



# Licensing Act 2003

## 2003 CHAPTER 17

### PART 7

#### OFFENCES

##### *Unauthorised licensable activities*

#### **136 Unauthorised licensable activities**

- (1) A person commits an offence if—
  - (a) he carries on or attempts to carry on a licensable activity on or from any premises otherwise than under and in accordance with an authorisation, or
  - (b) he knowingly allows a licensable activity to be so carried on.
- (2) Where the licensable activity in question is the provision of regulated entertainment, a person does not commit an offence under this section if his only involvement in the provision of the entertainment is that he—
  - (a) performs in a play,
  - (b) participates as a sportsman in an indoor sporting event,
  - (c) boxes or wrestles in a boxing or wrestling entertainment,
  - (d) performs live music,
  - (e) plays recorded music,
  - (f) performs dance, or
  - (g) does something coming within paragraph 2(1)(h) of Schedule 1 (entertainment similar to music, dance, etc.).
- (3) Subsection (2) is to be construed in accordance with Part 3 of Schedule 1.
- (4) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £20,000, or to both.
- (5) In this Part “authorisation” means—

---

*Status: This is the original version (as it was originally enacted).*

---

- (a) a premises licence,
- (b) a club premises certificate, or
- (c) a temporary event notice in respect of which the conditions of section 98(2) to (4) are satisfied.

### **137 Exposing alcohol for unauthorised sale**

- (1) A person commits an offence if, on any premises, he exposes for sale by retail any alcohol in circumstances where the sale by retail of that alcohol on those premises would be an unauthorised licensable activity.
- (2) For that purpose a licensable activity is unauthorised unless it is under and in accordance with an authorisation.
- (3) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £20,000, or to both.
- (4) The court by which a person is convicted of an offence under this section may order the alcohol in question, and any container for it, to be forfeited and either destroyed or dealt with in such other manner as the court may order.

### **138 Keeping alcohol on premises for unauthorised sale etc.**

- (1) A person commits an offence if he has in his possession or under his control alcohol which he intends to sell by retail or supply in circumstances where that activity would be an unauthorised licensable activity.
- (2) For that purpose a licensable activity is unauthorised unless it is under and in accordance with an authorisation.
- (3) In subsection (1) the reference to the supply of alcohol is a reference to the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club.
- (4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (5) The court by which a person is convicted of an offence under this section may order the alcohol in question, and any container for it, to be forfeited and either destroyed or dealt with in such other manner as the court may order.

### **139 Defence of due diligence**

- (1) In proceedings against a person for an offence to which subsection (2) applies, it is a defence that—
  - (a) his act was due to a mistake, or to reliance on information given to him, or to an act or omission by another person, or to some other cause beyond his control, and
  - (b) he took all reasonable precautions and exercised all due diligence to avoid committing the offence.
- (2) This subsection applies to an offence under—
  - (a) section 136(1)(a) (carrying on unauthorised licensable activity),
  - (b) section 137 (exposing alcohol for unauthorised sale), or

- (c) section 138 (keeping alcohol on premises for unauthorised sale).