courses are acceptable. Once the updated training course is available, Licensing Boards should continue to accept certificates of the previous version for a grace-period before requiring all applicants to have sat the up to date version and we expect a pragmatic approach to be taken. Further details will be provided on this when new courses roll out.

Once you have undertaken and submitted your refresher training certificate, you will not need to do another course for five years, even if the course is updated during that period. However, you may wish to do so as a matter of best practice.

15. Will there be a fee to get my licence renewed?

The Scottish Government has consulted on a potential fee for lodging your personal licence renewal application. It is likely to be around £50. You should not wait for this fee to be set before booking your refresher training.

16. When can I apply to renew my personal licence?

The nine-month window to apply to renew your personal licence runs from twelve months before your personal licence expires, to three months before expiry. Boards have no choice, they cannot grant renewal applications received in the three months before expiry. For personal licences issued on or before 1 September 2009 the relevant dates are at the top of this document.

17. What happens if I have taken the full day course by mistake?

The legislation currently sets out that evidence of refresher training can only be the half day refresher course, however the Scottish Government is considering legislating to provide that evidence of having taken the full day personal licence holder course, for example if taken in error, would be acceptable evidence for both the refresher and renewal process.

18. What options do I have if I cannot get onto a refresher training course?

Courses are expected to be run across Scotland, and you should take steps to get booked onto a suitable course as soon as possible. Boards have no discretion and won't be able to renew your licence unless you provide suitable evidence of training.

19. Will the exam be limited to taught content?

The appropriate training is the half day refresher training with the exam based on both content taught on the day and some pre-training reading. This approach has been in place for many years now, ensuring that licence holders retain a good knowledge of the overall licensing regime. We are aware of recent suggestions that this be amended and will consider these further.

20. I've heard that applicants with spent convictions might have to declare these and this will hold up the applications?

The Scottish Government can confirm it will **not** introduce this requirement until after 1 September 2019.

21. Will new immigration checks lead to delays in personal licence renewals at a time when so many applications are to be lodged?

The bringing in of new laws surrounding right to work in the UK is a reserved matter. The Scottish Government has written to the Home Office to request that these changes are delayed.

22. My personal licence is coming up for five years old. What do I need to do?

You don't need to worry about the renewal process as that doesn't kick in until ten years. You do however need to sit and pass your five-year refresher course and send the certificate to the Licensing Board within the relevant timescales. The course must be passed prior to the five-year anniversary of the grant of your licence, and the certificate sent to the Board no later than 3 months after that anniversary. If your refresher date is approaching then make sure you book a course in plenty of time.

Issued 31 July 2018. Updated OIALB 21 August 2018. Page 8.

23. My personal licence was issued shortly after 1 September 2009 what should I do?

Similar deadlines and pressures will apply, and it is suggested that you ensure that you apply for refresher training and submit your application in good time, to ensure that you can get onto a suitable training course and the Board has the necessary time to process your application.

Any personal licences issued after 1 September 2009 will have their own 10 year deadline to work to based on the date the licence was granted. For example, if your personal licence was issued on 1 October 2009, then add one month to the dates provided at the top of this document.

24. Should I take independent legal advice?

You may wish to take independent legal advice on completing the application.

If you are a designated premises manager and have held your personal licence since 1 September 2009 or before, you may also find it useful to seek independent legal advice.

Premises licence holders will want to check whether the designated premises manager is likely to be affected by these requirements, and to ensure that necessary action is taken. Failure to take action places the premises licence at real risk of loss.

25. What will the Scottish Government be doing between now and September 2019?

Scottish Government officials will continue to work with stakeholders to support the operation of the renewal process, respond to their queries, and ensure that there is clear communication about what is necessary from Personal Licence Holders.

26. Who should I contact if I have further questions?

In the first instance, you should consult the relevant Licensing Board's website for guidance and then contact the relevant Licensing Board thereafter if you have any additional questions about the refresher training or personal licence renewal process.

