

ORKNEY ISLANDS AREA LICENSING BOARD

LICENSING (SCOTLAND) ACT 2005 GUIDANCE ON OBJECTIONS AND REPRESENTATIONS VARIATIONS OF PREMISES LICENCES

This document contains information available in the Licensing (Scotland) Act 2005 and various Regulations made by the Scottish Government. It should be read in conjunction with the Board's pro-forma objections/representations form for variations of premises licences. If you are unclear about the information provided or what to do next, please contact your solicitor for advice.

Objections

Any person may, by notice to the Licensing Board, object to an application for variation of premises licence on one of the following grounds –

(a) that the application must be refused under the following sections of the Licensing (Scotland) Act 2005 –

32(2) – the Board must refuse any subsequent premises licence variation application in respect of the same premises licence and seeking the same variation made before the expiry of the period of one year beginning with the date of the earlier refusal, unless at the time of the earlier refusal the Board directed that section 32(2) would not apply to any subsequent application or the Board is satisfied that there has been a material change of circumstances since the earlier refusal;

64(2) – the Board must refuse an application for 24 hour opening unless it is satisfied that there are exceptional circumstances which justify allowing the sale of alcohol on the premises during such a period; or

65(3) – the Board must refuse an application for off-sales hours before 10 a.m. or after 10 p.m.;

(b) that the Board considers that the granting of the application would be inconsistent with one or more of 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;

(c) that, having regard to –

- (i) the nature of the activities proposed to be carried on in the subject premises;
- (ii) the location, character and condition of the premises; and
- (iii) the persons likely to frequent the premises,

the Board considers that the premises are unsuitable for use for the sale of alcohol in accordance with the proposed variation;

(d) that, having regard to the number and capacity of –

- licensed premises; or
- licensed premises of the same or similar description as the subject premises,

(taking account of the proposed variation) in the locality in which the subject premises are situated, the Board considers that, if the application were to be granted, there would, as a result, be overprovision of licensed premises, or licensed premises of that description, in the locality.

Note: Anyone lodging an objection on ground (d) above will require to specify the locality on which they are basing their objection.

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

Where the Board grants the application, the Board may make a variation of the conditions to which the licence is subject.

Representations

Any person may also, by notice to the Licensing Board, make representations concerning the application, including, in particular, representations –

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

General

Where the Licensing Board receives a notice of objection or representation, the Board must –

- give a copy of the notice to the applicant no later than 7 days before the date of the hearing at which the application is to be considered; and
- have regard to the objection or representation in determining the application,

unless the Board rejects the notice because it considers the objection or representation to be frivolous or vexatious. Where the Board rejects an objection or representation on those grounds, it may recover from the person who gave the notice any expenses incurred by the Board in considering the notice.

Licensing Board Staff – Contact Details

by writing to: The Licensing Team
 Legal Services
 Corporate Services
 Orkney Islands Council
 Council Offices
 Kirkwall, Orkney
 KW15 1NY

by telephone to: 01856 873535 ext. 2232 / 2229

by email to: licensing@orkney.gov.uk

by fax to: 01856 876941

ORKNEY ISLANDS AREA LICENSING BOARD

**LICENSING (SCOTLAND) ACT 2005
OBJECTIONS/REPRESENTATIONS FORM
VARIATIONS OF PREMISES LICENCES**

Please read the Board's Guidance on objections and representations – variations of premises licences – above before completing this form.

Please complete this form in typewritten or block capital script, using black ink.

Details of Person Making Objection/Representation	
Full Name of Person	
Address of Person, including postcode	
Telephone Number of Person	
Email Address of Person	
Details of Premises Licence Variation Application	
Address of Premises	

Details of Any Objection	
<p>Ground of Objection by reference to section 30(5) of the 2005 Act – these tally with the grounds of objection listed as (a) to (d) in the Board's Guidance</p>	<p>(a)</p> <p>(b)</p> <p>(c)</p> <p>(d)</p> <p>Delete as appropriate</p>
<p>If referring to ground (d) – specify locality being referred to. You may lodge copy maps if that would help to clarify the locality.</p>	
<p>Provide further detailed information about your objection. Please submit supplementary A4 sheets if required.</p>	
Details of Any Representation	
<p>Details of any representation in support of the application. Please submit supplementary A4 sheets if required.</p>	
<p>Details of any modifications which you consider should be made to the operating plan. Please submit supplementary A4 sheets if required.</p> <p>Ctd over</p>	

Details of any conditions which you consider should be imposed. Please submit supplementary A4 sheets if required.	
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Signature.....

Date