

*Status: Point in time view as at 01/09/2009.*

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## SCHEDULE 1

*(introduced by section 5(8))*

### LICENSING BOARDS

#### *Membership*

- 1 (1) A Licensing Board is to consist of such number (being not fewer than 5 and not more than 10) of members as may be determined by the relevant council.
- (2) The members of a Licensing Board are to be elected by the relevant council from among their councillors.
- (3) In the case of a Licensing Board for a licensing division, not less than one third of the total number of members of the Board must be councillors for wards within the division.

#### **Commencement Information**

**II** Sch. 1 para. 1 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, Sch.

#### *Election of members*

- 2 (1) Each council must, at their first meeting after each ordinary election of the council, hold an election of members to—
  - (a) the Licensing Board for the council's area, or
  - (b) if that area is divided into licensing divisions, each of the Licensing Boards for those divisions.
- (2) Where a council makes a determination under section 5(2) to divide their area into divisions, the council must—
  - (a) at the meeting at which that determination is made, or
  - (b) at the first meeting of the council after that meeting,hold an election of members to the Licensing Board for each division.
- (3) Where, under section 5(4), a council revokes a determination dividing their area into divisions, the council must—
  - (a) at the meeting at which the determination is revoked, or
  - (b) at the first meeting of the council after that meeting,hold an election of members to the single Licensing Board for the council's area.
- (4) Where there is a vacancy in the membership of a Licensing Board, the relevant council must, at their first meeting after the vacancy arises, hold an election to fill the vacancy.

#### **Commencement Information**

**I2** Sch. 1 para. 2 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, Sch.

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### *Disqualification from membership*

- 3 (1) A councillor is disqualified from election as, and from being, a member of a Licensing Board if the councillor is—
- (a) a premises licence holder,
  - (b) an employee of a premises licence holder and works as such in licensed premises,
  - (c) whether alone or in partnership with another person, engaged in the business of producing or selling alcohol,
  - (d) a director or other officer of a company so engaged, or
  - (e) an employee of any person so engaged and works as such in that business.
- (2) A councillor who knowingly acts or purports to act as a member of a Licensing Board at a time when the councillor is disqualified from being such a member by virtue of sub-paragraph (1) commits an offence.
- (3) A person guilty of an offence under sub-paragraph (2) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### **Commencement Information**

**I3** Sch. 1 para. 3 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, Sch.

### *Tenure of office etc.*

- 4 (1) A member of a Licensing Board—
- (a) holds office as such, subject to the following provisions of this paragraph and to paragraph 11(4), during the period—
    - (i) beginning on the day after the member's election, and
    - (ii) ending on the day on which the next election of members of the Board is held in accordance with paragraph 2(1),
  - (b) is eligible for re-election as a member,
  - (c) may, at any time, resign by giving notice to the clerk of the Board, and
  - (d) ceases to hold office—
    - (i) on ceasing to be a councillor of the relevant council, or
    - (ii) on becoming disqualified from being a member of a Licensing Board.
- (2) The clerk must give the relevant council a copy of any notice received under sub-paragraph (1)(c).

#### **Commencement Information**

**I4** Sch. 1 para. 4 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, Sch.

### *Removal of members from office*

- 5 The relevant council may remove a member from office if the member is unfit by reason of mental or physical inability.

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#### Commencement Information

**I5** Sch. 1 para. 5 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, Sch.

#### *Convener*

- 6 (1) A Licensing Board must, at their first meeting after each election of members of the Board held in accordance with paragraph 2(1), (2) or (3), elect one of their members as convener of the Board.
- (2) Where there is a vacancy in the office of convener, the Board must, at their first meeting after the vacancy arises, elect one of their members to fill the vacancy.
- (3) The convener of a Licensing Board—
- (a) holds office as such for the period—
    - (i) beginning on the day after the convener's election, and
    - (ii) ending with the day on which the next election of a convener is held in accordance with sub-paragraph (1),
  - (b) is eligible for re-election as convener of the Board,
  - (c) may, at any time, resign by giving notice to the clerk of the Board, and
  - (d) ceases to hold office on ceasing to be a member of the Board.
- (4) The clerk must give the relevant council a copy of any notice received under sub-paragraph (3)(c).
- (5) If the convener is for any reason unable to chair any meeting of the Board, the Board must, at the meeting, elect another of their members to chair that meeting.
- (6) If, at any meeting of the Board, there is an equality in the votes of members on any matter, the member chairing the meeting has a casting vote.

#### Commencement Information

**I6** Sch. 1 para. 6 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, Sch.

#### *Removal of convener*

- 7 (1) The convener of a Licensing Board may be removed from office by the Board.
- (2) A decision of a Board to remove the convener is valid only if the number of members voting in favour of the decision exceeds one half of the total number of members of the Board.

#### Commencement Information

**I7** Sch. 1 para. 7 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, Sch.

#### *Administrative support*

- 8 (1) In relation to each Licensing Board, the relevant council must—

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- (a) appoint, on such terms and conditions as they may determine, a clerk of the Board, and
- (b) provide the Board and the clerk, or ensure they are provided, with such other staff, property and services as are required for their purposes.

