



Licensing (Scotland) Act 2005

2005 asp 16

PART 5

LICENSED HOURS

General

- 63 Prohibition of sale, consumption and taking away of alcohol outwith licensed hours**
- (1) Subject to subsection (2), a person commits an offence if, outwith licensed hours, the person—
- (a) sells alcohol, or allows alcohol to be sold, on licensed premises,
 - (b) allows alcohol to be consumed on licensed premises, or
 - (c) allows alcohol to be taken from licensed premises.
- (2) It is not an offence under subsection (1) for a person to—
- (a) allow alcohol to be consumed on licensed premises at any time within 15 minutes of the end of any period of licensed hours if the alcohol was sold during that period,
 - (b) allow alcohol to be taken from licensed premises at any time within 15 minutes of the end of any period of licensed hours if the alcohol—
 - (i) was sold during that period, and
 - (ii) is not taken from the premises in an open container,
 - (c) allow alcohol to be consumed on or taken from licensed premises outwith licensed hours if the person consuming or taking the alcohol—
 - (i) resides on the premises, or
 - (ii) is a guest of a person who resides there,
 - (d) sell alcohol or allow alcohol to be sold on licensed premises outwith licensed hours if the alcohol is sold to a person who resides on the premises,
 - (e) allow alcohol to be consumed on licensed premises at a meal at any time within 30 minutes of the end of any period of licensed hours if the alcohol was sold—
 - (i) during that period,

Status: This is the original version (as it was originally enacted).

- (ii) at the same time as the meal, and
 - (iii) for consumption at the meal,
 - (f) sell alcohol or allow alcohol to be sold on licensed premises outwith licensed hours if the alcohol is sold to—
 - (i) a person who is a trader for the purposes of the person’s trade, or
 - (ii) a person for supply to or on any premises which are occupied for the purposes of the armed forces of the Crown.
- (3) It is a defence for a person (“the accused”) charged with an offence under subsection (1) of allowing alcohol to be consumed on or taken from any licensed premises outwith licensed hours to prove—
 - (a) that the accused, or an employee or agent of the accused, took all reasonable precautions and exercised all due diligence not to commit the offence, or
 - (b) that there were no lawful and reasonably practicable means by which the accused could prevent the person consuming or taking the alcohol on or from the premises from so doing.
- (4) A person commits an offence if, having been requested by a responsible person not to do so, the person consumes alcohol on, or takes alcohol from, licensed premises outwith licensed hours.
- (5) In subsection (4), “responsible person” means—
 - (a) in the case of licensed premises in respect of which a premises licence has effect, the premises manager,
 - (b) in the case of licensed premises in respect of which an occasional licence has effect, the holder of the licence,
 - (c) in either case, any person who works on the premises in a capacity (whether paid or unpaid) which authorises the person to make the request mentioned in subsection (4).
- (6) Nothing in this section prevents or restricts—
 - (a) the ordering of alcohol for consumption off licensed premises, or
 - (b) the despatch of alcohol so ordered by the person selling it.
- (7) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.