



## Licensing and COVID-19 (Coronavirus)

### **Guidance and Frequently Asked Questions (FAQs)**

<b>Important - read this first</b>	
<b>Effective Date:</b>	<b>Monday 18 April 2022</b>
<p>This guidance is for current licence holders and anyone planning to apply for a new Licence. It summarises the Coronavirus restrictions and explains how we have changed our Licensing services to help minimise the disruption caused to licence holders by Coronavirus.</p> <p>Because the rules and government guidance change often, we have revised these FAQs many times since they were first set out in early 2020. We believe that the information here is correct on the 'Effective Date' shown above, but you should contact us or check the other websites we refer to here.</p> <p>To make these FAQs useful to as many people as possible, the advice is general and may not cover your exact situation. If the answer you want is not here, or you want more specific advice, you should take independent legal advice. You can email us at:</p> <p style="text-align: center;"><a href="mailto:licensing@north-ayrshire.gov.uk"><u>licensing@north-ayrshire.gov.uk</u></a></p> <p>If you want advice about social distancing and other Coronavirus precautions you should contact the Council's "Protective Services" Department (this is different from the Licensing Section). Their email address is:</p> <p style="text-align: center;"><a href="mailto:ProtectiveServices@north-ayrshire.gov.uk"><u>ProtectiveServices@north-ayrshire.gov.uk</u></a></p> <p>You should also check the Scottish Government guidance - there is a lot of guidance for a wide range of activities and it is reviewed regularly. The Scottish Government website is:</p> <p style="text-align: center;"><a href="https://www.gov.scot/coronavirus-covid-19"><u>https://www.gov.scot/coronavirus-covid-19</u></a></p>	

### **How to use this document**

These FAQs are in Parts. Part 1 ("Information for all Licences") applies to everyone who uses our Licensing services. Read Part 1 and then go to the Part which applies to you.

#### Parts:

1. Information for all Licences

2. Drivers of Taxis and Private Hire Cars ("Taxi Driver's Licence")
3. Operators of Taxis and Private Hire Cars ("Taxi Licence" or "Private Hire Car Licence")
4. Alcohol: Premises Licences
5. Alcohol: Personal Licences
6. Alcohol: Occasional Licences
7. Caravans
8. Houses in Multiple Occupation (HMOs)
9. Gambling

## **1. Information for all Licences**

Questions:

- 1.1. "What is the 'Emergency Period' ?"
- 1.2. "When does the special legislation end?"
- 1.3. "Is the Licensing Office open?"
- 1.4. "Are there any Committee and Board Meetings?"
- 1.5. "How do I apply for a Licence?"
- 1.6. "How do I pay the Licence fee?"
- 1.7. "What is the rule for RENEWAL of Licences under the Civic Government (Scotland) Act 1982?"
- 1.8. "Which Licences stay in force if I apply for renewal in time?"
- 1.9. "Which Licences DON'T stay in force if I apply for renewal?"
- 1.10. "I cannot operate because of the Coronavirus rules. Can I get a refund, reduction or credit of the Licence Fee?"
- 1.11. "My business has closed or been restricted because of the Coronavirus Rules. Can I get a reduction or deferral of any Annual Fee?"

### **1.1. "What is the 'Emergency Period' ?"**

These FAQs often refer to the "Emergency Period". We use this to mean the period:

- which started on Thursday 26 March 2020, and
- which will continue until the special legislation passed by the Scottish Parliament expires - see FAQ below

### **"When does the special legislation end?"**

This special legislation is mainly in the Coronavirus (Scotland) Act 2020 and in the many sets of regulations which have been made, amended, and finally revoked over the past two years. The main regulations which were in force most recently (there were earlier regulations, but they have been replaced) were:

The Health Protection (Coronavirus) (Requirements) (Scotland) Regulations 2021 No. 277

These contained most of the Coronavirus restrictions, like

- the need for hospitality premises to record customer details,
- the need to wear face coverings,
- the need to maintain social distancing and
- the need for 'vaccine passports'.

These rules have changed over time, with some restrictions being added and later taken away, and the last of these restrictions were finally revoked on 18 April 2022 by:

The Health Protection (Coronavirus) (Requirements) (Scotland) Revocation (No. 2) Regulations 2022, No. 133,

This change means that from 18 April 2022 instead of:

- legal restrictions (which potentially could mean a Fixed Penalty or even a police charge)
- there is guidance. It is not illegal to fail to follow guidance.