(2) A clerk appointed under sub-paragraph (1)(a) must be an advocate or solicitor.

#### Commencement Information

**18** Sch. 1 para. 8 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, Sch.

#### Committees

- 9 A Licensing Board may establish committees for or in connection with the exercise of any of their functions.

#### Commencement Information

**19** Sch. 1 para. 9 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, Sch.

#### Delegation of functions

- 10 (1) A Licensing Board may authorise (whether generally or specifically)—
- (a) any member of the Board,
  - (b) any committee established by the Board,
  - (c) the clerk of the Board, or
  - (d) any member of staff provided under paragraph 8(1)(b),
- to exercise on behalf of the Board any of the Board's functions under this Act, other than the functions mentioned in sub-paragraph (2).
- (2) Those functions are—
- (a) determining the Board's policy for the purposes of a licensing policy statement or supplementary licensing policy statement,
  - (b) determining, for the purposes of any such statement, whether there is overprovision of licensed premises, or licensed premises of any particular description, in any locality,
  - (c) determining a premises licence application,
  - (d) determining a premises licence variation application where the variation sought is not a minor variation,
  - (e) determining an application for the transfer of a premises licence where the applicant has been convicted of a relevant offence or a foreign offence,
  - (f) determining—
    - (i) a personal licence application, or
    - (ii) a personal licence renewal application,
 where the applicant has been convicted of a relevant offence or a foreign offence,
  - (g) conducting a hearing under this Act (including taking any of the steps mentioned in sub-paragraph (3) at, or as result of, the hearing),
  - (h) making a closure order,

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- (i) refusing an application for confirmation of a provisional premises licence.
- (3) The steps referred in sub-paragraph (2)(g) are—
  - (a) at a review hearing in respect of a premises licence—
    - (i) issuing a written warning to the licence holder,
    - (ii) revoking or suspending the licence, or
    - (iii) making a variation of the licence, or
  - (b) making an order revoking, suspending or endorsing a personal licence.
- (4) A Licensing Board may, under sub-paragraph (1), delegate to the clerk of the Board the function of granting an occasional licence application only where there is no notice of objection or representations in relation to the application, or no notice from the appropriate chief constable recommending refusal of the application.

#### **Commencement Information**

**I10** Sch. 1 para. 10 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, Sch.

#### *Training of members*

- 11
- (1) Each member of a Licensing Board must, no later than one month after the expiry of each 3 month period, produce to the clerk of the Board evidence that the member has, during the period, complied with such requirements as to the training of members of Licensing Boards as may be prescribed.
  - (2) In sub-paragraph (1), “3 month period” means, in relation to a member of a Licensing Board—
    - (a) the period of 3 months beginning on the day on which the member is elected, and
    - (b) if the member is re-elected, the period of 3 months beginning with the day on which the member is re-elected.
  - (3) A member of a Licensing Board must not take part in any proceedings of the Board until the member has produced the evidence required by sub-paragraph (1).
  - (4) If a member of a Licensing Board fails to comply with sub-paragraph (1), the member ceases to hold office as a member of the Board.
  - (5) Regulations under sub-paragraph (1) prescribing training requirements may, in particular—
    - (a) provide for accreditation by the Scottish Ministers of—
      - (i) courses of training, and
      - (ii) persons providing such courses,for the purposes of the regulations,
    - (b) prescribe different requirements in relation to different descriptions of members, and
    - (c) require that any person providing training or any particular description of training in accordance with the regulations holds such qualification as may be prescribed in the regulations.

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**Modifications etc. (not altering text)**

- C1** Sch. 1 para. 11(3) restricted (1.5.2007) by [Licensing \(Appointed Day and Transitional Provisions\) \(Scotland\) Order 2007 \(S.S.I. 2007/128\)](#), arts. 1, 4

**Commencement Information**

- I11** Sch. 1 para. 11 in force at 1.5.2007 by [S.S.I. 2007/129](#), art. 3, [Sch.](#)

*Proceedings*

- 12 (1) The quorum for a meeting of a Licensing Board is one half of the number of members (but in any case not fewer than 3).
- (2) Subject to sub-paragraph (3), meetings of a Licensing Board must be held in public.
- (3) The members of a Licensing Board may, before the Board decides any matter, conduct their deliberations on the matter in private.
- (4) The Scottish Ministers may by regulations make further provision about the proceedings of Licensing Boards including, in particular, provision as to—
- (a) the times by which applications to a Board under this Act, and other business to be considered by a Board, are to be determined or considered,
  - (b) the publicising of meetings of a Board, and
  - (c) public access to any agenda and record of, and other information concerning, a meeting of a Board.
- (5) Subject to—
- (a) the other provisions of this paragraph, and
  - (b) any regulations made under sub-paragraph (4),
- the arrangements for meetings of a Licensing Board, and other matters relating to proceedings of the Board, are to be such as the Board may by rules provide.
- (6) A Licensing Board must ensure that any rules made by them under sub-paragraph (5) are published.

