

This Scottish Statutory Instrument has been made in consequence of a defect in S.S.I. 2006/239 and is being issued free of charge to all known recipients of that instrument.

SCOTTISH STATUTORY INSTRUMENTS

2006 No. 286 (C. 28)

LICENSING (LIQUOR)

**The Licensing (Scotland) Act 2005 (Commencement
No. 2 and Transitional Provisions) Order 2006**

Made - - - -

25th May 2006

The Scottish Ministers, in exercise of the powers conferred by sections 146(2) and 150(2) of the Licensing (Scotland) Act 2005⁽¹⁾ and of all other powers enabling them in that behalf, hereby make the following Order:

Citation and interpretation

1.—(1) This Order may be cited as the Licensing (Scotland) Act 2005 (Commencement No.2 and Transitional Provisions) Order 2006.

(2) In this Order—

“the Act” means the Licensing (Scotland) Act 2005; and

“the 1976 Act” means the Licensing (Scotland) Act 1976⁽²⁾.

Appointed day

2. 1st June 2006 is appointed as the day for the coming into force of the following provisions of the Act—

(a) subsections (1) to (3) and (6) of section 105; and

(b) section 149 and schedule 7 so far as relating to the repeal in section 68(2) of the 1976 Act of the words “in licensed premises buy or attempt to buy alcoholic liquor nor”.

Transitional provisions

3. In the period until section 102 of the Act comes into force, subsection (2) of section 105 of the Act is to have effect as if, for the words “is being committed under section 102”, there were

(1) 2005 asp 16.

(2) 1976 c. 66.

substituted “of selling alcoholic liquor to a person under 18 is being committed under section 68(1) of the Licensing (Scotland) Act 1976”.

4. Until provision is made to the contrary by way of an order under section 145 of the Act, only the chief constable of the Fife police force may authorise a child or young person for the purpose referred to in subsection (2) of section 105 of the Act.

5.—(1) In the period until subsection (4) of section 68 of the 1976 Act is repealed, a young person buying or attempting to buy alcohol in the circumstances specified in paragraph (2) commits no offence under section 105(1) of the Act.

(2) Those circumstances are that the purchase or attempted purchase is one which, had subsection (2) of section 68 of the 1976 Act remained fully in force, would by virtue of subsection (4) of that section not have constituted an offence.

Revocation

6. The Licensing (Scotland) Act 2005 (Commencement No.1 and Transitional Provisions) Order 2006⁽³⁾ is revoked.

St Andrew’s House,
Edinburgh
25th May 2006

GEORGE LYON
Authorised to sign by the Scottish Ministers

(3) S.S.I. 2006/239.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force on 1st June 2006 subsections (1) to (3) and (6) of section 105 of the Licensing (Scotland) Act 2005 (“the Act”). Those subsections make it an offence for a person under 18 to buy or attempt to buy alcohol, but provide that no offence is committed where purchase is by a person under 18 who is authorised by a chief constable for the purpose of determining whether a person is committing the offence of selling alcohol to a person under 18. The Order also commences the repeal of the provision in the Licensing (Scotland) Act 1976 which currently criminalises the purchase of alcohol by a person under 18.

Articles 3 to 5 of the Order make transitional provision. In particular, only the chief constable of the Fife police force may meantime give an authorisation to a person under 18 for the purpose of section 105(2) of the Act.

Article 6 revokes the Licensing (Scotland) Act 2005 (Commencement No.1 and Transitional Provisions) Order 2006, which contained similar provisions to those in this Order but included no equivalent to article 5 of this Order.