



# Alcohol and the Law

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## IAS Factsheet

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The law performs a number of functions and regulates a range different settings and forms of behaviour.

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### **Licensing Laws**

In England and Wales, licensing is governed by the Licensing Act 2003. In Scotland the primary legislation is the Licensing (Scotland) Act 1976.

Licensing laws control where, when and to whom alcohol can be sold. The essential principle is that a special licence is required to sell alcohol. The Licensing (Low Alcohol Drinks) Act 1990 amended the legal definition of intoxicating liquor, for the sale of which a licence is required. The Act set a threshold of 0.5% alcohol by volume (abv).

In both England and Wales and in Scotland, alcohol licensing is a responsibility of local authorities.

### **The Main Elements of the Licensing Act 2003:**

- The amalgamation of six previous licensing regimes (alcohol, public entertainment, cinemas, theatres, late night refreshment house and night café).
- A single integrated scheme for licensing premises which sell alcohol, provide entertainment to the public or provide refreshment late at night
- The Act defines four licensing objectives:
  - the prevention of crime and disorder;
  - public safety;
  - the prevention of public nuisance; and
  - the protection of children from harm.
- These objectives comprise the basis on which the licensing authority determines what is in the overall public interest when carrying out its functions. A licensing authority may only restrict licensable activities where it is necessary for the promotion of one or more of these licensing objectives. Each objective is of equal importance.
- When applying for a premises licence the applicant is required to submit an operating schedule that includes a statement of the steps he proposes to take to promote the licensing objectives.
- A system of personal licences which allow holders to sell or supply alcohol for consumption on or off any premises in respect of which there is a premises licence. (Those providing regulated entertainment or refreshment at night which do not involve alcohol, would require a premises licence only).
- Personal licences issued for 10 years to those aged 18 and over following a test of knowledge of licensing law and social responsibilities and subject to police scrutiny if

relevant or foreign offences have been committed, with provision for suspension or withdrawal of licences within that period

- Personal and premises licences to be issued by licensing authorities: generally local authorities.
- Premises licences supported by flexible range of remedies following review (including temporary reduction in opening hours) if conditions have been breached.
- An avenue of appeal for parties (including the police and local residents following representations) to the magistrates' courts.
- The Licensing Act 2003 abolished the old system of permitted hours for the sale of alcohol, thus allowing potentially 24 hour opening, seven days a week

### **Types of Licence**

Altogether there are over 200,000 licensed premises in the UK. These fall into two main categories:

**'On' Licences** - authorising the sale of alcohol for consumption on and off the premises. These licences may be for beer, cider and wines or beer, cider, wines and spirits. On licensed premises include pubs and clubs.

**Off' Licences** - authorising the sale of alcohol for consumption off the premises. Again, these licences may be for beer, cider and wines or beer, cider, wines and spirits. Off licensed premises include supermarkets.

### **Scotland**

Off-licences	8am -11pm
On-licences	11am- 11pm

Permitted hours of on-licensed premises can be extended on a 'local need' basis, in some areas up to 4am.

Permitted hours are the hours during which licensed premises are permitted to sell alcoholic drink: licensees are not legally obliged to open for the whole of permitted hours. Equally, licensees may open their premises outside permitted hours (for example, in the early morning to sell breakfasts): they are only prevented from selling alcohol at that time.

In England and Wales permitted hours were abolished under by the Licensing Act 2003, the hours of trading being determined in relation to each premises individually.

### **Drinking in Public Places**

- Byelaws prohibiting consumption of intoxicating liquor in designated places
  - Over 100 local authorities have now introduced such byelaws since Coventry achieved the first
- Confiscation of Alcohol (Young Persons) Act 1997
  - Gave police the power to confiscate alcohol from under 18s drinking in public places (streets, parks, etc) who are creating disorder.

## **Sports' Events**

### *Transport Act 1980 - Law relating to Football Excursions*

The Traffic Commissioners have powers to attach conditions to public service vehicle licences restricting the carriage of drink on football excursions. British Rail introduced a bye-law to prohibit the carriage and consumption of drink on specified trains.