All this legislation is on a free Government Internet website:

<https://www.legislation.gov.uk>

This covers all the legislation made by the Westminster and Holyrood Parliaments. To make it easier to find legislation dealing just with Coronavirus there is a link near the top of the screen:

### ***"Coronavirus legislation"***

On the next page, under the heading "Key pieces of coronavirus Legislation", click on the link "Scotland" (there are different Coronavirus rules for the 4 parts of the United Kingdom).

For example: in Scotland, the main 2020 Act is at:

<https://www.legislation.gov.uk/asp/2020/7/contents>

Apart from those regulations, there were separate rules about international travel. The Licensing Section do not deal with these.

## **1.2. "When does the special legislation end?"**

At the date of preparing this document, the date is 30 September 2022, but this date might be changed later by the Scottish Government.

The main provisions of the Coronavirus (Scotland) Act 2020, are in Part 1 of the Act (this Part consists of Sections 1 to 8). Section 12 provides that Part 1 expires at the end of 30 September 2022. When the Scottish Parliament originally passed the Act on 1 April 2020, the Act was only supposed to last to 30 September 2020, but it has since been extended:

to 31 March 2021 - Coronavirus (Scotland) Acts (Amendment of Expiry Dates) Regulations 2020 No. 299

to 30 September 2021 - Coronavirus (Scotland) Acts (Amendment of Expiry Dates) Regulations 2021 No. 152

to 31 March 2022 - Coronavirus (Extension and Expiry) (Scotland) Act 2021

to 30 September 2022 - Coronavirus (Scotland) Acts (Amendment of Expiry Dates) Regulations 2022 No. 113.

## **1.3. "Is the Licensing Office open?"**

We are not currently offering appointments at our Service Desk in Council Headquarters, Cunninghame House, Irvine. All the licensing staff are working from home.

If you would normally be giving us documents on paper (such as licence application forms, Driving Licences, and 'right-to-work' documents like Passports), you should scan these onto computer and send them to us as email attachments.

You should send your applications by email to:

[naclicensingapplications@north-ayrshire.gov.uk](mailto:naclicensingapplications@north-ayrshire.gov.uk)

If you have any queries about licensing, please send those to our general email address:

[Licensing@north-ayrshire.gov.uk](mailto:Licensing@north-ayrshire.gov.uk)

## **1.4. "Are there any Committee and Board Meetings?"**

When the lockdown started all planned meetings of the Licensing Committee and the Licensing Board were cancelled. We re-started meetings several months ago using video-conferencing. The meeting Schedules are on the Council's website:

- Licensing Committee:

[https://north-ayrshire.cmis.uk.com/north-ayrshire/-ayrshire.cmis.uk.com/north-ayrshire/CommitteesMeetings/Committees/tabid/62/ctl/ViewCMIS\\_CommitteeDetails/mid/381/id/121/Default.aspx](https://north-ayrshire.cmis.uk.com/north-ayrshire/-ayrshire.cmis.uk.com/north-ayrshire/CommitteesMeetings/Committees/tabid/62/ctl/ViewCMIS_CommitteeDetails/mid/381/id/121/Default.aspx)

- the Licensing Board:

<https://www.north-ayrshire.gov.uk/business/licences-and-permits/food-alcohol-gambling-licences/licensing-board.aspx>

Councils and Boards have special rules called "Schemes of Delegation" which mean that sometimes decisions can be taken by officers of the Committee or Board without the need for a meeting. Some decisions are reserved by Law to the Committee or Board.

When the Committee or Board are going to meet using video-conferencing, we send all parties (like people applying for Licences, or Licence-Holders, and people stating objections or representations) computer links so that they can connect their computers with the meeting. They also have the option of joining the meeting by telephone.

## **1.5. "How do I apply for a Licence?"**

You can find electronic copies of our applications elsewhere on this website.

Your application should be signed before it is scanned onto computer.

<b>Important</b>
Make sure you give us an email address we can use to contact you

Send scans of any necessary documentation - images of documents must be clear and legible.

Send your application form by email to:

[naclicensingapplications@north-ayrshire.gov.uk](mailto:naclicensingapplications@north-ayrshire.gov.uk)

See the next FAQ:

### ***"How do I pay the Licence fee?"***

Please be aware that it may take some time to review and process your application.

There are time-limits for us to process some (not all) types of Licence. Some legislation does not set a time-limit, but where there is a time-limit the Council need to make a decision to grant, renew or refuse the Licence within a time (often 12 months, but it can be longer depending on the kind of Licence).

*for example, the period for a Taxi Driver's Licence, and most other Licences under the Civic Government (Scotland) Act 1982 is now 12 months. It was 9 months before Coronavirus and was extended by emergency legislation made by the Scottish Parliament.*

There are no time limits for alcohol licences.