Orkney Islands Area Licensing Board (OIALB) publishes information about personal licences at:

http://www.orkney.gov.uk/Service-Directory/L/Alcohol_Licensing.htm.

You can contact the OIALB Licensing Team in the following ways:

By email to licensing@orkney.gov.uk.

By telephone: 01856 873535 extensions 2229 or 2232.

By letter to the Licensing Team, Corporate Services, Council Offices, Kirkwall, Orkney, KW15 1NY.

If you would like to see someone in person to discuss a licensing matter please contact the Licensing Team to make an appointment.

27. Where can I find out details of training providers?

The Scottish Government will provide a list of training providers on its website at:

<https://www.gov.scot/Topics/Justice/policies/drugs-alcohol/alcohol-licensing>

however additional training providers are likely to be available.

In Orkney, the Licensing Board understands that the prescribed refresher training course is available at Orkney College (telephone 01856 569000) and the Lifeskills Centre, 2 West Tankerness Lane, Kirkwall KW15 1AL (telephone 01856 873582).

Scottish Government.

31 July 2018.

ORKNEY ISLANDS AREA LICENSING BOARD

Clerk to the Board: Gavin Mitchell, LLB (Hons), Dip. LP, NP
Council Offices, Kirkwall, Orkney, KW15 1NY

Tel: (01856) 873535
Fax: (01856) 871604

Website: www.orkney.gov.uk
Email: licensing@orkney.gov.uk



If telephoning or calling please ask for Elaine Sinclair on extension 2232

OUR REF: GM/ES/OI/
YOUR REF:

Date

Name and Address

Dear [Sir / Madam]

Licensing (Scotland) Act 2005 – Personal Licence – Renewal

We refer to your personal licence and write to remind you that you require to apply to renew your personal licence every 10 years and that your renewal application must be lodged no later than 3 months before the expiry date of the licence.

You are also required to undertake mandatory refresher training every 5 years.

Your personal licence was issued with effect from 1 September 2009.

An application for renewal of your licence must be submitted in the 9-month period which commences 12 months before the expiry date of the licence. This means that you can apply from 31 August 2018 and the absolute deadline for submitting an application will be 31 May 2019. If you miss that date, your licence will cease to have effect. If you do not apply until the very last date, this will put you at a real risk of losing your licence, as it may not be processed in time.

Before you can apply for renewal of personal licence, you must pass an up to date training course. The Scottish Government recommends that you should complete an up to date refresher training course and use the certificate to both refresh and renew your personal licence. You must produce the training certificate with your application and you cannot use the certificate you would have obtained some time ago – you must complete a further course.

The application must be accompanied by:

- your personal licence or, if that is not practicable, a statement of the reasons for your failure to produce the personal licence;
- 2 new passport photographs;
- your new refresher training certificate.

We publish information about personal licences at:

http://www.orkney.gov.uk/Service-Directory/L/Alcohol_Licensing.htm.

The application form for renewal of personal licence is published on that webpage, as Related Download numbered 6.

We have also published a Communications Document from the Scottish Government on that webpage, as Related Download numbered 6A. Please read that document, as it contains a lot of information about renewal of personal licences and includes FAQs. Paper copies are available on request from our office.

As recommended by the Scottish Government, please arrange to undertake a personal licence refresher training course as soon as possible and submit your application for renewal of personal licence as soon as you can.

If you no longer wish to hold a personal licence, it would be extremely helpful if you would return it to us, with confirmation that you wish to surrender it.

Prevention and Detection of Fraud

We are required to inform you that Orkney Islands Council, on behalf of Orkney Islands Area Licensing Board, is under a duty to protect the public funds it administers and to this end may use the information you provide on your application form for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing or administering public funds for these purposes.

Contact Us

If you have any questions regarding anything contained in this notification, please do not hesitate to contact the licensing team at this office.

Yours faithfully

Elaine Sinclair
Legal Clerk