**Commencement Information**

- I12** Sch. 1 para. 12 in force at 1.5.2007 by [S.S.I. 2007/129](#), art. 3, [Sch.](#)

*Validity of proceedings*

- 13 The proceedings of a Licensing Board are not affected by—
- (a) any vacancy in the membership of the Board,
  - (b) any defect in the election of any member of the Board, or
  - (c) the disqualification of any councillor from being a member of the Board.

**Commencement Information**

- I13** Sch. 1 para. 13 in force at 1.5.2007 by [S.S.I. 2007/129](#), art. 3, [Sch.](#)

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### *Transitional and transitory provision*

- 14 (1) Until the end of the day of the first election of members of a Licensing Board in accordance with paragraph 2(1), the members of the Board are to continue to be those who were, immediately before the coming into force of section 5, the members of the Board established under section 1 of the Licensing (Scotland) Act 1976 (c. 66) for the same area or, as the case may be, division.
- (2) Paragraph 4(1)(a) does not apply to a person who is a member of a Licensing Board by virtue of sub-paragraph (1) of this paragraph.
- (3) In the application of paragraph 11 to such a person—
- (a) sub-paragraph (1) has effect as if for “each 3 month period” there were substituted “such period as the Scottish Ministers may direct”, and
  - (b) sub-paragraph (2) is treated as if it were omitted.

#### **Commencement Information**

**I14** Sch. 1 para. 14 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, Sch.

## SCHEDULE 2

*(introduced by section 10(4))*

### LOCAL LICENSING FORUMS

#### *Introductory*

- 1 In this schedule, “Forum” means a Local Licensing Forum established under section 10.

#### **Commencement Information**

**I15** Sch. 2 para. 1 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, Sch.

#### *Membership*

- 2 (1) A Forum is to consist of such number (being not fewer than 5 and not more than 20) of members as the relevant council may determine.
- (2) The Scottish Ministers may by order substitute another number for the minimum or maximum number of members for the time being specified in sub-paragraph (1).
- (3) At least one of the members must be a Licensing Standards Officer for the council's area.
- (4) The other members are to be individuals appointed by the relevant council on such terms and conditions as the relevant council may determine.
- (5) In appointing members of a Forum, the relevant council must seek to ensure so far as possible that the membership of the Forum is representative of the interests of persons or descriptions of persons who have an interest which is relevant to the Forum's general functions.

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- (6) Those persons include—
- (a) holders of premises licences and personal licences,
  - (b) the chief constable for the police area in which the Forum's area is situated,
  - (c) persons having functions relating to health, education or social work,
  - (d) young people,
  - (e) persons resident within the Forum's area.

**Modifications etc. (not altering text)**

**C2** Sch. 2 para. 2(3) excluded (temp.) (1.5.2007) by [Licensing \(Appointed Day and Transitional Provisions\) \(Scotland\) Order 2007 \(S.S.I. 2007/128\)](#), arts. 1, **5(1)**

**Commencement Information**

**I16** Sch. 2 para. 2 in force at 1.5.2007 by [S.S.I. 2007/129](#), art. 3, **Sch.**

*Convener*

- 3
- (1) At their first meeting in each calendar year, a Forum must elect one of the members of the Forum to be the convener of the Forum.
  - (2) The convener holds office, on such terms and conditions as the relevant council may determine, until the next election under sub-paragraph (1).
  - (3) Meetings of the Forum are to be chaired by the convener.
  - (4) If the office of convener is vacant or the convener is for any reason unable to act, a meeting of the Forum may be chaired by any other member present.

**Commencement Information**

**I17** Sch. 2 para. 3 in force at 1.5.2007 by [S.S.I. 2007/129](#), art. 3, **Sch.**

*Administrative support*

- 4
- A council must provide each Forum established by them, or ensure each such Forum is provided, with such staff, property and services as the council considers are required for the Forum's purposes.

**Commencement Information**

**I18** Sch. 2 para. 4 in force at 1.5.2007 by [S.S.I. 2007/129](#), art. 3, **Sch.**

*Meetings and proceedings*

- 5
- (1) Each Forum must, in each calendar year, hold at least 4 meetings.
  - (2) The quorum for a meeting of a Forum is one half of the number of members (but in any case not fewer than 3).
  - (3) Meetings of a Forum must be held in public.



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- (4) Otherwise, the arrangements for meetings of a Forum and other matters relating to proceedings of the Forum, are to be such as the Forum may determine.
- (5) The proceedings of a Forum are not affected by—
- (a) any vacancy in the membership of the Forum, or
  - (b) any defect in the appointment of a member of the Forum.

**Modifications etc. (not altering text)**

**C3** Sch. 2 para. 5(1) excluded (1.5.2007) by Licensing (Appointed Day and Transitional Provisions) (Scotland) Order 2007 (S.S.I. 2007/128), arts. 1, **5(2)**

**Commencement Information**

**I19** Sch. 2 para. 5 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, **Sch.**

SCHEDULE 3

*(introduced by section 27(1))*

PREMISES LICENCES: MANDATORY CONDITIONS

*Interpretation*

- 1 In this schedule, “the premises” means, in relation to any premises licence, the premises specified in the licence.

