

LICENSING (SCOTLAND) ACT 2005

PREMISES LICENCES: MANDATORY CONDITIONS

Interpretation

1. In relation to any Premises Licence, “the premises” means, the premises specified in the Licence.

Compliance with the Operating Plan

2.
 - (1) Subject to sub-paragraph (3), alcohol is to be sold on the premises only in accordance with the Operating Plan contained in the Licence.
 - (2) Nothing in sub-paragraph (1) is to be read as preventing or restricting the doing of anything referred to in Section 63(2).
 - (3) This paragraph does not apply in respect of premises:-
 - (a) whose main function is to provide a visitor attraction, and
 - (b) where:-
 - (i) the premises form part of a larger site which is used principally for the production of alcoholic drinks, or
 - (ii) the visitor attraction is used principally to provide information about and promote the history and attributes of a particular alcoholic drink or a particular category of alcoholic drink.
3. Any other activity to be carried on in the premises is to be carried on only in accordance with the Operating Plan contained in the Licence.

The Premises Manager

4.
 - (1) Alcohol is not to be sold on the premises at any time when:-
 - (a) there is no Premises Manager in respect of the premises,
 - (b) the Premises Manager does not hold a Personal Licence,
 - (c) the Personal Licence held by the Premises Manager is suspended, or
 - (d) the licensing qualification held by the Premises Manager is not the appropriate licensing qualification in relation to the premises.
 - (2) In sub-paragraph (1) “appropriate licensing qualification” in relation to any licensed premises means any licensing qualification prescribed as such in relation to licensed premises of that description in Regulations under Section 91(2)(d).
 - (3) Nothing in sub-paragraph (1) or paragraph 5 is to be read as requiring the Premises Manager to be present on the premises at the time any sale of alcohol is made.

Authorisation of Sales of Alcohol

5. Every sale of alcohol made on the premises must be authorised (whether generally or specifically) by:-
- (a) the Premises Manager, or
 - (b) another person who holds a Personal Licence.

Training of Staff

6. (1) No person (other than a person who holds a Personal Licence) is to work in the premises in the capacity mentioned in sub-paragraph (2) unless that person has complied with such requirements as to the training of staff as may be prescribed for the purposes of this paragraph.
- (2) That is a capacity (whether paid or unpaid) which involves the person:-
- (a) making sales of alcohol, or
 - (b) where alcohol is sold on the premises for consumption on the premises, serving such alcohol to any person.
- (2A) At any time when a person (other than a person who holds a Personal Licence) is working in the premises in a capacity mentioned in sub-paragraph (2), there must be kept on the premises a training record which relates to that person and is in the form set out in the Schedule to the Licensing (Mandatory Conditions No. 2) (Scotland) Regulations 2007. A sample of the training record and Schedule of Training to be covered is attached.
- (2B) A record kept on the premises under sub-paragraph (2A) must be produced to a Licensing Standards Officer on request.
- (3) Regulations under sub-paragraph (1) prescribing training requirements may, in particular:-
- (a) provide for the accreditation by the Scottish Ministers of:-
 - (i) courses of training, and
 - (ii) persons providing such courses,for the purposes of the Regulations,
 - (b) prescribe different training requirements in relation to different descriptions of persons,
 - (c) require that any person providing training or any particular description of training in accordance with the Regulations hold a Personal Licence or such other qualification as may be prescribed in the Regulations, and
 - (d) require training to be undergone again at such intervals as may be prescribed in the Regulations.

Pricing of Alcohol

- 6A. (1) Alcohol must not be sold on the premises at a price below its minimum price.
- (2) Where alcohol is supplied together with other products or services for a single price, sub-paragraph (1) applies as if the alcohol were supplied on its own for that price.
- (3) The minimum price of alcohol is to be calculated according to the following formula –
- $$\text{MPU} \times \text{S} \times \text{V} \times 100$$
- where –
- MPU is the minimum price per unit,
- S is the strength of the alcohol, and
- V is the volume of the alcohol in litres.
- (4) The Scottish Ministers are to specify by order the minimum price per unit for the purposes of sub-paragraph (3).
- (5) For the purposes of sub-paragraph (3), where –
- (a) the alcohol is contained in a bottle or other container, and
- (b) the bottle or other container is marked or labelled in accordance with relevant labelling provisions,
- the strength is taken to be the alcoholic strength by volume as indicated by the mark or label.
- (6) The Scottish Ministers are to specify by order the enactments which are relevant labelling provisions for the purposes of sub-paragraph (5).
- 6B. (1) A package containing two or more alcoholic products (whether of the same or different kinds) may only be sold on the premises at a price equal to or greater than the sum of the prices at which each alcoholic product is for sale on the premises.
- (2) Sub-paragraph (1) applies –
- (a) only where each of the alcoholic products is for sale on the premises separately, and
- (b) regardless of whether or not the package also contains any item which is not an alcoholic product.
- (3) In this paragraph, “alcoholic product” means a product containing alcohol and includes the container in which alcohol is for sale.
7. Where the price at which any alcohol sold on the premises for consumption on the premises is varied:-
- (a) the variation (referred to in this paragraph as “the earlier price variation”) may be brought into effect only at the beginning of a period of licensed hours, and

- (b) no further variation of the price at which that or any other alcohol is sold on the premises for consumption on the premises may be brought into effect before the expiry of the period of 72 hours beginning with the coming into effect of the earlier price variation.