## **1.6. "How do I pay the Licence fee?"**

You cannot go to Council offices to pay by cash and you cannot post the Application with cash or a cheque.

You have a choice:

- (a) BACS Transfer
- (b) Telephone Payment

### **(a) BACS Transfer**

You can pay by a BACS transfer ("Bankers Automated Clearing Service").

You will need these details:

Payee:	<b>North Ayrshire Council</b>
Bank:	<b>Clydesdale Bank, 151 High Street, Irvine</b>
Bank Account No:	<b>20443773</b>
Sort Code:	<b>82 65 22</b>
Customer Ref / Account id no.:	<b>10253003000060153.</b>

If there is enough room on the form, please add information that will help us tie your payment to your case, like individual premises details or a Licence number.

<b>Important</b>
It is very important that you do this and that you tell us when you have sent a BACS transfer, so that we can look out for your payment and mark up our records.

When you send a BACS payment please send the remittance advice or alternative notification by email to:

[licensing@north-ayrshire.gov.uk](mailto:licensing@north-ayrshire.gov.uk)

### **(b) Telephone Payment**

If you are unable to make payment by BACS, you can pay by debit or credit card over the telephone.

If you want to do this, tell us by email to:

[licensing@north-ayrshire.gov.uk](mailto:licensing@north-ayrshire.gov.uk)

Please include a contact telephone number and an indication of the most suitable time(s) for us to contact you. A member of the Licensing team will then call you to take payment.

We use a special phone system so your phone might say 'caller identity withheld'.

### **1.7. "What is the rule for RENEWAL of Licences under the Civic Government (Scotland) Act 1982?"**

The Civic Government (Scotland) Act 1982 is the Law that covers Taxis, Private Hire Cars, Street Traders, Market Operators and Public Entertainment.

At the start of the "Emergency Period" the Council extended all Licences under **the 1982 Act** to 31 July 2020. This change was only temporary, and Licences which were due for renewal from and after August 2021 were not covered by the extension.

**When applying for renewal of your licence, please don't leave it to the last few days left on your Licence - you should apply for renewal well before the expiry date. We recommend you to apply at least 2 months before your licence expires.**

<b>IMPORTANT</b>
<p><b>Different legislation covers many other activities, including alcohol licences, landlord registration, caravans, and most animal licensing.</b></p> <p>The renewal rules are different depending on what Law applies to your Licence:</p> <ul style="list-style-type: none"><li>- In <u>some</u> cases, as long as we got your renewal application before the current Licence expired, the current Licence stays in force until the Council determines the new Application;</li></ul> <p style="text-align: center;">but</p> <ul style="list-style-type: none"><li>- In <u>other</u> cases, you cannot operate beyond expiry, even if you have <u>applied</u> before the expiry date. You will have to stop your operation, and you cannot re-start until the Council <u>grants</u> the renewal.</li></ul> <p>Read the next two FAQs for more information.</p>

### **1.8. "Which Licences stay in force if I apply for renewal in time?"**

- Licences under the Civic Government (Scotland) Act 1982

Examples are Taxi Driver's Licences, Taxi Licences ("Operator's Licences") and many other things: as soon as you apply for renewal, and you applied before the current Licence expired, the existing licence is continued, so you can keep driving your taxi or doing what your Licence covers; (there is a special rule for "Temporary Licences": these expire after 6 weeks, but if you apply in that time for a 'full' Licence then the "Temporary Licence" stays in force):

- Licences for "Houses in Multiple Occupation".

### **1.9. "Which Licences DON'T stay in force if I apply for renewal?"**

Licences under other legislation, for example:

- Personal Licences (Licensing (Scotland) Act 2005)
- Pet Animals Act 1951 (pet shops)
- Caravan Sites and Control of Development Act 1960
- Animal Boarding Establishments Act 1963 (cats and dogs)
- Riding Establishments Acts 1964 and 1970 (horses)

#### **The usual rule is 'there is NO automatic continuation'**

This means that you should aim to apply for renewal at least 2 months before your licence expires, leaving enough time to let the Council **both**

- process your application, and
- grant the renewed Licence.

before the existing Licence expires.

**If you don't apply for renewal in good time to allow us to process and grant the renewed Licence, it is very likely that you will have to apply for a new Licence, and you will not have a Licence (and not be able to work on it) for months.**

### **1.10. "I cannot operate because of the Coronavirus rules. Can I get a refund, reduction or credit of the Licence Fee?"**

No. If you have a Licence but you cannot operate your business, you cannot:

- get a refund of the fee, or
- ask for a partial refund of the fee
- ask for it to be held in credit towards a fee for a later application.