**Commencement Information**

**I20** Sch. 3 para. 1 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

*Compliance with the operating plan*

- 2 (1) Alcohol is to be sold on the premises only in accordance with the operating plan contained in the licence.
- (2) Nothing in sub-paragraph (1) is to be read as preventing or restricting the doing of anything referred to in section 63(2).

**Commencement Information**

**I21** Sch. 3 para. 2 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

- 3 Any other activity to be carried on in the premises is to be carried on only in accordance with the operating plan contained in the licence.

**Commencement Information**

**I22** Sch. 3 para. 3 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, **Sch. 1**

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### *The premises manager*

- 4 (1) Alcohol is not to be sold on the premises at any time when—
- (a) there is no premises manager in respect of the premises,
  - (b) the premises manager does not hold a personal licence,
  - (c) the personal licence held by the premises manager is suspended, or
  - (d) the licensing qualification held by the premises manager is not the appropriate licensing qualification in relation to the premises.
- (2) In sub-paragraph (1), “appropriate licensing qualification” in relation to any licensed premises means any licensing qualification prescribed as such in relation to licensed premises of that description in regulations under section 91(2)(d).
- (3) Nothing in sub-paragraph (1) or paragraph 5 is to be read as requiring the premises manager to be present on the premises at the time any sale of alcohol is made.

#### **Commencement Information**

**I23** Sch. 3 para. 4 in force at 1.2.2008 by [S.S.I. 2007/472](#), art. 2, [Sch. 1](#)

### *Authorisation of sales of alcohol*

- 5 Every sale of alcohol made on the premises must be authorised (whether generally or specifically) by—
- (a) the premises manager, or
  - (b) another person who holds a personal licence.

#### **Commencement Information**

**I24** Sch. 3 para. 5 in force at 1.2.2008 by [S.S.I. 2007/472](#), art. 2, [Sch. 1](#)

### *Training of staff*

- 6 (1) No person (other than a person who holds a personal licence) is to work in the premises in the capacity mentioned in sub-paragraph (2) unless that person has complied with such requirements as to the training of staff as may be prescribed for the purposes of this paragraph.
- (2) That is a capacity (whether paid or unpaid) which involves the person—
- (a) making sales of alcohol, or
  - (b) where alcohol is sold on the premises for consumption on the premises, serving such alcohol to any person.
- [<sup>F1</sup>(2A) At any time when a person (other than a person who holds a personal licence) is working in the premises in a capacity mentioned in sub paragraph (2), there must be kept on the premises a training record which relates to that person and is in the form set out in the Schedule to the Licensing (Mandatory Conditions No. 2) (Scotland) Regulations 2007.
- (2B) A record kept on the premises under sub paragraph (2A) must be produced to a Licensing Standards Officer on request.]

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- (3) Regulations under sub-paragraph (1) prescribing training requirements may, in particular—
- (a) provide for the accreditation by the Scottish Ministers of—
    - (i) courses of training, and
    - (ii) persons providing such courses,for the purposes of the regulations,
  - (b) prescribe different training requirements in relation to different descriptions of persons,
  - (c) require that any person providing training or any particular description of training in accordance with the regulations hold a personal licence or such other qualification as may be prescribed in the regulations, and
  - (d) require training to be undergone again at such intervals as may be prescribed in the regulations.

#### Textual Amendments

- F1** Sch. 3 paras. 6(2A)(2B) inserted (1.2.2008) by [Licensing \(Mandatory Conditions No.2\) \(Scotland\) Regulations 2007 \(S.S.I. 2007/546\)](#), regs. 1(1), 2

#### Commencement Information

- I25** Sch. 3 para. 6 in force at 1.2.2008 by [S.S.I. 2007/472](#), art. 2, [Sch. 1](#)

### *Pricing of alcohol*

- 7 Where the price at which any alcohol sold on 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 of the price at which that or any other 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

- I26** Sch. 3 para. 7 in force at 1.2.2008 by [S.S.I. 2007/472](#), art. 2, [Sch. 1](#)

### *Irresponsible drinks promotions*

- 8 (1) An irresponsible drinks promotion must not be carried on in or in connection with the premises.
- (2) Subject to sub-paragraph (3), a drinks promotion is irresponsible if it—
- (a) relates specifically to an alcoholic drink likely to appeal largely to persons under the age of 18,
  - (b) involves the supply of an alcoholic drink free of charge or at a reduced price on the purchase of one or more drinks (whether or not alcoholic drinks),
  - (c) involves the supply free of charge or at a reduced price of one or more extra measures of an alcoholic drink on the purchase of one or more measures of the drink,

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- (d) involves the supply of unlimited amounts of alcohol for a fixed charge (including any charge for entry to the premises),
  - (e) encourages, or seeks to encourage, a person to buy or consume a larger measure of alcohol than the person had otherwise intended to buy or consume,
  - (f) is based on the strength of any alcohol,
  - (g) rewards or encourages, or seeks to reward or encourage, drinking alcohol quickly, or
  - (h) offers alcohol as a reward or prize, unless the alcohol is in a sealed container and consumed off the premises.
- (3) Paragraphs (b) to (d) of sub-paragraph (2) apply only to a drinks promotion carried on in relation to alcohol sold for consumption on the premises.
- (4) The Scottish Ministers may by regulations modify sub-paragraph (2) or (3) so as to—
- (a) add further descriptions of drinks promotions,
  - (b) modify any of the descriptions of drinks promotions for the time being listed in it, or
  - (c) extend or restrict the application of any of those descriptions of drinks promotions.
- (5) In this paragraph, “drinks promotion” means, in relation to any premises, any activity which promotes, or seeks to promote, the buying or consumption of any alcohol on the premises.

