

# Alcohol etc. (Scotland) Act 2010

## 2010 asp 18

### PART 1

#### ALCOHOL LICENSING

##### *Pricing of alcohol*

PROSPECTIVE

**F1**      **Section: duration of amendments**

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**Textual Amendments**

**F1**    [S. 1](#) repealed (1.5.2018) by [Alcohol \(Minimum Pricing\) \(Scotland\) Act 2012 \(asp 4\)](#), [ss. 4, 5\(2\)](#); [S.S.I. 2018/88](#), [art. 2](#)

## **2      Minimum price of packages containing more than one alcoholic product**

- (1) The 2005 Act is amended as follows.
- (2) In schedule 3 (premises licences), before paragraph 7 insert—

“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

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- (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.”.
- (3) In schedule 4 (occasional licences), before paragraph 6 insert—

- “5B (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.
- (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.”.

#### Commencement Information

**II** S. 2 in force at 1.10.2011 by [S.S.I. 2011/149](#), art. 2, [Sch.](#)

### 3 Off-sales: variation of pricing of alcoholic drinks

- (1) The 2005 Act is amended as follows.
- (2) In paragraph 7 of schedule 3 (pricing of alcohol: premises licences), after “premises” in both places it occurs insert “ for consumption on the premises ”.
- (3) After that paragraph insert—

“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.”.

- (4) In paragraph 6 of schedule 4 (pricing of alcohol: occasional licences), after “premises” in both places it occurs insert “ for consumption on the premises ”.
- (5) After that paragraph insert—

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- “6A 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.”.

**Commencement Information**

**I2** S. 3 in force at 1.10.2011 by [S.S.I. 2011/149](#), art. 2, [Sch.](#)

*Drinks promotions*

**4 Off-sales: restriction on supply of alcoholic drinks free of charge or at reduced price**

- (1) The 2005 Act is amended as follows.
- (2) In paragraph 8(3) of schedule 3 (premises licences: restriction on certain irresponsible drinks promotions to apply to on-sales only), for “(b) to (d)” substitute “ (c) to (e) ”.
- (3) In paragraph 7(3) of schedule 4 (occasional licences: restriction on certain irresponsible drinks promotions to apply to on-sales only), for “(b) to (d)” substitute “ (c) to (e) ”.

**Commencement Information**

**I3** S. 4 in force at 1.10.2011 by [S.S.I. 2011/149](#), art. 2, [Sch.](#)

**5 Off-sales: location of drinks promotions**

- (1) Schedule 3 to the 2005 Act (premises licences) is amended as follows.
- (2) In the italic cross heading before paragraph 13 (display of alcohol for consumption off the premises), after “Display” insert “ , or promotion of the sale, ”.
- (3) In paragraph 13, after sub-paragraph (1) insert—
  - “(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),

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- (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).”.
- (4) In that paragraph—
  - (a) after sub-paragraph (2)(a) omit “or”,
  - (b) after sub-paragraph (2)(b) add—
    - “(c) a branded non-alcoholic product, or
    - (d) a newspaper, magazine or other publication.”,
  - (c) after sub-paragraph (2) insert—
    - “(2A) Sub-paragraph (2) is without prejudice to sub-paragraph (1B).”.
- (5) In that paragraph, after sub-paragraph (3), add—
  - “(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.”.

**Commencement Information**

**I4** [S. 5](#) in force at 1.10.2011 by [S.S.I. 2011/149](#), [art. 2](#), [Sch.](#)

*Age verification policy*

**6 Requirement for age verification policy**

- (1) The 2005 Act is amended as follows.
- (2) In schedule 3 (premises licences), after paragraph 9 insert—

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- 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.”.
- (3) In schedule 4 (occasional licences), after paragraph 8 insert—
- 9 (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.”.

**Commencement Information**

**I5** [S. 6](#) in force at 1.10.2011 by [S.S.I. 2011/149](#), art. 2, [Sch.](#)

*Modification of mandatory conditions*

**7 Premises licences: modification of mandatory conditions**

- (1) Section 27 of the 2005 Act (conditions of premises licence) is amended as follows.
- (2) In subsection (2)(a), for “such further conditions” substitute “ , delete or amend a condition ”.
- (3) In subsection (2)(b), after “condition” insert “ for the time being ”.

