



Licensing (Scotland) Act 2005

2005 asp 16

PART 5

LICENSED HOURS

General

62 Licensed hours

- (1) In this Act, “licensed hours” means, in relation to licensed premises—
- (a) in the case of licensed premises in respect of which a premises licence has effect, the period or periods of time specified for the time being in the operating plan contained in the premises licence as those during which alcohol is to be sold on the premises, and
 - (b) in the case of licensed premises in respect of which an occasional licence has effect, the period or periods of time specified in the licence as those during which alcohol may be sold on the premises,
- and a reference to a period of licensed hours is a reference to any of those periods of time.
- (2) In this Act—
- (a) in relation to any premises—
 - (i) “on-sales hours” means licensed hours applying to the sale of alcohol for consumption on the premises,
 - (ii) “off-sales hours” means licensed hours applying to the sale of alcohol for consumption off the premises, and
 - (b) in relation to any licensed premises on which alcohol is sold both for consumption on the premises and for consumption off the premises, references to licensed hours are—
 - (i) in relation to alcohol sold for consumption on the premises, to be read as references to on-sales hours,
 - (ii) in relation to alcohol sold for consumption off the premises, to be read as references to off-sales hours.
- (3) Subsection (1) is subject to sections 67(6) and 68(5).

63 Prohibition of sale, consumption and taking away of alcohol outwith licensed hours

- (1) Subject to subsection (2), a person commits an offence if, outwith licensed hours, the person—
 - (a) sells alcohol, or allows alcohol to be sold, on licensed premises,
 - (b) allows alcohol to be consumed on licensed premises, or
 - (c) allows alcohol to be taken from licensed premises.
- (2) It is not an offence under subsection (1) for a person to—
 - (a) allow alcohol to be consumed on licensed premises at any time within 15 minutes of the end of any period of licensed hours if the alcohol was sold during that period,
 - (b) allow alcohol to be taken from licensed premises at any time within 15 minutes of the end of any period of licensed hours if the alcohol—
 - (i) was sold during that period, and
 - (ii) is not taken from the premises in an open container,
 - (c) allow alcohol to be consumed on or taken from licensed premises outwith licensed hours if the person consuming or taking the alcohol—
 - (i) resides on the premises, or
 - (ii) is a guest of a person who resides there,
 - (d) sell alcohol or allow alcohol to be sold on licensed premises outwith licensed hours if the alcohol is sold to a person who resides on the premises,
 - (e) allow alcohol to be consumed on licensed premises at a meal at any time within 30 minutes of the end of any period of licensed hours if the alcohol was sold—
 - (i) during that period,
 - (ii) at the same time as the meal, and
 - (iii) for consumption at the meal,
 - (f) sell alcohol or allow alcohol to be sold on licensed premises outwith licensed hours if the alcohol is sold to—
 - (i) a person who is a trader for the purposes of the person's trade, or
 - (ii) a person for supply to or on any premises which are occupied for the purposes of the armed forces of the Crown.
- (3) It is a defence for a person ("the accused") charged with an offence under subsection (1) of allowing alcohol to be consumed on or taken from any licensed premises outwith licensed hours to prove—
 - (a) that the accused, or an employee or agent of the accused, took all reasonable precautions and exercised all due diligence not to commit the offence, or
 - (b) that there were no lawful and reasonably practicable means by which the accused could prevent the person consuming or taking the alcohol on or from the premises from so doing.
- (4) A person commits an offence if, having been requested by a responsible person not to do so, the person consumes alcohol on, or takes alcohol from, licensed premises outwith licensed hours.
- (5) In subsection (4), "responsible person" means—
 - (a) in the case of licensed premises in respect of which a premises licence has effect, the premises manager,

- (b) in the case of licensed premises in respect of which an occasional licence has effect, the holder of the licence,
 - (c) in either case, any person who works on the premises in a capacity (whether paid or unpaid) which authorises the person to make the request mentioned in subsection (4).
- (6) Nothing in this section prevents or restricts—
 - (a) the ordering of alcohol for consumption off licensed premises, or
 - (b) the despatch of alcohol so ordered by the person selling it.
- (7) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

64 24 hour licences to be granted only in exceptional circumstances

- (1) Subsection (2) applies where, in relation to any premises—
 - (a) an application of any of the following kinds is made to a Licensing Board in respect of the premises, namely—
 - (i) a premises licence application,
 - (ii) a premises licence variation application,
 - (iii) an occasional licence application, or
 - (iv) an extended hours application, and
 - (b) if the application were to be granted, the licensed hours in relation to the premises would be such as to allow alcohol to be sold on the premises during a continuous period of 24 hours or more.
- (2) The Licensing Board must refuse the application unless the Board is satisfied that there are exceptional circumstances which justify allowing the sale of alcohol on the premises during such a period.

65 Licensed hours: off-sales

- (1) This section applies where an application specified in subsection (2) is made to a Licensing Board in relation to any premises, but only so far as the application is for—
 - (a) a licence authorising the sale of alcohol for consumption off the premises, or
 - (b) an extension of off-sales hours in relation to the premises.
- (2) That application is—
 - (a) a premises licence application,
 - (b) a premises licence variation application,
 - (c) an occasional licence application, or
 - (d) an extended hours application.
- (3) If the off-sales hours proposed in the application are such that alcohol would be sold for consumption off the premises—
 - (a) before 10am,
 - (b) after 10pm, or
 - (c) both,on any day, the Board must refuse the application.

- (4) The Scottish Ministers may by order substitute other times for the times specified in subsection (3).
- (5) Where subsection (3) does not apply, in considering whether the granting of the application would be inconsistent with any of the licensing objectives, the Board must, in particular, consider the effect (if any) which the off-sales hours proposed in the application would have on the occurrence of antisocial behaviour.
- (6) In subsection (5), “antisocial behaviour” has the same meaning as in section 143 of the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8).
- (7) This section is without prejudice to the generality of sections 23(4), 30(4), 59(3) and 68(1).

66 Effect of start and end of British Summer Time

- (1) Subsection (2) applies in relation to any period of licensed hours—
 - (a) during which, or
 - (b) at the end of which,British Summer Time is due to begin or end.
- (2) The beginning or, as the case may be, ending of British Summer Time is to be disregarded for the purpose of determining the time at which that period of licensed hours ends and, accordingly, the period ends at the time it would have ended had British Summer Time not begun or ended.
- (3) In this section, “British Summer Time” means the period of summer time for the purposes of the Summer Time Act 1972 (c. 6).