

LICENSING (SCOTLAND) ACT 2005

EXPLANATORY NOTES

COMMENTARY ON PARTS

Part 1 – Core Provisions

Section 1 – Prohibition of unlicensed sale of alcohol

6. This Act makes provision for regulating the sale of alcohol, and for regulating licensed premises and other premises on which alcohol is sold. Section 1 establishes that a licence is required to sell alcohol unless the premises are exempt as defined in section 124.

Section 2 – Meaning of “alcohol”

7. This section provides an interpretation of the term “alcohol” for the purposes of this Act.

Section 3 – Certain supplies of alcohol to be treated as sales

8. This section provides for certain supplies of alcohol to be treated as sales of alcohol for the purposes of this Act. This ensures that those supplies would come under the provisions of the new licensing regime. Two types of supply are covered.
9. The first is supplies by clubs to their members. Members’ clubs are owned by their members. This means that the members own the stock and they do not need to sell the alcohol to themselves. But this provision ensures that the supplies are treated as sales so that the club still needs a premises licence.
10. The second type of supply is one in which the alcohol is supplied in pursuance of a contractual right. For example, some hotels or resorts may offer “all inclusive” packages under which the price paid for the stay at the hotel or resort includes unlimited supplies of “free” drink. This provision ensures that the supply of alcohol under such packages is treated as a sale so that the hotel or resort, or at least the bar in the hotel or resort, requires a premises licence.
11. The second set of circumstances might also cover arrangements under which alcohol is supplied at a bar in exchange for a voucher or token which is bought elsewhere. The supply at the bar will be treated as a sale so that the bar needs a premises licence.

Section 4 – The licensing objectives

12. This section establishes 5 high level “licensing objectives” that represent the values on which the Scottish licensing system would be based, the parameters against which everyone would measure the elements of that system and the solid foundation which local authority Licensing Boards must have regard to in carrying out their functions under the Act.