This because the fee covered the work to deal with your Application, and you would have had to pay that even if the Application had been refused altogether or if the Licence you were granted was for less than you asked for (such as shorter hours or a smaller area).

### **1.11. "My business has closed or been restricted because of the Coronavirus Rules. Can I get a reduction or deferral of any Annual Fee?"**

No. The legislation passed by the Scottish Parliament does not make any change to the Annual Fee rules which applied before the Emergency Period, so Councils are expected to collect Annual Fees at the same rate and according to the same timetable as before.

## **2. Drivers of Taxis and Private Hire Cars ("Taxi Driver's Licence")**

<b>IMPORTANT</b>
There are two kinds of Licence for Taxis and Private Hire Cars.  The rules are different, so the FAQs are different:  - <b><u>Drivers</u></b> have Licences with numbers like "TDL/123" or "PHCDL/123" - FAQs in <b><u>Part 2</u></b>  - <b><u>Operators</u></b> have Licences with numbers like "TL/123" or "PHCL/123" - FAQs in <b><u>Part 3</u></b>

Questions:

"Do I need to wear a face covering?"

"Can I refuse to carry a passenger who is not wearing a face covering?"

"I can't get a Licence badge because the Licensing Office is closed. What happens?"

### **"Do I need to wear a face covering?"**

No.

### **"Can I refuse to carry a passenger who is not wearing a face covering?"**

No.

### **"I can't get a Licence badge because the Licensing Office is closed. What happens?"**

Drivers usually need to wear badges, but during the Emergency Period the Council will not apply this rule to you if the reason you could not get a badge was because the Licensing Office was closed. The Council will contact you when your badge is available.

### **3. Operators of Taxis and Private Hire Cars ("Taxi Licence" or "Private Hire Car Licence")**

#### **IMPORTANT**

There are two kinds of Licence for Taxis and Private Hire Cars.

The rules are different, so the FAQs are different:

- **Drivers** have Licences with numbers like "TDL/123" or "PHCDL/123" - FAQs in **Part 2**

- **Operators** have Licences with numbers like "TL/123" or "PHCL/123" - FAQs in **Part 3**

Questions:

"My licence has an 'Expiry Date' soon, but the Licensing Office is closed. What happens?"

"Do I need to get my car inspected at the Council's garage?"

"I want to change the car on my Licence. What do I need to do?"

"I have fitted a screen to my car, or plan to do so. What do I need to do?"

#### **"My licence has an 'Expiry Date' soon, but the Licensing Office is closed. What happens?"**

You should still lodge your application for renewal well before the expiry date. See the FAQs in Part 1 above:

***"Is the Licensing Office open?"***

***"What is the rule for RENEWAL of Licences under the Civic Government (Scotland) Act 1982?"***

In the first few months of the Coronavirus Emergency the Council extended "Taxi Licences" and "Private Hire Car Licences" which were due to expire between 30th March and 31<sup>st</sup> July 2020 for 6 months. This extension was modelled on the extension scheme for MOTs.

**This Licence extension no longer applies.**

## **"Do I need to get my car inspected at the Council's garage?"**

Yes. You might want a test because:

- (a) you don't have a Licence
- (b) you have a Licence, but you want to substitute your current car for a new car
- (c) you have a licence, and the car is due its inspection because of the Licence Conditions - Taxis and Private Hire Cars need to be inspected at the Council garage every 12 months (or, if the car is 5 years old or older, every 6 months).

In all cases (a), (b) and (c) you should email us:

[licensing@north-ayrshire.gov.uk](mailto:licensing@north-ayrshire.gov.uk)

## **"I want to change the car on my Licence. What do I need to do?"**

<b>IMPORTANT</b>
<b>DO NOT BUY A NEW CAR UNTIL YOU HAVE CHECKED THAT IT MATCHES THE COUNCIL'S "VEHICLE SPECIFICATION POLICY". THIS IS ON THE COUNCIL'S INTERNET SITE AT:</b>
<a href="https://www.north-ayrshire.gov.uk/business/licences-and-permits/taxi-licences/taxi-pvt-hire-car-operator-licence.aspx"><u>https://www.north-ayrshire.gov.uk/business/licences-and-permits/taxi-licences/taxi-pvt-hire-car-operator-licence.aspx</u></a>
The Vehicle Specification Policy is under the heading "Vehicle specification and inspection standards".
The new car MUST:
- be under 8 years old (counted from the date of First Registration)
- be Wheelchair Accessible
- have a winch to help loading and unloading wheelchairs with passengers in them

The Council garage is still operating, so the procedure to substitute a vehicle is much the same as before the "Emergency Period":