7A. Where the price at which any alcohol sold on the premises for consumption off the premises is varied –

- (a) the variation (referred to in this paragraph as “the earlier price variation”) may be brought into effect only at the beginning of a period of licensed hours, and
- (b) no further variation in the price at which that alcohol is sold on the premises may be brought into effect before the expiry of the period of 72 hours beginning with the coming into effect of the earlier price variation.

Irresponsible Drinks Promotions

8. (1) An irresponsible drinks promotion must not be carried on in or in connection with the premises.

(2) Subject to sub-paragraph (3), a drinks promotion is irresponsible if it:-

- (a) relates specifically to an alcoholic drink likely to appeal largely to persons under the age of 18,
 - (b) involves the supply of an alcoholic drink free of charge or at a reduced price on the purchase of one or more drinks (whether or not alcoholic drinks),
 - (c) involves the supply free of charge or at a reduced price of one or more extra measures of an alcoholic drink on the purchase of one or more measures of the drink,
 - (d) involves the supply of unlimited amounts of alcohol for a fixed charge (including any charge for entry to the premises),
 - (e) encourages, or seeks to encourage, a person to buy or consume a larger measure of alcohol than the person had otherwise intended to buy or consume,
 - (f) is based on the strength of any alcohol,
 - (g) rewards or encourages, or seeks to reward or encourage, drinking alcohol quickly, or
 - (h) offers alcohol as a reward or prize, unless the alcohol is in a sealed container and consumed off the premises.
- (3) Paragraphs (c) to (e) of sub-paragraph (2) apply only to a drinks promotion carried on in relation to alcohol sold for consumption on the premises.
- (4) The Scottish Ministers may by regulations modify sub-paragraph (2) or (3) so as to:-
- (a) add further descriptions of drinks promotions,
 - (b) modify any of the descriptions of drinks promotions for the time being listed in it, or
 - (c) extend or restrict the application of any of those descriptions of drinks promotions.
- (5) In this paragraph, “drinks promotion” means, in relation to any premises, any activity which promotes, or seeks to promote, the buying or consumption of any alcohol on the premises.

Provision of Non-Alcoholic Drinks

9. (1) The Conditions specified in this paragraph apply only to the extent that the Premises Licence authorises the sale of alcohol for consumption on the premises.
- (2) Tap water fit for drinking must be provided free of charge on request.
- (3) Other non-alcoholic drinks must be available for purchase at a reasonable price.

Age Verification Policy

- 9A. (1) There must be an age verification policy in relation to the sale of alcohol on the premises.
- (2) An “age verification policy” is a policy that steps are to be taken to establish the age of a person attempting to buy alcohol on the premises (“the customer”) if it appears to the person selling the alcohol that the customer may be less than 25 years of age (or such older age as may be specified in the policy).
- (3) The condition specified in this paragraph does not apply in relation to any sale of alcohol which takes place on the premises merely by virtue of being treated, by Section 139, as taking place on the premises.

Payment of Annual or Recurring Fees

10. (1) The Condition specified in sub-paragraph (2) applies only in relation to a Premises Licence in respect of which an annual or other recurring fee is to be paid by virtue of Regulations under Section 136(1).
- (2) The fee must be paid as required by the Regulations.

Notices – Admission of Persons under 18

11. (1) The Condition specified in this paragraph applies only in the case of premises on which alcohol is sold for consumption on the premises.
- (2) There is to be displayed so that it is reasonably visible to customers entering the premises a sign of at least A4 size which:-
- (a) states that persons under the age of 18 are not permitted on the premises; or
 - (b) states that such persons are permitted on the premises or on such parts of the premises as are specified on the sign.

Baby Changing Facilities

12. (1) The Condition specified in this paragraph applies only in the case of premises:-
- (a) which are not:-
 - (i) a vehicle,
 - (ii) a vessel,

- (iii) a moveable structure, or
 - (iv) used wholly or mainly for the purposes referred to in Section 125(1).
- (b) on which alcohol is sold for consumption on the premises, and
- (c) to which children under the age of 5 are to be admitted.
- (2) There are to be on the premises facilities for baby changing which are to be accessible to persons of either gender.