### *The Sporting Events (Control of Alcohol etc) Act 1985*

- *prohibits the possession of alcohol on the way to matches on football special coaches and trains and makes it an offence to be drunk on them*
- *makes an offence of trying to enter a ground when drunk or in possession of alcohol; of possessing or consuming alcohol within view of the pitch during the period of the match; or being drunk during the period of the match*
- *provides the police the power to search someone reasonably suspected of committing an offence under the Act, and to arrest such a person: this may include searching coaches or trains carrying passengers to or from matches or on arrival as well as searching fans waiting to enter a ground or inside a ground.*

## **Protection of Children and Young People**

- It was made an offence by the Licensing Act 1902 for any person to be found drunk on any highway, public house, licensed premise, public place, building or inn while having charge of a child under 7.
- No intoxicating liquor may be administered to a child under five years of age except under medical supervision or in the case of sickness or other urgent cause. (Children Act 1908)
- It is an offence to allow children under sixteen onto premises unless accompanied by a person over eighteen. The offence depends upon the category of premises in question:
  - a. premises exclusively or primarily for the sale of alcohol
  - b. premises where alcohol is available, but not primary or exclusive; it is an offence between the hours of midnight and 5 a.m.
- It is an offence to sell or supply liqueur confectionery to a child under 16.
- The individual under 18 also commits an offence if he buys or tries to buy alcohol, or is supplied with it in a club.
- It is also an offence for another to try and buy, or have alcohol supplied to him, on behalf of a child. This is so whether it is for consumption off the premises (eg. shop or supermarket), or whether it is for consumption on the premises.
- It is an offence for an individual under 18 to consume alcohol on relevant premises and for anyone who had the authority to stop him to allow him so to do. The exception where the consumption is to be on the premises, is where the child is aged between 16 and 17 and is accompanied by an adult and is having a table meal. In those circumstances, the only alcohol that they are allowed to consume is wine, beer or cider.

- In circumstances where children are sent to take delivery of purchases/consignments of alcohol, it is an offence so to deliver to the child, or to allow anyone so to do, where there is the authority to prevent them.
- A person commits an offence if they send a child to obtain alcohol.
- It is an offence for a responsible person on relevant premises to allow an individual under 18 to sell or supply (in a club) alcohol. There is an exception where the alcohol is supplied with a table meal, so that the under-18 can work as a waiter or waitress and deliver drinks to the table.
- A Police Officer is entitled to seize alcohol from a child if he reasonably believes that the child will consume it.

From 3 May 2007 an amendment to the Licensing Act 2003 introduced a new offence of persistently selling alcohol to children. The offence is committed if on three or more different occasions in a period of three consecutive months alcohol is unlawfully sold to a minor on the same premises.<sup>1</sup>

The Licensing Act 2003 consolidated a number of offences in relation to children. The relevant sections of the Act are as follows:

Section 145	Unaccompanied children prohibited from certain premises
Section 146	Sale of alcohol to children
Section 147	Allowing the sale of alcohol to children
Section 147A	Persistently selling alcohol to children
Section 148	Sale of liqueur confectionery to children under 16
Section 149	Purchase of alcohol by or on behalf of children
Section 150	Consumption of alcohol by children
Section 151	Delivering alcohol to children
Section 152	Sending a child to obtain alcohol
Section 153	Prohibition of unsupervised sales by children

### **Abnormal Drinking Behaviour**

The law provides for both the punishment and the treatment of offenders.

### **Drunkenness**

The Licensing Act 1872 created two main kinds of drunkenness offence:

- 1) Simple drunkenness - being drunk on any highway or other public place, or on any licensed premises. It also provided an offence of being drunk while in charge on a public highway of any carriage – which includes a bicycle, a horse, cattle (which includes pigs and sheep), a steam engine, or when in charge of a loaded firearm.
- 2) Drunkenness with aggravation, which includes being drunk and disorderly; refusing to leave licensed premises when requested; being drunk whilst in possession of any loaded firearms or while having charge of a child aged under seven.

### **Criminal Justice Act 1948**

Treatment: under Section 4 of this Act, Probation Orders, with Conditions of Residence in a specified hospital for a specified length of time following a criminal conviction, are made possible - provided the convicted person gives consent.