1. Use the usual application form. This is on our website page "Taxi/private hire car operator licence":

<https://www.north-ayrshire.gov.uk/business/licences-and-permits/taxi-licences/taxi-pvt-hire-car-operator-licence.aspx>

Download the form under the heading "Substitute a vehicle";

2. Complete this, scan it onto computer and email it with the V5 Registration Document;

3. When we receive your application we will contact you to take a telephone payment from you.

**"I have fitted a screen to my car, or plan to do so. What do I need to do?"**

If you want advice about social distancing and other Coronavirus precautions you should contact the Council's "Protective Services" Department (this is different from the Licensing Section). Their email address is:

[ProtectiveServices@north-ayrshire.gov.uk](mailto:ProtectiveServices@north-ayrshire.gov.uk)

You should do two things:

**1. Contact your insurers**

Say what you have done or plan to do. Ask your insurers to say that they agree. The reason you want this is that your insurance policy probably says that you cannot make unauthorised changes to the car, so you need the insurer's agreement - otherwise the policy might be cancelled.

It is a good idea to ask the insurers to send you their agreement **in writing**.

**2. Email the Council**

If the insurers agree, complete the email in the box below and send it to us at:

[licensing@north-ayrshire.gov.uk](mailto:licensing@north-ayrshire.gov.uk)

The email is:

To North Ayrshire Council
licensing@north-ayrshire.gov.uk
Licence-Holder's name ..... [add your name]
Licence Number ..... [add your Licence Number]
Registration number of vehicle ..... [add Registration no.]
I have fitted a screen to the above vehicle.

I confirm that:

- the screen has been properly and securely fitted so that it is not a danger to any occupants in the vehicle,
- I have informed my insurer, and
- the insurance for the vehicle remains in place.

When we have this email we will record this as an authorised 'material change' to your Licence.

You do not need to get the car checked at the Council garage.

## **4. Alcohol: Premises Licences**

Questions:

"Is my 'Premises Licence' affected by COVID-19?"

"When is the Annual Fee for my Premises Licence due?"

"I have an 'on-sales' Premises Licence but I don't have 'off-sales'. Can I sell alcohol to take-away?"

"Can I sell FOOD to take-away?"

"Can I do home-delivery of ALCOHOL?"

"What are the rules for home-delivery?"

"Can I sell alcohol in lidded cups ('growlers')?"

### **"Is my 'Premises Licence' affected by COVID-19?"**

No, the Premises Licence itself is not affected even if the Premises close temporarily, but the Personal Licence held by the 'Designated Premises Manager' might be affected.

See FAQs below:

- in Part 4:

***"The 'Designated Premises Manager' cannot get 'refresher training' before the 5-year deadline. What happens?"***

- in Part 5:

***"My 'refresher training' course was cancelled because of COVID-19, and I can't get a training course before the 5-year deadline. What happens?"***

***"My Personal Licence will expire soon. What do I do?"***

Section 28(5)(b) of the Licensing (Scotland) Act 2005 means that a Premises Licence ceases if the Premises cease to be used for the sale of Alcohol - but this does not apply if the Premises cease to be used for the sale of alcohol for a temporary period for a reason relating to Coronavirus (the Coronavirus (Scotland) Act 2020, Schedule 5, Paragraph 2(2)(b) added a new provision to the Licensing (Scotland) Act 2005).

### **"When is the Annual Fee for my Premises Licence due?"**

The usual rule is:

All Premises, whether they have on-sales Licences, off-sales Licences, or both, have to pay the Board an Annual Fee in early October every year. If they do not pay by then it is likely that the Licensing Board will decide to revoke the Premises Licence or to suspend it until the fee is paid.

This is because one of the Mandatory Licence conditions applied by the legislation to all Premises Licences in Scotland is that annual and recurring fees must be paid (Licensing (Scotland) Act 2005, Schedule 3, Paragraph 10). This condition is a 'Mandatory Condition', which means that the Board cannot remove it. The emergency legislation which the Scottish Parliament made because of the Coronavirus Emergency changed some licensing rules, but not the rules about fees.

During the Emergency Period, North Ayrshire Licensing Board changed this:

If your Premises were 'off-sales' only, the fee was due on the normal date in early October 2020, but

If your Premises were 'on-sales' (or 'on-sales with off-sales'), the fee was legally due in early October 2020, but in North Ayrshire we did not expect you to pay before 15 February 2021.

**The change in the timetable applied only to the fee due in October 2020. Later fees would be due as normal, in October 2021 and October in later years.**

### **"The 'Designated Premises Manager' cannot get 'refresher training' before the 5-year deadline. What happens?"**

See the FAQ in Part 5:

***"My 'refresher training' course was cancelled ..."***

## **"I have an 'on-sales' Premises Licence but I don't have 'off-sales'. Can I sell alcohol to take-away?"**

No. You should be applying to the Board for a Major Variation of your Operating Plan.