**Commencement Information**

**I27** Sch. 3 para. 8 in force at 1.2.2008 by [S.S.I. 2007/472](#), art. 2, [Sch. 1](#)

*Provision of non-alcoholic drinks*

- 9 (1) The conditions specified in this paragraph apply only to the extent that the premises licence authorises the sale of alcohol for consumption on the premises.
- (2) Tap water fit for drinking must be provided free of charge on request.
- (3) Other non-alcoholic drinks must be available for purchase at a reasonable price.

**Commencement Information**

**I28** Sch. 3 para. 9 in force at 1.2.2008 by [S.S.I. 2007/472](#), art. 2, [Sch. 1](#)

*Payment of annual or recurring fees*

- 10 (1) The condition specified in sub-paragraph (2) applies only in relation to a premises licence in respect of which an annual or other recurring fee is to be paid by virtue of regulations under section 136(1).
- (2) The fee must be paid as required by the regulations.

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#### Commencement Information

**I29** Sch. 3 para. 10 in force at 1.2.2008 by [S.S.I. 2007/472](#), art. 2, [Sch. 1](#)

#### *[<sup>F2</sup>Notices – admission of persons under 18*

#### Textual Amendments

**F2** Sch. 3 paras. 11, 12 and cross-headings inserted (1.2.2008) by [Licensing \(Mandatory Conditions\) \(Scotland\) Regulations 2007 \(S.S.I. 2007/457\)](#), regs. 1, 2

- 11 (1) The condition specified in this paragraph applies only in the case of premises on which alcohol is sold for consumption on the premises.
- (2) There is to be displayed so that it is reasonably visible to customers entering the premises a sign of at least A4 size which–
- (a) states that persons under the age of 18 are not permitted on the premises; or
  - (b) states that such persons are permitted on the premises or on such parts of the premises as are specified on the sign.]

#### *[<sup>F2</sup>Baby changing facilities*

- 12 (1) The condition specified in this paragraph applies only in the case of premises–
- (a) which are not–
    - (i) a vehicle;
    - (ii) a vessel;
    - (iii) a moveable structure; or
    - (iv) used wholly or mainly for the purposes referred to in section 125(1);
  - (b) on which alcohol is sold for consumption on the premises; and
  - (c) to which children under the age of 5 are to be admitted.
- (2) There are to be on the premises facilities for baby changing which are to be accessible to persons of either gender.]

#### *[<sup>F3</sup>Display of alcohol for consumption off the premises*

#### Textual Amendments

**F3** Sch. 3 para. 13 and cross-heading inserted (1.2.2008) by [Licensing \(Mandatory Conditions No.2\) \(Scotland\) Regulations 2007 \(S.S.I. 2007/546\)](#), regs. 1(1), 3

- 13 (1) [<sup>F4</sup>Subject to sub-paragraph (3), alcohol] which is for sale only for consumption off the premises may be displayed only in one or both of the following–
- (a) a single area of the premises agreed between the Licensing Board and the holder of the licence; or
  - (b) a single area of the premises which is inaccessible to the public.
- (2) In an area agreed in terms of sub-paragraph (1)(a), a product other than alcohol may be displayed only if it is–

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- (a) a non-alcoholic drink; or
- (b) packaged with, and may be purchased only along with, alcohol.

[ This paragraph does not apply in respect of premises—

- <sup>F5</sup>(3) (a) whose main function is to provide a visitor attraction, and
- (b) where—
    - (i) the premises form part of a larger site which is used principally for the production of alcoholic drinks, or
    - (ii) the visitor attraction is used principally to provide information about and promote the history and attributes of a particular alcoholic drink or a particular category of alcoholic drink.]]

#### Textual Amendments

- F4** Words in Sch. 3 para. 13(1) substituted (24.6.2009) by [The Licensing \(Mandatory Conditions\) \(Scotland\) Regulations 2009 \(S.S.I. 2009/270\)](#), regs. 1, **2(2)**
- F5** Sch. 3 para. 13(3) inserted (24.6.2009) by [The Licensing \(Mandatory Conditions\) \(Scotland\) Regulations 2009 \(S.S.I. 2009/270\)](#), regs. 1, **2(3)**

## SCHEDULE 4

*(introduced by section 60(1))*

### OCCASIONAL LICENCES: MANDATORY CONDITIONS

#### *Interpretation*

- 1 In this schedule, “the premises” means, in relation to any occasional licence, the premises specified in the licence.