**Commencement Information**

**I6** [S. 7](#) in force at 1.10.2011 by [S.S.I. 2011/149](#), art. 2, [Sch.](#)

**8 Occasional licences: modification of mandatory conditions**

- (1) The 2005 Act is amended as follows.

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- (2) In section 60 (conditions of occasional licence)—
- (a) in subsection (2)(a), for “such further conditions” substitute “, delete or amend a condition”, and
  - (b) in subsection (2)(b), after “condition” insert “ for the time being”.
- (3) In section 146 (orders and regulations)—
- (a) in subsection (4)(b), before “or” insert “, 60(2)”, and
  - (b) in subsection (5)(b), before “or” in the first place it occurs insert “, 60(2)”.

#### Commencement Information

**I7** S. 8 in force at 1.10.2011 by [S.S.I. 2011/149](#), art. 2, [Sch.](#)

### *Sale of alcohol to under 21s*

## 9 **Presumption against prohibition on off-sales to under 21s**

In section 6 of the 2005 Act (statements of licensing policy), after subsection (3) insert—

- “(3A) A Licensing Board may not, in a licensing policy statement or supplementary licensing policy statement, indicate an intention to introduce (by means of the imposition of conditions on the granting of premises licences or the variation of conditions in premises licences) a prohibition on the sale of alcohol for consumption off licensed premises to persons aged 18 or over but under 21 which applies to—
- (a) all premises in its area which are licensed to sell alcohol for consumption off the premises, or
  - (b) premises licensed as mentioned in paragraph (a)—
    - (i) in a particular part of its area, or
    - (ii) of a particular description.”.

#### Commencement Information

**I8** S. 9 in force at 1.10.2011 by [S.S.I. 2011/149](#), art. 2, [Sch.](#) (with [Sch.](#))

### *Variation of licence conditions*

## 10 **Premises licences: variation of conditions**

(1) After section 27 of the 2005 Act, insert—

### **“27A Power of Board to vary premises licence conditions**

- (1) A Licensing Board may, in relation to any prescribed matter, make a variation of the conditions to which a premises licence in respect of licensed premises within its area is subject.

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- (2) The Scottish Ministers may not, under subsection (1), prescribe the age at which persons aged 18 or over may purchase alcohol as a matter in respect of which the conditions to which a premises licence is subject may be varied under this section.
- (3) A variation under subsection (1) may apply to—
  - (a) all licensed premises,
  - (b) particular licensed premises,
  - (c) licensed premises within particular parts of its area, or
  - (d) licensed premises of a particular description.
- (4) A variation under subsection (1) has effect for such period as the Board may specify in it.
- (5) The Board may make a variation under subsection (1) only where it is satisfied that the variation is necessary or expedient for the purposes of any of the licensing objectives.
- (6) Before making a variation under subsection (1), the Board must—
  - (a) publish, in the prescribed manner, notice of the proposed variation, and
  - (b) give notice of the proposed variation to—
    - (i) the persons mentioned in section 21(1)(b), (c), (ca), (d) and (e), and
    - (ii) the holders of premises licences in respect of premises to which the proposed variation would apply.
- (7) A notice under subsection (6) must state that any person may, by notice to the Licensing Board, make representations to the Board concerning the proposed variation before such date as the Board specifies in the notice under subsection (6).
- (8) If the Board receives any representations before the date specified, the Board—
  - (a) must hold a hearing in relation to the proposed variation, and
  - (b) may give such persons who have made representations as the Board considers appropriate an opportunity to be heard at the hearing.
- (9) Where a Licensing Board makes a variation under subsection (1), the Board must—
  - (a) amend the premises licence,
  - (b) within the period of one month, give notice of the variation to—
    - (i) the appropriate chief constable, and
    - (ii) the holders of premises licences in respect of premises to which the variation applies,
  - (c) send a copy of the variation to the address of the premises to which the variation applies, and
  - (d) publicise the variation in such manner as the Board thinks fit.
- (10) A variation under subsection (1) does not have effect unless notice under subsection (9)(b)(ii) has been given.

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- (11) In subsection (1), the power to make a variation of the conditions to which a premises licence is subject includes—
- (a) a power to make a revocation of such a variation in the same manner and subject to the same conditions, duties and limitations as the variation, and
  - (b) a power to make a variation (or a revocation of a variation) of the conditions to which a provisional premises licence is subject.”.
- (2) In section 146 (orders and regulations), in subsections (4)(b) and (5)(b), after “27(2)” insert “, 27A(1) ”.

