

ALCOHOL ETC. (SCOTLAND) ACT 2010

EXPLANATORY NOTES

COMMENTS ON SECTIONS

Section 10 – Premises licences: variation of conditions

23. A Licensing Board can only impose conditions in a premises licence when it grants the licence under section 27(6) of the 2005 Act or if it reviews a premises licence under sections 36 to 40 of the 2005 Act. In those circumstances it may only do so on a case by case basis. Section 10 inserts a new section 27A into the 2005 Act which will enable Licensing Boards to vary the conditions of premises licences in respect of all the premises in its area or vary a category or group of licences in respect of matters prescribed by the Scottish Ministers. Examples of the matters that could be prescribed include a requirement for shatter proof glasses in all premises of a particular description, CCTV in all premises in a particular town that sell alcohol for consumption off the premises, or a requirement for a specific number of door staff in city centre establishments. Section 27A(2) prevents Scottish Ministers from prescribing an age over 18 at which persons may purchase alcohol as a matter that a condition imposed under section 27A(1) could relate to. A Licensing Board will only be able to exercise the power in the new section 27A if the Board considers it necessary or expedient for the purposes of any of the licensing objectives (set out in section 4 of the 2005 Act). Licensing Boards will also be restricted to exercising this power in relation to matters to be prescribed in regulations. Such regulations will be subject to the affirmative resolution procedure.
24. Section 27A(6) requires a Licensing Board, before making a variation under section 27A, to publish a notice of any proposed variation in the manner prescribed in regulations made by the Scottish Ministers. The Licensing Board is required to give notice of the proposed variation to premises licence-holders whose licences the proposed variation would apply to and to certain other persons including the local authority, relevant health board and appropriate chief constable. Section 27A(7) requires these notices to state that any persons may make representations to the Licensing Board about the proposed variation and set out the date by which such representations must be made. Section 27A(8) requires that if a Licensing Board receives any representations, then it must hold a hearing in relation to the proposed variation.