## **Criminal Justice and Police Act 2001**

- The Act, which received Royal Assent on 11<sup>th</sup> May 2001, was designed by the Labour Government as a means of coming down on street crime, public disorder and the 'job culture'. The Act strengthens police powers, and gives some additional ones, to deal with a range of alcohol-related behaviour and offences:
- On-the-spot penalties for a range of offences including public drunkenness; disorderly behaviour while drunk in a public place; consumption of alcohol in a designated alcohol-free zone and buying or attempting to buy alcohol for consumption in a bar by persons under 18. This took effect in three pilot areas on 12 August 2002. The areas are West Midlands, Essex and Croydon (South London). North Wales will begin the pilot in September 2002.
- Local authorities given the power to designate public places as alcohol-free zones.
- Police power to close licensed premises for up to 24 hours where disorder is taking place or likely to occur.
- Strengthening of the law against selling alcohol to under 18s by requiring defendants to take all reasonable steps to establish the age of the purchaser.
- Allowing 'test purchasing' of alcohol – under 18s being used by police to test the willingness of licensees to sell illegally to the underage.

## **Inebriates Act 1898**

Prevention of sale of alcohol to habitual drunkards.

## **Licensing Act 1964**

Prohibited sale of alcohol to a drunken person.

## **Drinking and Driving**

The law prohibits being in charge of a motor vehicle while unfit to drive through the influence of drink or drugs as shown by the proportion of alcohol in the blood, and being in charge within ten years of a previous offence, while under influence. The 1967 Road Safety Act introduced the breath test and a legal limit of 80 mgs of alcohol per 100 ml of blood.

This is equivalent to 35 microgrammes of alcohol in 100 millilitres of breath, and 107 milligrammes of alcohol in 100 millilitres of urine.

## **Police Powers to take Breath Tests**

As amended by the Transport Act 1981, Section 7 of the Road Traffic Act 1972 empowers a constable in uniform, who has reasonable cause to suspect that a person driving a motor vehicle on a road:

- has alcohol in his body or
- has committed a moving traffic offence or
- has been involved in an accident

to require that person to provide a specimen of breath for testing.

## **Road Traffic Act 1991**

Introduced new offences and penalties for drinking and driving, which came into force on 1st July 1992.

- A new offence of causing death by careless driving when under the influence of drink or drugs. The maximum penalty for this offence was originally set at 5 years imprisonment, but was soon increased to 10 years.
- Experimental education/rehabilitation courses for selected drink drive offenders. The offenders have to pay for the courses themselves: in return, those who complete them receive a 25 percent reduction in the length of their period of disqualification.

## **Cyclists**

Section 30 of the Road Traffic Act 1988 states:

“A person who, when riding a cycle on a road or other public place, is unfit to ride through drink or drugs (that is to say, is under the influence of drink or a drug to such an extent as to be incapable of having proper control of the cycle) is guilty of an offence.”

## **High Risk Offenders**

Since 1990, those categorised as high risk offenders must satisfy the medical examiners of the Department of Transport that they do not have a drink problem, and are fit to drive, in order for their driving licences to be returned after their period of disqualification.

High Risk Offenders are defined as those:

- a) Disqualified once for driving while two and a half times or more over the legal limit (ie 200 mgs% or more)
- b) Disqualified twice within a ten year period for any kind of drink drive offence
- c) Disqualified for failing, without reasonable cause, to supply a specimen for analysis

## **Specific Occupational Groups**

### **Merchant Shipping Act 1894**

Being drunk and persisting after being refused admission on that account, in attempting to enter a passenger steamer. Being drunk on board a passenger steamer, and refusing to leave such steamer when requested.

### **Merchant Shipping Act 1979**

Possession of alcohol aboard a UK fishing vessel is already regulated and made subject to inspection.

### **Air Navigation Order 1980**

The CAA Air Navigation No 2 Order 1995, covers engineers, crew, and air traffic controllers under articles 13, 57 and 85 respectively, which state that they must not be under the influence or impaired by drink or drugs. The Civil Aviation Authority prohibits the consumption of alcohol by a pilot for at least 8 hours before flying.

The UK Department of Transport has been asked to amend the Civil Aviation Act and Air Navigation Order to allow for cause and post incident alcohol testing of operational staff with an alcohol limit of 20mgs% blood alcohol.

**Transport and Works Act 1992**

Extended the 80 mgs% legal limit to train drivers and other operational staff of railway operating companies, London Underground and Docklands Light Rail.

**Work in Compressed Air Special Regulations 1958**

It is an offence to drink alcohol while working in compressed air.

**Health and Safety at Work Act 1974**

Anyone under the influence of drink at work who thereby endangers the health and safety of himself or others is liable to prosecution.

**Institute of Alcohol Studies**

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**References:**

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<sup>1</sup> Guidance issued under section 182 of the Licensing Act 2003 – June 2007, DCMS