

## **LICENSING ACT 2003**

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### **EXPLANATORY NOTES**

#### **COMMENTARY ON SECTIONS**

##### **PART 1 – Licensable activities**

###### **General**

24. This Part describes those activities that are covered by the Act and as a consequence prescribes those matters which are regulated by the provisions in the Act, thereby determining its scope of application. The Part also sets out circumstances in which a licensable activity and qualifying club activity may be carried on.

###### ***Section 1 – Licensable activities and qualifying club activities***

25. This section in subsection (1) lists four activities which are to be regulated by the provisions of the Act and which constitute licensable activities. These are: -
- the sale by retail of alcohol (see commentary on sections 191 and 192);
  - the supply of alcohol by clubs;
  - the provision of regulated entertainment (see commentary on Schedule 1); and
  - the provision of late night refreshment (see commentary on Schedule 2).
26. In subsection (2), this section lists those licensable activities which, for the purposes of the Act, are “qualifying club activities” and which as a consequence may be carried on by qualifying clubs under a club premises certificate (see commentary on Part 4 of the Act). Qualifying club activities are: -
- the supply of alcohol by clubs to members for consumption on or off the premises;
  - the sale by retail of alcohol by clubs to members’ guests for consumption on the premises; and
  - the provision of regulated entertainment by the club for its members and guests.
27. Subsection (1)(b) specifies as a licensable activity the supply of alcohol by or on behalf of a club to or to the order of its members. This is necessary due to the fact that alcohol in possession of a club will belong to its members and in terms of its further distribution to the members there will be no sale by retail. However, a sale by retail will take place in relation to purchases by guests of members.
28. Some bodies which call themselves “clubs” are in fact not within the ownership or control of their members. In such cases, any supplies of alcohol to members are sales by retail. Subsection (3) ensures that the references in the Act to the supply of alcohol by clubs to members do not include supplies by such clubs.
29. Finally, in subsection (7), the section refers forward to sections 173, 174 and 175 in Part 9 of the Act which provide that certain activities which would otherwise fall within

*These notes refer to the Licensing Act 2003 (c.17)  
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subsection (1) are not licensable activities for the purposes of the Act (see commentary on Part 9).

***Section 2 - Authorisation for licensable activities and qualifying club activities***

30. Subsections (1) and (2) provide that a licensable activity may be carried on under and in accordance with a premises licence (see commentary on Part 3), a temporary event notice (see commentary on Part 5), or, if it is also a qualifying club activity, under and in accordance with a club premises certificate (see commentary on Part 4). By virtue of section 136 the carrying on of a licensable activity otherwise than in accordance with a premises licence, club premises certificate or temporary event notice is an offence.
31. Subsection (3) provides that more than one authorisation (that is, a premises licence, a club premises certificate or a temporary event notice) can cover the same premises. This enables, for example, a qualifying club that wishes to provide entertainment to members of the public on certain days to hold both a club premises certificate to cover its normal operation and a premises licence, to authorise the provision of entertainment, in respect of the same premises. Where there is more than one authorisation, they may be held by the same person or different people.