



Licensing Act 2003

2003 CHAPTER 17

PART 7

OFFENCES

Unauthorised licensable activities

136 Unauthorised licensable activities

- (1) A person commits an offence if—
 - (a) he carries on or attempts to carry on a licensable activity on or from any premises otherwise than under and in accordance with an authorisation, or
 - (b) he knowingly allows a licensable activity to be so carried on.
- (2) Where the licensable activity in question is the provision of regulated entertainment, a person does not commit an offence under this section if his only involvement in the provision of the entertainment is that he—
 - (a) performs in a play,
 - (b) participates as a sportsman in an indoor sporting event,
 - (c) boxes or wrestles in a boxing or wrestling entertainment,
 - (d) performs live music,
 - (e) plays recorded music,
 - (f) performs dance, or
 - (g) does something coming within paragraph 2(1)(h) of Schedule 1 (entertainment similar to music, dance, etc.).
- (3) Subsection (2) is to be construed in accordance with Part 3 of Schedule 1.
- (4) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or to [F1a fine], or to both.
- (5) In this Part “authorisation” means—
 - (a) a premises licence,

Changes to legislation: Licensing Act 2003, Cross Heading: Unauthorised licensable activities is up to date with all changes known to be in force on or before 02 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

- (b) a club premises certificate, or
- (c) a temporary event notice in respect of which the conditions of section 98(2) to (4) are satisfied.

Textual Amendments

- F1** Words in s. 136(4) substituted (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), **Sch. 4 para. 33(2)** (with reg. 5(1))

137 Exposing alcohol for unauthorised sale

- (1) A person commits an offence if, on any premises, he exposes for sale by retail any alcohol in circumstances where the sale by retail of that alcohol on those premises would be an unauthorised licensable activity.
- (2) For that purpose a licensable activity is unauthorised unless it is under and in accordance with an authorisation.
- (3) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or to [^{F2}a fine], or to both.
- (4) The court by which a person is convicted of an offence under this section may order the alcohol in question, and any container for it, to be forfeited and either destroyed or dealt with in such other manner as the court may order.

Textual Amendments

- F2** Words in s. 137(3) substituted (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), **Sch. 4 para. 33(3)** (with reg. 5(1))

138 Keeping alcohol on premises for unauthorised sale etc.

- (1) A person commits an offence if he has in his possession or under his control alcohol which he intends to sell by retail or supply in circumstances where that activity would be an unauthorised licensable activity.
- (2) For that purpose a licensable activity is unauthorised unless it is under and in accordance with an authorisation.
- (3) In subsection (1) the reference to the supply of alcohol is a reference to the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club.
- (4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (5) The court by which a person is convicted of an offence under this section may order the alcohol in question, and any container for it, to be forfeited and either destroyed or dealt with in such other manner as the court may order.

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139 Defence of due diligence

- (1) In proceedings against a person for an offence to which subsection (2) applies, it is a defence that—
- (a) his act was due to a mistake, or to reliance on information given to him, or to an act or omission by another person, or to some other cause beyond his control, and
 - (b) he took all reasonable precautions and exercised all due diligence to avoid committing the offence.
- (2) This subsection applies to an offence under—
- (a) section 136(1)(a) (carrying on unauthorised licensable activity),
 - (b) section 137 (exposing alcohol for unauthorised sale), or
 - (c) section 138 (keeping alcohol on premises for unauthorised sale).

Changes to legislation:

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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):

- Pt. 5A inserted by [2015 c. 20 s. 67\(2\)](#)Sch. 17
- s. 2(1A) inserted by [2015 c. 20 s. 67\(1\)](#)
- s. 10(4)(e) and word inserted by [2011 c. 13 s. 121\(3\)\(b\)](#)
- s. 140(2)(e) inserted by [2015 c. 20 s. 67\(4\)\(b\)](#)
- s. 141(2)(e) inserted by [2015 c. 20 s. 67\(5\)\(b\)](#)
- s. 143(2)(e) inserted by [2015 c. 20 s. 67\(6\)\(b\)](#)
- s. 144(2)(e) inserted by [2015 c. 20 s. 67\(7\)\(b\)](#)
- s. 147A(4)(c) inserted by [2015 c. 20 s. 67\(8\)\(b\)](#)
- s. 153(4)(d) inserted by [2015 c. 20 s. 67\(9\)\(b\)](#)
- s. 197(3)(cza) inserted by [2015 c. 20 s. 67\(12\)\(a\)](#)
- s. 197A197B inserted by [2011 c. 13 s. 121\(2\)](#)