

How Not To Lose Your Licence

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Why A Book?

- Remember Nicholson?
- Recommendation 25
- “the rising tide of bureaucracy that will, unless checked, swamp every man, women and child in this fair land of ours...”

To lose it, you must first have it

- Premises Managers – how appointed?
- Personal Licences – when granted?
- Personal Licences – when issued?
- The Central Register
- 1 September – the second tsunami

How To Lose Your Licence

- Review Hearing – who may apply?
- Board Powers – written warning/variation/suspension/revocation
- Grounds
 - Breach of conditions
 - Licensing objectives
 - Conviction of relevant offence

Notification of conviction

- s 44(4)(b) – confirm existence
- s 44(5) (b) – police recommendation, BUT
- s 44(7) – 44(4)(b) = premises licence review proposal
- “necessary” = see *Shafiq v North Lanarkshire LB (unreported, Hamilton Sheriff Court 23 January 2009)*

Offences: Who can commit?

- | | |
|---------------------------|------------------------------|
| ■ Applicant | ■ Person |
| ■ Premises licence holder | ■ Responsible person (s.63) |
| ■ Premises manager | ■ Responsible person (s 101) |
| ■ Personal licence holder | ■ Responsible person (s 122) |
| ■ Child/Young Person | |

Display, Display, Display

- Summary of Licence
- Conditions
- Age of Persons Admitted
- Plan?
- Notice re sale to under 18s
- And the rest....

The Changes: Some Trivia

- Show Your Papers – s 93
- (Incorrect) Notices – ss 52, 110
- Beer, wine, cider or perry with a meal (porter no more)
- Residents - 24 hours?
- Private friends: “you’ll have had your drink”

Delivery: A Crash Waiting To Happen

- Delivery book/invoice
- Quantity/description/price
- Name and address of recipient
- Procedures for prevention of sale to under 18s

Enforcement: The Role of the LSO

- LSO – section 14
 - inform, mediate, supervise
 - 14(2)(a)(i) Notice
- Application for review of licence
- Powers of entry and inspection – s 15
- Duty to provide information/documentation/assistance

Don't Forget To Notify

- Addresses
- Charges/Convictions
- Change of licence holder
- Change of Premises Manager
- Remember connected persons

Slow Train, Fast Train, Just Train

- Licensing Qualifications – who should have?
- Staff Training – covering what?
- Training Records – what form/where kept?
- Updating

Conditions

- Mandatory - On Sale
- Mandatory - Off Sale
- Mandatory - Late Night BUT
- Remember exceptions, <250, food, 6 letting bedrooms, theatre/cinema/art gallery
- Local conditions – remember section 27

The Personal Licence Debate

Sch 3, para 4(3)

“Nothing in sub-paragraph (1) or paragraph 5 is to be read as requiring the premises manager to be present on the premises at the time any sale of alcohol is made.”

The Personal Licence Debate

Sch 3, para 5

“Every sale of alcohol made on the premises must be authorised (whether generally or specifically) by-

- (a) the premises manager, or
- (b) another person who holds a personal licence.”

The Personal Licence Debate

The Licensing Conditions (Late Opening Premises) (Scotland) Regulations 2007
Schedule, para 2

“A designated person who is the holder of a personal licence must be on the premises from 1:00 am (on any day when the premises are open at that time).....”

The Personal Licence Debate

- The ACPOS view
- “generally or specifically”
- The DCMS View see [2006] 35 SLLP p 10
- *Cummins: Licensing (S) Act 2005* p 204
- Millar: [2007] 37 SLLP 27
- The Johnston view – quantum valeat

Duty To Trade?

- Oh yes there is! Oh, no there isn't!
- “*Could deprive others of a licence*”
- *Tre Trektorer Aktiebolag v Sweden* 13 EHRR 309
- Human Rights issues - Article 1 First Protocol



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