#### Commencement Information

- I30** Sch. 4 para. 1 in force at 1.2.2008 by [S.S.I. 2007/472](#), art. 2, **Sch. 1**

#### *Compliance with licence*

- 2 (1) Alcohol may be sold on the premises only in accordance with the terms of the licence.
- (2) Nothing in sub-paragraph (1) is to be read as preventing or restricting the doing of anything referred to in section 63(2).

#### Commencement Information

- I31** Sch. 4 para. 2 in force at 1.2.2008 by [S.S.I. 2007/472](#), art. 2, **Sch. 1**

- 3 Any other activity to be carried on in the premises may be carried on only in accordance with the description of the activity contained in the licence.

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**Commencement Information**

**I32** Sch. 4 para. 3 in force at 1.2.2008 by [S.S.I. 2007/472](#), [art. 2](#), [Sch. 1](#)

*Authorisation of sales of alcohol*

- 4 (1) The condition specified in sub-paragraph (2) applies only to an occasional licence issued to the holder of a premises licence or personal licence.
- (2) Every sale of alcohol made on the premises to which the licence relates must be authorised (whether generally or specifically) by the holder of a personal licence.

**Commencement Information**

**I33** Sch. 4 para. 4 in force at 1.2.2008 by [S.S.I. 2007/472](#), [art. 2](#), [Sch. 1](#)

*Voluntary organisations*

- 5 (1) The condition specified in sub-paragraph (2) applies only to an occasional licence issued to a representative of a voluntary organisation.
- (2) Alcohol may be sold on the premises only at an event taking place on the premises in connection with the voluntary organisation's activities.

**Commencement Information**

**I34** Sch. 4 para. 5 in force at 1.2.2008 by [S.S.I. 2007/472](#), [art. 2](#), [Sch. 1](#)

*Pricing of alcohol*

- 6 Where the price at which any alcohol sold on 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 of the price at which that or any other 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**

**I35** Sch. 4 para. 6 in force at 1.2.2008 by [S.S.I. 2007/472](#), [art. 2](#), [Sch. 1](#)

*Irresponsible drinks promotions*

- 7 (1) An irresponsible drinks promotion must not be carried on in or in connection with the premises.
- (2) Subject to sub-paragraph (3), a drinks promotion is irresponsible if it—
- (a) relates specifically to an alcoholic drink likely to appeal largely to persons under the age of 18,

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- (b) involves the supply of an alcoholic drink free of charge or at a reduced price on the purchase of one or more drinks (whether or not alcoholic drinks),
  - (c) involves the supply free of charge or at a reduced price of one or more extra measures of an alcoholic drink on the purchase of one or more measures of the drink,
  - (d) involves the supply of unlimited amounts of alcohol for a fixed charge (including any charge for entry to the premises),
  - (e) encourages, or seeks to encourage, a person to buy or consume a larger measure of alcohol than the person had otherwise intended to buy or consume,
  - (f) is based on the strength of any alcohol,
  - (g) rewards or encourages, or seeks to reward or encourage, drinking alcohol quickly, or
  - (h) offers alcohol as a reward or prize, unless the alcohol is in a sealed container and consumed off the premises.
- (3) Paragraphs (b) to (d) of sub-paragraph (2) apply only to a drinks promotion carried on in relation to alcohol sold for consumption on the premises.
- (4) The Scottish Ministers may by regulations modify sub-paragraph (2) or (3) so as to—
- (a) add further descriptions of drinks promotions,
  - (b) modify any of the descriptions of drinks promotions for the time being listed in it, or
  - (c) extend or restrict the application of any of those descriptions of drinks promotions.
- (5) In this paragraph, “drinks promotion” means, in relation to any premises, any activity which promotes, or seeks to promote, the buying or consumption of any alcohol on the premises.

#### Commencement Information

**I36** Sch. 4 para. 7 in force at 1.2.2008 by [S.S.I. 2007/472](#), [art. 2](#), [Sch. 1](#)

#### *Provision of non-alcoholic drinks*

- 8 (1) The conditions specified in this paragraph apply only to the extent that the occasional licence authorises the sale of alcohol for consumption on the premises.
- (2) Tap water fit for drinking must be provided free of charge on request.
- (3) Other non-alcoholic drinks must be available for purchase at a reasonable price.

#### Commencement Information

**I37** Sch. 4 para. 8 in force at 1.2.2008 by [S.S.I. 2007/472](#), [art. 2](#), [Sch. 1](#)



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## SCHEDULE 5

(introduced by section 131(1))

### APPEALS

#### PART 1

##### APPEALS TO THE SHERIFF PRINCIPAL

###### Commencement Information

**I38** Sch. 5 Pt. 1 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, Sch. 1

<i>Decision</i>	<i>Persons who can appeal</i>
A decision to refuse a premises licence application	The applicant
A decision to refuse a premises licence variation application	The applicant
A decision to refuse an application under section 33(1) or 34(1) for transfer of a premises licence	The applicant
A decision to refuse an application under section 35(1) for a variation of a premises licence	The applicant
A decision under section 39(1) to issue a written warning to a premises licence holder, to make a variation of a premises licence, or to suspend or revoke such a licence	The premises licence holder or, where the decision is taken in connection with a premises licence review application, the applicant
A decision to refuse an application under section 40 to revoke a variation or suspension of a premises licence	The applicant
A decision to refuse an application under section 45(7) to extend the provisional period in relation to a provisional premises licence	The applicant
A decision to refuse an application under section 46(4) to confirm a provisional premises licence	The applicant
A decision to refuse an application under section 47(2) to issue a premises licence for temporary premises	The applicant
A decision to refuse an application under section 47(6) to extend the period for which a temporary premises licence has effect	The applicant
A decision to refuse an occasional licence application	The applicant

