

LICENSING (SCOTLAND) ACT 2005

EXPLANATORY NOTES

COMMENTARY ON PARTS

Part 7 – Control of Order

Section 94 – Exclusion orders

193. The Licensed Premises (Exclusion of Certain Persons) Act 1980 provides for the criminal courts to make an exclusion order against a person found guilty of an offence committed on licensed premises (other than an off-licence). This section replaces the 1980 Act which is repealed in its entirety by the Act.
194. This section applies where a person is convicted of a violent offence committed on, or in the immediate vicinity of, any licensed premises (other than premises which have only an occasional licence). It also introduces a new civil procedure for a premises licence holder to apply through the civil courts for an exclusion order.
195. Subsection (2) provides a power for the criminal court, when convicting the person of the violent offence, to make an exclusion order against the person.
196. Further to the powers provided for criminal courts in subsection (2), subsection (3) provides an additional power under which the holder of the premises licence for the premises concerned may, by summary application to the sheriff made within 6 weeks of the conviction, seek an exclusion order against the person. Subsections (4) and (5) set out the conditions that must be considered by the sheriff and if he is satisfied that they are met then he may grant the exclusion order.
197. An exclusion order prohibits the person convicted from entering the licensed premises concerned without the consent of the premises licence holder or someone authorised by the licence holder to give consent. An exclusion order made by the criminal courts can also exclude the person from other licensed premises.
198. Subsection (7) provides that an exclusion order may have effect for a maximum of 2 years.