



# Licensing (Scotland) Act 2005

## 2005 asp 16

### PART 9

#### MISCELLANEOUS AND GENERAL

##### *Excluded and exempt premises*

#### **123 Excluded premises**

- (1) No premises licence or occasional licence has effect to authorise the sale of alcohol on excluded premises.
- (2) For the purposes of this Act, “excluded premises” means—
  - (a) premises on land—
    - (i) acquired or appropriated by a special roads authority, and
    - (ii) for the time being used,  
for the provision of facilities to be used in connection with the use of a special road provided for the use of traffic of class 1 (with or without other classes),  
and
  - (b) subject to subsection (5), premises used as a garage or which form part of premises which are so used.
- (3) For the purposes of subsection (2)(a)—
  - (a) “special road” and “special roads authority” have the same meanings as in the Roads (Scotland) Act 1984 (c. 54), and
  - (b) “class 1” means class 1 in Schedule 3 to that Act, as varied from time to time by an order under section 8 of that Act, but, if that Schedule is amended by such an order so as to add to it a further class of traffic, the order may adapt the reference in this section to traffic of class 1 so as to take account of the additional class.
- (4) For the purposes of subsection (2)(b), premises are used as a garage if they are used for one or more of the following—
  - (a) the sale by retail of petrol or derv,
  - (b) the sale of motor vehicles, or

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**Changes to legislation:** Licensing (Scotland) Act 2005, Section 123 is up to date with all changes known to be in force on or before 18 April 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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- (c) the maintenance of motor vehicles.
- (5) Despite subsection (2)(b), premises used for the sale by retail of petrol or derv or which form part of premises so used are not excluded premises if persons resident in the locality in which the premises are situated are, or are likely to become, reliant to a significant extent on the premises as the principal source of—
- (a) petrol or derv, or
  - (b) groceries (where the premises are, or are to be, used also for the sale by retail of groceries).
- (6) The Scottish Ministers may by order amend the definition of “excluded premises” in subsection (2) so as to include or exclude premises of such description as may be specified in the order.

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**Commencement Information**

**II** [S. 123](#) in force at 5.9.2008 by [S.S.I. 2008/292](#), [art. 2](#)

**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\(2\)](#)