Display or Promotion of the Sale of Alcohol for Consumption Off the Premises

13. (1) Subject to sub-paragraph (3), alcohol which is for sale only for consumption off the premises may be displayed only in one or both of the following–
 - (a) a single area of the premises agreed between the Licensing Board and the holder of the licence; or
 - (b) a single area of the premises which is inaccessible to the public.
- (1A) Sub-paragraphs (1B) to (1D) apply where the premises, in so far as they are used for the sale of alcohol, are so used only or primarily for the sale of alcohol for consumption off the premises.
- (1B) Any drinks promotion on the premises may take place only in any one or more of the following –
 - (a) an area referred to in sub-paragraph (1)(a) and (b),
 - (b) a room on the premises which is used for offering the tasting of any alcohol sold on the premises (for consumption off the premises) and the resulting tasting and is separate from those areas.
- (1C) A drinks promotion in connection with the premises may not take place in the vicinity of the premises.
- (1D) For the purposes of sub-paragraph (1C), the “vicinity” means the area extending 200 metres from the boundary of the premises (as shown on the layout plan).
- (2) In an area agreed in terms of sub-paragraph (1)(a), a product other than alcohol may be displayed only if it is:-
 - (a) a non-alcoholic drink;
 - (b) packaged with, and may be purchased only along with, alcohol;
 - (c) a branded non-alcoholic product, or
 - (d) a newspaper, magazine or other publication.
- (2A) Sub-paragraph (2) is without prejudice to sub-paragraph (1B).

- (3) This paragraph does not apply in respect of premises –
- (a) whose main function is to provide a visitor attraction, and
 - (b) where –
 - (i) the premises form part of a larger site which is used principally for the production of alcoholic drinks, or
 - (ii) the visitor attraction is used principally to provide information about and promote the history and attributes of a particular alcoholic drink or a particular category of alcoholic drink.
- (4) In this paragraph -
- “branded non-alcoholic product” means a product which does not consist of or contain alcohol and which –
- (a) bears a name or image of, or
 - (b) is an image of,
- an alcoholic product (namely, a product consisting of or containing alcohol),
- “drinks promotion” means any activity which promotes, or seeks to promote, the buying of any alcohol sold on the premises for consumption off the premises but does not include the display of any product which is –
- (a) a branded non-alcoholic product for sale on the premises, or
 - (b) a newspaper, magazine or other publication –
 - (i) for sale on the premises, or
 - (ii) if not for sale on the premises, which does not relate only or primarily to alcohol.

TRAINING SCHEDULE

Relevant Training

In regulation 2, “relevant training” means training of at least 2 hours’ duration which covers each of the matters specified in the Schedule.

Matters To Be Covered

1. The legal basis of the requirement for the training of staff under paragraph 6 of schedule 3 to the Act.
2. The licensing objectives.
3. The definition of “alcohol” in the Act.
4. What constitutes an unlicensed sale.
5. The functions of Licensing Standards Officers, including their powers of entry.
6. The nature of an operating plan and its place in the licensing system.
7. The different types of premises licence conditions under section 27 of the Act.
8. Special provision for clubs under section 125 of the Act.
9. Licensed hours under Part 5 of the Act.
10. Offences under the Act, particularly those involving persons under the age of 18.
11. Proof of age under sections 102 and 108 of the Act and the Sale of Alcohol to Children and Young Persons (Scotland) Regulations 2007(2).
12. Test purchasing of alcohol under section 105(2) of the Act.
13. Best practice as regards standards of service and refusing service.
14. Units of alcohol and the relationship between units and the strength of different alcoholic drinks.
15. The sensible drinking limits for males and females recommended by the British Medical Association.
16. Good practice in managing conflict situations.

SAMPLE
SAMPLE

TRAINING OF STAFF - TRAINING RECORD - [*Name of member of staff to be inserted here*]

The Act

Schedule 3

6.—(1) No person (other than a person who holds a personal licence) is to work in the premises in the capacity mentioned in sub-paragraph (2) unless that person has complied with such requirements as to the training of staff as may be prescribed for the purposes of this paragraph.

(2) That is a capacity (whether paid or unpaid) which involves the person—

- (a) making sales of alcohol, or
- (b) where alcohol is sold on the premises for consumption on the premises, serving such alcohol to any person.

DECLARATION

TRAINEE

I [*insert name of member of staff*] confirm that I have received the training required by the Licensing (Training of Staff) (Scotland) Regulations 2007.

[*Please insert signature*]

TRAINER

I [*please insert name*] confirm that I have provided the above named member of staff with the training required under the Licensing (Training of Staff) (Scotland) Regulations 2007 on [*please insert date or dates*].

[*Please insert signature*]

[*Where signatory is the holder of a Personal Licence issued under the Licensing (Scotland) Act 2005, please insert the number and the name of Licensing Board which issued the licence here*].

[*Where signatory is a person other than the holder of a Personal Licence described above, please provide details of the qualification held and accredited by the Scottish Qualifications Authority for the purposes of regulation 2(b) of the Licensing (Training of Staff) (Scotland) Regulations 2007. The name of any company by which the person is employed to provide training should also be given.*]