In the early months of the Coronavirus Emergency the FAQ documents published then said that the Licensing Board did not expect you to do this, but that advice was given at a time when the Boards were not meeting at all - so even if you applied for a Major Variation, there would be no Board meeting to deal with your proposal. That situation has changed, as for many months the Board have been having meetings by video-conference, as often as they did before the Coronavirus Emergency.

See the FAQ in this Part:

***"Can I sell alcohol in lidded cups ('growlers')?"***

## **"Can I sell FOOD to take-away?"**

Yes, but only if you have a Food Safety Certificate from the Council's Environmental Health Department. This is different from the Licensing Board which granted your 'Premises Licence'.

During the "Emergency Period" you can sell food for take-away or for home-delivery even if your Licence does not cover this. If you want to keep doing these after the Emergency, you will need to ask the Board to vary your Licence.

The Law that allows this during the "Emergency Period" is the Coronavirus (Scotland) Act 2020, Schedule 5, Paragraph 2(8).

## **"Can I do home-delivery of ALCOHOL?"**

If you have 'off-sales' in your Premises Licence, you can home-deliver alcohol.

**but only in sealed containers, like unopened cans or bottles.**

See the FAQ below:

***"Can I sell alcohol in lidded cups ('growlers')?"***

You don't need to offer the sale of food. This applies to public houses, cafes, restaurants and shops.

**Clubs** are a special case:

- Most Clubs have special rules and are called 'Section 125' clubs. They should only supply alcohol to their Members, so they can't do home-delivery for the general public;

- Some Clubs have asked the Board to give up 'Section 125' status, and have become 'Part K clubs'. They can do home-delivery for the general public.

If you don't have 'off-sales' permission in your Premises Licence (Part 3), then you should consider apply for a Major Variation of your Operating Plan. We recommend that Premises do this so that they can put their entitlement beyond doubt and 'future-proof' their Licence by expressly seeking the Board's approval for home delivery. Therefore the Board will accept an application seeking a Major Variation.

During the Coronavirus Emergency the Licensing Board do not expect you to do this, **but** if you plan to continue home delivery after the Emergency Period then we recommend that you seek a Major Variation. In theory, the Police might charge you with breaking your Licence, but as far as the Licensing Board are concerned there will be no action taken against you solely for the reason that you are home-delivering alcohol during the Emergency.

It is important that the person who makes the delivery is able to **see** the customer, to check that the customer is 18 or over. If you have any doubt that the customer is at least 18, you must keep the alcohol (if the delivery includes food, you can give the customer the food).

**NEVER LEAVE ALCOHOL ON THE DOORSTEP AND WALK AWAY - MAKE SURE YOU SEE THE CUSTOMER**

**YOU MUST FOLLOW THE RULES FOR HOME DELIVERY (SEE BELOW)**

The Premises Licence Holder is responsible for the sale and the supply to the customer. If the Board are satisfied that any rules about the supply of alcohol have been broken then they might revoke or suspend the Licence.

### **"What are the rules for home-delivery?"**

Where alcohol (whether with or without food or any other goods or services) is supplied by delivery away from Licensed Premises (e.g. if a customer orders it by telephone) then:

- (a) alcohol can only be sold within Licensed Hours. Check Part 3 of your Operating Plan - if you already have off-sales hours, you must keep to those; if you don't, you must only sell in the period 10.00 a.m. to 10.00 p.m. (that is the period allowed by Board Policy and is the maximum allowed by Section 65 of the Licensing (Scotland) Act 2005);
- (b) alcohol can be delivered outside those hours, but cannot be delivered between 12.00 midnight and 6.00 a.m. (Section 120);
- (c) the Board is likely to regard a delivery operation as being inconsistent with both the 'crime and disorder' and 'protecting children and young people from harm' Licensing Objectives if alcohol is supplied unless:

(i) the supplier on arrival at the delivery address first carries out the same checks about the recipient's age as would be appropriate to a sale (see Section 102);

(ii) the supplier refuses delivery unless and until such evidence of age is produced.

(d) under Section 119, two records must be made before the Alcohol leaves the Premises:

(i) in a Day Book kept on the Premises; and

(ii) in a Delivery Book or Invoice carried by the person delivering the Alcohol.

(e) The information to be recorded in both cases is:

(i) the quantity, description and price of the Alcohol, and

(ii) the name and address of the person to whom it is to be delivered.