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A decision to grant an occasional licence application	Any person who has given a notice of objection under section 58(1)
A decision to refuse an extended hours application	The applicant

## PART 2

### APPEALS TO THE SHERIFF

#### Commencement Information

**I39** Sch. 5 Pt. 2 in force at 1.2.2008 by S.S.I. 2007/472, art. 2, Sch. 1

<i>Decision</i>	<i>Persons who can appeal</i>
A decision to refuse a personal licence application	The applicant
A decision to make an order under section 83(9), 84(7), or 86(3) revoking, suspending or endorsing a personal licence	The personal licence holder

## SCHEDULE 6

*(introduced by section 144)*

### MODIFICATION OF ENACTMENTS

#### *Children and Young Persons Act 1963 (c. 37)*

- 1 In section 37(2)(b)(ii) (restriction on persons under 16 taking part in public performances within licensed premises) of the Children and Young Persons Act 1963, for “1976) or in respect of which a club is registered under that Act” substitute “2005 (asp 16)”.

#### Commencement Information

**I40** Sch. 6 para. 1 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, art. 3

#### *Countryside (Scotland) Act 1967 (c. 86)*

- 2 In section 78(1) (interpretation) of the Countryside (Scotland) Act 1967, in the definition of “refreshments”, for “alcoholic liquor within the meaning of the Licensing (Scotland) Act 1976” substitute “alcohol within the meaning of section 2 of the Licensing (Scotland) Act 2005 (asp 16)”.

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**Commencement Information**

**I41** Sch. 6 para. 2 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, art. 3

*New Towns (Scotland) Act 1968 (c. 16)*

- 3 (1) The New Towns (Scotland) Act 1968 is amended as follows.
- (2) In section 18(2) (disposal of land by development corporations), in the proviso, for “alcoholic liquor” substitute “alcohol”.
- (3) In section 47(1) (interpretation), for the definition of “alcoholic liquor”, substitute the following definition—
- ““alcohol” has the meaning given by section 2 of the Licensing (Scotland) Act 2005 (asp 16);”.

**Commencement Information**

**I42** Sch. 6 para. 3 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, art. 3

*Water (Scotland) Act 1980 (c. 45)*

- 4 In section 50(1)(b) (power to require supply by meter to certain premises) of the Water (Scotland) Act 1980, for “1976” substitute “2005 (asp 16)”.

**Commencement Information**

**I43** Sch. 6 para. 4 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, art. 3

*Local Government, Planning and Land Act 1980 (c. 65)*

- 5 In section 146 (disposal of land by urban development corporation) of the Local Government, Planning and Land Act 1980, for subsection (6) substitute—
- “(6) In this section, “alcohol” has the meaning given by section 2 of the Licensing (Scotland) Act 2005 (asp 16).”.

**Commencement Information**

**I44** Sch. 6 para. 5 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, art. 3

*Civic Government (Scotland) Act 1982 (c. 45)*

- 6 (1) The Civic Government (Scotland) Act 1982 is amended as follows.
- (2) In section 41(2)(f) (exclusion of licensed premises from definition of place of public entertainment)—
- (a) for “1976” substitute “2005 (asp 16)”, and
- (b) for “the permitted” substitute “licensed”.

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- (3) In section 42(4)(a) (late hours catering licence not required in respect of licensed premises), for “1976” substitute “ 2005 (asp 16) ”.

**Commencement Information**

**I45** Sch. 6 para. 6 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, art. 3

*Criminal Law (Consolidation) (Scotland) Act 1995 (c. 39)*

- 7 (1) The Criminal Law (Consolidation) (Scotland) Act 1995 is amended as follows.
- (2) In section 22 (presumption as to contents of container), for “Section 127 of the Licensing (Scotland) Act 1976 (presumption as to contents of container)” substitute “Section 140 of the Licensing (Scotland) Act 2005 (asp 16) (presumption as to liquid contents of containers) ”.
- (3) In section 23 (interpretation of Part II), for the definition of “alcohol”, substitute the following definition—

““alcohol” has the meaning given in section 2 of the Licensing (Scotland) Act 2005 (asp 16);”.

