



# Licensing (Scotland) Act 2005

## 2005 asp 16

### PART 9

#### MISCELLANEOUS AND GENERAL

##### *General*

#### 147 Interpretation

(1) In this Act—

“alcoholic drink” means a drink consisting of or containing alcohol,

“applicant”, in relation to any application under this Act, means the person making the application,

[<sup>F1</sup>“chief constable” means the chief constable of the Police Service of Scotland,]

“area” means—

(a) in relation to a council, the local government area for which the council is constituted,

(b) in relation to a Licensing Board or Local Licensing Forum, the council area or, as the case may be, licensing division for which the Board or Forum is established,

“capacity”, in relation to licensed premises, means—

(a) in relation to licensed premises (or any part of such premises) on which alcohol is sold for consumption on the premises (or, as the case may be, that part), the maximum number of customers which can be accommodated in the premises (or, as the case may be, that part) at any one time, and

(b) in relation to licensed premises (or any part of such premises) on which alcohol is sold for consumption off the premises (or, as the case may be, that part), the amount of space in the premises (or, as the case may be, that part) given over to the display of alcohol for sale,

“child” means a person under the age of 16,

“community council” has the same meaning as in Part IV of the Local Government (Scotland) Act 1973 (c. 65),

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*Changes to legislation: Licensing (Scotland) Act 2005, Section 147 is up to date with all changes known to be in force on or before 12 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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“council” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39),

[<sup>F2</sup> “Health Board” means a board constituted by an order under section 2(1)(a) of the National Health Service (Scotland) Act 1978 (c.29);]

“licensed premises” means premises in respect of which a premises licence or occasional licence has effect,

“liqueur confectionery” means confectionery which—

- (a) contains alcohol in a proportion not greater than 0.2 litres of alcohol (of a strength not exceeding 57%) per kilogramme of the confectionery, and
- (b) either consists of separate pieces weighing not more than 50 grammes or is designed to be broken into such pieces for the purposes of consumption,

“premises” means any place and includes a vehicle, vessel or moveable structure,

“prescribed” means prescribed by regulations made by the Scottish Ministers,

“railway vehicle” means a railway vehicle within the meaning of section 83 of the Railways Act 1993 (c. 43) that is used in the provision of a railway service within the meaning of section 82 of that Act (excluding the wider meaning of “railway” given by section 81(2) of that Act),

“relevant council” means, in relation to a Licensing Board or Local Licensing Forum, the council—

- (a) for whose area the Board or Forum is established, or
- (b) in the case of a Board or Forum established for a licensing division, for the area of which the division forms part,

[<sup>F2</sup> “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;]

“sell”, in relation to alcohol, includes barter and expose to or offer for sale, and related expressions such as “sale” are to be construed accordingly,

“senior police officer” means a constable of or above the rank of superintendent,

“strength”, in relation to alcohol, is to be determined in accordance with section 2 of the Alcoholic Liquor Duties Act 1979 (c. 4),

“subject premises” means, in relation to any application under this Act, the premises to which the application relates,

“vehicle” means a vehicle intended or adapted for use on roads,

“vessel” includes a ship, boat, raft or other apparatus constructed or adapted for floating on water,

“young person” means a person aged 16 or 17.

- (2) In this Act, references to selling alcohol or other goods to trade are references to selling the alcohol or goods to a person for the purposes of the person's trade; and related expressions are to be construed accordingly.
- (3) For the purposes of this Act, a person is, in relation to a partnership, a company, a club or other body (whether incorporated or unincorporated), a connected person if the person—
  - (a) in the case of a partnership, is a partner,
  - (b) in the case of a company—
    - (i) is a director, or
    - (ii) has control of the company,

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- (c) in the case of a club, is an office bearer of the club,
  - (d) in any other case, is concerned in the management or control of the body.
- (4) For the purposes of subsection (3)(b)(ii) and this subsection, a person is taken to have control of a company if—
- (a) any of the directors of the company, or of any other company having control of the company, is accustomed to act in accordance with the person's directions or instructions, or
  - (b) the person is entitled to exercise, or to control the exercise of, at least one third of the voting power at any general meeting of the company or of any other company having control of the company.
- [<sup>F3</sup>(5) For the purposes of this Act, a person is an interested party in relation to licensed premises if the person is not the holder of the premises licence <sup>F4</sup>... in respect of the premises but—
- (a) has an interest in the premises as an owner or tenant, or
  - (b) has management and control over the premises or the business carried on on the premises.]

#### Textual Amendments

- F1** Words in s. 147(1) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [sch. 7 para. 29\(8\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F2** Definitions in s. 147(1) inserted (1.10.2011) by [Alcohol etc. \(Scotland\) Act 2010 \(asp 18\)](#), [ss. 11\(5\), 18\(1\)](#) (with s. 16); S.S.I. 2011/149, art. 2, Sch.
- F3** S. 147(5) inserted (29.6.2018) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 184\(4\), 206\(1\)](#); S.S.I. 2018/102, [art. 2\(a\)](#)
- F4** Words in s. 147(5) repealed (29.6.2018) by [Air Weapons and Licensing \(Scotland\) Act 2015 \(asp 10\)](#), [ss. 59\(5\), 88\(2\)](#); S.S.I. 2018/102, [art. 3](#)

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- specified provision(s) Appointed Day(s) by [S.S.I. 2006/239 art. 2](#) (This S.S.I. is revoked on 25.5.2006 by S.S.I. 2006/286, art. 6)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 33(1)(1A) substituted for s. 33(1)-(3) by [2015 asp 10 s. 49\(2\)\(a\)](#)
- s. 33(8)(za) inserted by [2015 asp 10 s. 49\(2\)\(c\)](#)
- s. 33(8A) inserted by [2015 asp 10 s. 49\(2\)\(d\)](#)
- s. 33A inserted by [2015 asp 10 s. 49\(4\)](#)
- s. 134ZA-134ZC inserted by [2015 asp 10 s. 61\(2\)](#)