(f) It is illegal to deliver Alcohol to an address which is not recorded in both records. The records must be shown to a Police Constable or Licensing Standards Officer on request.

## **"Can I sell alcohol in lidded cups ('growlers')?"**

You can **only** use these to **deliver** alcohol to customers **at their homes**. You cannot use these for take-aways.

This is because Premises which sell off-sales in North Ayrshire have the Board's Standard Conditions. The conditions for off-sales (which means shops selling off-sale as well as pubs) include:

*"B.2 Containers - All alcohol sold for consumption off the premises shall be sold in sealed and unopened containers."*

Premises which break this condition can be referred to the Licensing Board. The Licence might be revoked or suspended.

A customer can only have alcohol in public if it is **not** in an 'open container'. There are Byelaws in North Ayrshire meaning that it is a criminal offence:

- to drink in public, or

- to possess an 'open container' in public.

If customers buy a can or bottle from an off-sale (a shop or a pub), they can have it in public - they might be taking their shopping home.

What they can't do is open the container. It will have a one-time seal (such as the ring-pull on a can or a screw-top before the maker's seal is broken). Once the can or bottle has been unsealed it is always an 'open container', even if someone puts a lid on it to stop it spilling.

If you sell drink in open containers in circumstances where it is likely to be drunk in breach of the Byelaws the Police can make a Review Application to the Board asking for your Licence to be revoked.

These rules mean:

- The alcohol must stay in the possession of a member of your staff or a delivery driver from the time it leaves your premises until the time it is delivered
- the delivery must not be in a public place
- you must not deliver alcohol direct to customers on your premises so that they can take it off your premises.

## **5. Alcohol: Personal Licences**

Questions:

"My 'refresher training' course was cancelled because of COVID-19, and I can't get a training course before the 5-year deadline. What happens?"

"My Personal Licence will expire soon. What do I do?"

"I don't have a training certificate. What do I do?"

### **"My 'refresher training' course was cancelled because of COVID-19, and I can't get a training course before the 5-year deadline. What happens?"**

Any Personal Licence Holder must do two things:

- (a) get a 'refresher training' certificate within 5 years of the Licence being issued, and
- (b) show the certificate to the Board (the original or a copy) within 3 months of the end of that 5-year period.

During the "Emergency Period", you have an extra 15 months to do both (a) and (b) because the Board have a Policy (set out below).

**This Policy only affects refresher training. It does not affect renewal of a Personal Licence. The rules are different:**

All Personal Licence last 10 years (the Licensing Board cannot change this). One of the requirements imposed by the legislation is that every 5 years the Licence-Holder must do both (a) and (b) above. If the Licence-Holder does not do both, the Licensing Board is required by Law to revoke the Licence. There is no Hearing and no Appeal.

So, if your Personal Licence was granted in 2015, the Licence itself would not be due for renewal until 2025, but the deadline for you doing 'refresher training' would be sometime in 2020. Because of the Policy, you have more time.

The new Policy is:

*"For the duration of the COVID-19 Emergency, where the Board is satisfied on written evidence from the training course that:*

- 1. a Personal Licence Holder had booked a 'refresher training' course to be held before the 5-year date, or no such training was reasonably available but*
- 2. that course was then cancelled,*

*then the Board will not immediately revoke the Licence due to failure to comply with the 'refresher training' rules, but the Licence Holder must still get 'refresher training', so (no later than one year after the date when he/she would under normal circumstances have to give the Board evidence of 'refresher training') he/she must do two things:*

- 1. get a 'refresher training' certificate, and*
- 2. send the Board a copy.*

*If the Licence Holder does both these things, the Board will not revoke the Licence.*

*If the Licence Holder does neither, or only one, the Board will have no choice but to revoke the Licence."*

The legislation applying to the Licence is the Licensing (Scotland) Act 2005. This is on a Government Internet website:

<http://www.legislation.gov.uk/asp/2005/16/contents>

The 'refresher training' rules are in Section 87.

## **"My Personal Licence will expire soon. What do I do?"**

You should apply for renewal now.

Before the Coronavirus Emergency, you could only apply up to 3 months before your Licence expired, but the emergency rules mean that you can apply later than 3 months if we are satisfied that, for a reason relating to coronavirus, you could not apply earlier. So if you are applying late, you should tell us why.

The emergency rules mean that you can apply for renewal:

- right up to the last day of your Licence

and

- if you apply before the Expiry Date your existing Licence lasts an extra 6 months.

The Law that applies is the Coronavirus (Scotland) Act 2020, Schedule 5, Paragraphs 3(2) and 3(3).