**Commencement Information**

**I46** Sch. 6 para. 7 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, art. 3

*Crime and Punishment (Scotland) Act 1997 (c. 48)*

- 8 (1) Section 61 (confiscation of alcohol from persons under 18) of the Crime and Punishment (Scotland) Act 1997 is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (b), for “alcoholic liquor, within the meaning of the Licensing (Scotland) Act 1976” substitute “ alcohol ”, and
  - (b) for “that liquor” substitute “ the alcohol ”.
- (3) In subsection (2), for—
- (a) “alcoholic liquor”, and
  - (b) “liquor” in each place where that word appears, substitute “ alcohol ”.
- (4) In subsection (6), for “1976” substitute “ 2005 (asp 16) ”.
- (5) After subsection (6) insert—

“(7) In this section, “alcohol” has the meaning given in section 2 of the Licensing (Scotland) Act 2005 (asp 16).”.

**Commencement Information**

**I47** Sch. 6 para. 8 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, art. 3

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*Scottish Public Services Ombudsman Act 2002 (asp 11)*

- 9 In paragraph 10 of Part 1 of schedule 2 (authorities not amendable by Order in Council) to the Scottish Public Services Ombudsman Act 2002, for “within the meaning of the Licensing (Scotland) Act 1976 (c. 66)” substitute “ continued in existence by or established under section 5 of the Licensing (Scotland) Act 2005 (asp 16) ”.

**Commencement Information**

**I48** Sch. 6 para. 9 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, Sch.

*Freedom of Information (Scotland) Act 2002 (asp 13)*

- 10 In paragraph 23 of Part 3 of schedule 1 (local government) to the Freedom of Information (Scotland) Act 2002, for “constituted in accordance with the provisions of section 1 of the Licensing (Scotland) Act 1976 (c. 66)” substitute “ continued in existence by or established under section 5 of the Licensing (Scotland) Act 2005 (asp 16) ”.

**Commencement Information**

**I49** Sch. 6 para. 10 in force at 1.5.2007 by S.S.I. 2007/129, art. 3, Sch.

SCHEDULE 7

*(introduced by section 149)*

REPEALS

**Commencement Information**

**I50** Sch. 7 in force at 1.6.2006 for specified purposes by S.S.I. 2006/286, art. 2(b) (with arts. 3-5) (as amended (1.5.2007) by S.S.I. 2007/128, art. 6)

**I51** Sch. 7 in force at 1.5.2007 for specified purposes by S.S.I. 2007/129, art. 3, Sch.

**I52** Sch. 7 in force at 1.2.2008 for specified purposes by S.S.I. 2007/472, art. 2, Schs. 1, 2

**I53** Sch. 7 in force at 1.9.2009 at 5.00 a.m. in so far as not already in force by S.S.I. 2007/472, art. 3

<i>Enactment</i>	<i>Extent of repeal</i>
The Revenue Act 1889 (c. 42)	Section 26
The Children and Young Persons (Scotland) Act 1937 (c. 37)	Section 16
The Methylated Spirits (Sale by Retail) (Scotland) Act 1937 (c. 48)	The whole Act
The Finance Act 1970 (c. 24)	Section 6
The Local Government (Scotland) Act 1973 (c. 65)	Paragraph 36 of Schedule 24 Paragraph 17 of Schedule 25

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The Licensing (Scotland) Act 1976 (c. 66)	The whole Act
The Alcoholic Liquor Duties Act 1979 (c. 4)	Section 77(6)
The Licensed Premises (Exclusion of Certain Persons) Act 1980 (c. 32)	The whole Act
The Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55)	Section 21 Paragraphs 9 to 11 of Schedule 2
The Local Government, Planning and Land Act 1980 (c. 65)	In section 146(3), the words “or alcoholic liquor”
The Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23)	Paragraphs 4 and 5 of Schedule 2
The Roads (Scotland) Act 1984 (c. 54)	Paragraph 77 of Schedule 9
The Transport Act 1985 (c. 67)	Paragraph 18 of Schedule 7
The Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73)	Section 53
The Housing (Scotland) Act 1987 (c. 26)	Subsection (3) of section 5
The Food Safety Act 1990 (c. 16)	Paragraph 19 of Schedule 3
The Licensing (Low Alcohol Drinks) Act 1990 (c. 21)	The whole Act
The Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40)	Part III Schedule 5 In Schedule 8, Part I
The Finance Act 1991 (c. 31)	In paragraph 1(a) of Schedule 2, the words “or the Licensing (Scotland) Act 1976,”
The Licensing (Amendment) (Scotland) Act 1993 (c. 20)	The whole Act
The Local Government etc. (Scotland) Act 1994 (c. 39)	Section 46 Paragraphs 23 and 106 of Schedule 13
The Criminal Law (Consolidation) (Scotland) Act 1995 (c. 39)	In section 19(2), the words from “Notwithstanding” to “but”
The Criminal Procedure (Consequential Provisions) Act 1995 (c. 40)	Paragraph 29 of Schedule 4
The Licensing (Amendment) (Scotland) Act 1996 (c. 36)	The whole Act
The Access to Justice Act 1999 (c. 22)	Paragraph 94 of Schedule 13
The Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)	Paragraph 60 of Schedule 9
The Licensing Act 2003 (c. 17)	Paragraph 74 of Schedule 6
The Courts Act 2003 (c. 39)	The unnumbered paragraph (which amends the Licensed Premises (Exclusion of Certain Persons) Act 1980) immediately following paragraph 200 of Schedule 8

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