#### Commencement Information

**I9** S. 10 in force at 1.10.2011 by S.S.I. 2011/149, art. 2, Sch.

### *Consultation etc. of health boards*

## **11 Consultation etc. of health boards**

- (1) The 2005 Act is amended as follows.
- (2) In section 6 (statements of licensing policy)—
- (a) in subsection (3)(b)—
    - (i) omit the word “and” following sub-paragraph (ii), and
    - (ii) after that sub-paragraph insert—
 

“(ia) the relevant health board, and”,
  - (b) in subsection (5)—
    - (i) omit the word “or” following paragraph (a), and
    - (ii) after that paragraph insert—
 

“(aa) the relevant health board, or”.
- (3) In section 7(4) (overprovision), after paragraph (a) insert—
- “(aa) the relevant health board.”.
- (4) In section 21(1) (notification of application), after paragraph (c) insert—
- “(ca) the relevant health board.”.
- (5) In section 147(1) (interpretation), at the appropriate places insert—
- ““Health Board” means a board constituted by an order under section 2(1)(a) of the National Health Service (Scotland) Act 1978 (c.29);”, and
- ““relevant health board”, in relation to a Licensing Board, means—
- (a) the Health Board for the Licensing Board's area, or
  - (b) if the Licensing Board's area forms part of the area of more than one Health Board, each such Health Board.”.
- (6) In section 148 (index of defined expressions), in the table, at the appropriate place insert—



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“relevant health board section 147(1)”.

(7) In schedule 2 (local licensing forums), in paragraph 2, after sub-paragraph (3) insert—

“(3A) At least one of the members must be a person nominated by—

- (a) the Health Board for the Forum's area, or
- (b) if the Forum's area forms part of the area of more than one Health Board, the Health Board whose area contains the larger or, as the case may be, largest part of the Forum's area.”.

#### Commencement Information

**110** S. 11 in force at 1.10.2011 by S.S.I. 2011/149, art. 2, Sch. (with Sch.)

VALID FROM 01/04/2012

#### *Chief constables' reports*

### **12 Chief constables' reports to Licensing Boards and Local Licensing Forums**

After section 12 of the 2005 Act, insert—

#### *“Chief constables' reports*

#### **12A Chief constables' reports to Licensing Boards and Local Licensing Forums**

- (1) Every chief constable must, as soon as practicable after the end of each financial year, send a report to each Licensing Board whose area falls within the police area of the chief constable setting out—
  - (a) the chief constable's views about matters relating to policing in connection with the operation of this Act in the Board's area during that year and the following year, and
  - (b) any steps the chief constable—
    - (i) has taken during that year,
    - (ii) intends to take in the following year,to prevent the sale or supply of alcohol to children or young people in that area.
- (2) The chief constable must also send a copy of the report to the Local Licensing Forum for the Board's area.
- (3) If a Licensing Board or Local Licensing Forum so requests, the chief constable (or other constable nominated by the chief constable) must attend a meeting of the Board or Forum to discuss the report.”.

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### *Occasional licences*

#### **13 Occasional licences: limits on numbers and duration of licences**

- (1) The 2005 Act is amended as follows.
- (2) In section 56 (occasional licence), after subsection (6) insert—
  - “(6A) If the granting of an occasional licence application would result in the occasional licence limit being exceeded, the Board must refuse the application.
  - (6B) The “occasional licence limit” means—
    - (a) in the case of a voluntary organisation, a limit provided for in subsection (6),
    - (b) in any other case, such limit as may be prescribed.
  - (6C) Regulations under subsection (6B)(b) may, in particular—
    - (a) limit the number of occasional licences that may have effect in respect of—
      - (i) the same applicant, or
      - (ii) the same premises,
 in any period of 12 months,
    - (b) limit the number of days on which occasional licences may have effect in respect of—
      - (i) the same applicant, or
      - (ii) the same premises,
 in any period of 12 months,
    - (c) limit the number of continuous days on which occasional licences may have effect in respect of the same premises.”.
- (3) In section 59 (determination of application)—
  - (a) in subsection (2), at the end insert “ unless the application must be refused under section 56(6A), 64(2) or 65(3). ”, and
  - (b) in subsection (6), in paragraph (b), after “section” insert “ 56(6A), ”.

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#### **Commencement Information**

**III** S. 13 in force at 1.10.2011 by [S.S.I. 2011/149](#), art. 2, [Sch.](#)

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