Download an Application form from our website:

<https://www.north-ayrshire.gov.uk/business/licences-and-permits/food-alcohol-gambling-licences/personal-licence.aspx>

Print it, scan it on computer as a PDF file, and email it to:

[naclicensingapplications@north-ayrshire.gov.uk](mailto:naclicensingapplications@north-ayrshire.gov.uk)

If you have a training certificate, include a scan of this (if you don't have a training certificate, see the next question).

See FAQ in Part 1:

### ***"How do I pay the Licence fee?"***

If you apply after the Expiry Date, we must treat your application as seeking a new Licence, not the renewal of an existing Licence. This makes a difference to the training qualifications you need. You should ask us about this.

### **"I don't have a training certificate. What do I do?"**

You should still apply for renewal before your existing Licence expires. If you do that then the emergency rules mean that your existing Licence stays in force for 6 months after its Expiry Date.

We can't grant the renewal application until we see one of these qualifications:

- Scottish Certificate for Personal Licence Holders.
- The Scottish Certificate for Personal Licence Holders (Refresher)

If you can book a training course, check the course leads to one of these. Make sure that the course leads to a Scottish Certificate: the Licensing system in England and Wales also has "Personal Licences" but the legislation is quite different and a training course for an English or Welsh Personal Licence is useless in Scotland.

If you can't book a training course, your Licence will expire after the extra 6 months. The Law that gives you an extra 6 months is the Coronavirus (Scotland) Act 2020, Schedule 5, Paragraph 3(2).

## **6. Alcohol: Occasional Licences**

### **"Can I use a series of Occasional Licences to run a business?"**

Only if you already had OLs granted. New businesses cannot get OLs.

For more information, see our "Occasional Licence" webpage at

<https://www.north-ayrshire.gov.uk/business/licences-and-permits/food-alcohol-gambling-licences/occasional-licence.aspx>

Licensing Board Policy was **temporarily** changed because of the Coronavirus Emergency.

Normally Board Policy would prevent Occasional Licences from being used for regular trading.

The temporary change of Policy was adopted at the start of the Coronavirus Emergency, when Boards were not having meetings at all, so if the Policy had not been changed new businesses would not have been able to trade.

The Board re-started meetings several months ago, using video-conferencing, so the use of OLs for trading is limited to those business activities which are already covered by OLs, and even then they are expected to apply for a suitable Premises Licence or Major Variation.

Previous versions of these FAQs included:

*"If businesses are allowed to apply for a sequence of 14-day Occasional Licences, they should note:*

- that the use of Occasional Licences is not a long-term solution for them;*
- to maintain a Licence long-term, businesses will need to apply for and have granted a Premises Licence (or a Major Variation of a Premises Licence) if it is planned to continue the sale of alcohol, rather than using a series of OLs;"*

## **7. Caravans**

### **"Does the rule about Caravan Sites only being used at some times of the year apply?"**

No.

Some Caravan Site Licences have a condition restricting the use of the site to particular times of the year - a common example is a condition limiting use to 11 months of the year. In anticipation of businesses re-opening and the limitations on movement being

lifted, we have had requests to lift that condition so that holiday-home owners can get holidays and sites can take bookings.

**This condition no longer applies to any Caravan Site in North Ayrshire, and will not be re-imposed after the Coronavirus Emergency. There is no need for the Licence-Holders of individual sites to ask the Council;**

**but**

**this only changes the Licence; Planning Permission is issued under different legislation from the Licence and you should check your site's Planning Permission as well.**

**The change of policy allowing all-year-round use only affects the Licence. Some sites might have a restriction limiting occupation under the Planning legislation, so you should check your Planning Permission to see if there is a condition about this. Contact the Council's Development Management Department.**

## **8. Houses in Multiple Occupation (HMOs)**

### **"When does an HMO Licence expire?"**

All House in Multiple Occupation (HMO) Licences in North Ayrshire have been varied so that they expire six months after the date stated on the Licence.

Because of the Coronavirus Emergency, North Ayrshire Council did this:

The Council published the proposal to do this in an earlier version of these FAQs.

Any HMO Licence Holder, Police Scotland or Scottish Fire and Rescue was entitled to make written representations about this proposal within 7 days of the Friday 10 July 2020 (this was the date of the version of this document which first contained this proposal).

As we did not receive written representations in that time we assumed that no-one had any objection to the proposal, and varied all North Ayrshire HMO Licences, so the change applies automatically.

## **9. Gambling**

### **"Is the timetable for paying GAMBLING Annual Fees changed because of Coronavirus?"**

No. The emergency legislation passed because of the Coronavirus Emergency did not change Gambling law but in North Ayrshire we did not expect you to pay before 15 February 2021. Later fees are due according to the pre-Coronavirus timetable.