



The *Voice* of the
Scottish Food, Drink
and Allied Trades



THE NEW ALCOHOL ACT EXPLAINED

A GUIDE TO THE LEGISLATION



Responsible Off-Trade Sales

Scotland is known for excellent retailing. The hard work you continue to do in being responsible retailers has given us the opportunity to produce some simple guidance on the new Alcohol Act. Our hope is that you and your staff use the booklet to prepare your business for compliance. The answers contained here will help you make the changes required in your business so that you can continue to be successful.



*John Drummond,
Chief Executive,
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Federation*



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Association*

RESPONSIBLE

PROMOTIONS FOR OFF-TRADE SALES

A trade guide to the law from 1st October 2011

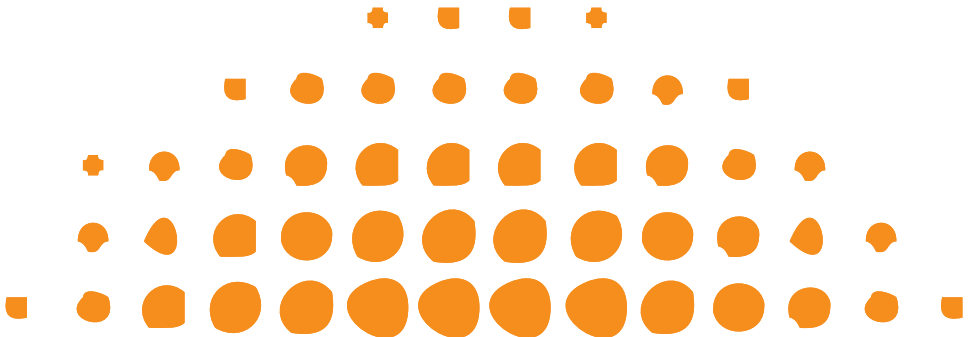
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THE 5 Ps

PROMOTION
PLACE
PRICE
PRODUCT
PEOPLE

- *What is a PROMOTION?*
- *In what PLACES can I run a promotion?*
- *How has the law changed the rules about the PRICE I charge?*
- *Do the rules vary depending on what PRODUCTS I sell?*
- *What does the new law say about PEOPLE?*



DOs & DON'Ts FROM 1st OCTOBER 2011

Alcohol Etc. (Scotland) Act 2010

Most readers will be familiar with the changes to licensing law which came into force in September 2009. Now, more new laws are coming into force. You will have personal licences or will have been trained under the 2005 Act. You may not be aware of important changes which affect everyone selling alcohol in the Off-Trade from 1st October 2011. The prospect of further regulation can be daunting, but this booklet is intended to give everyone in the Off-Trade a **fingertip guide** to the new rules. Don't assume that the interpretation of the rules will be the same everywhere – speak to your local Licensing Standards Officer (LSO) for extra advice. You will find more information on the website - AlcoholComplianceScotland.co.uk

PROMOTION

Q Are we now banned from promoting alcohol?

A No, but the government is imposing more controls as part of its clampdown on 'irresponsible drinks promotions'. The biggest restrictions will be on discounts and special offers. A promotion can be anything that encourages people to buy alcohol. So in your store it could include; posters; displays and leaflets; advertising; special offers and discounts. Promotion also includes: 'A boards' on the street; window graphics; flyers and in-store magazines. Even in-store tannoy announcements referring to alcohol promotions are covered, so treat these announcements as part of your licence requirements.

Q Can I still have flyers advertising what I sell?

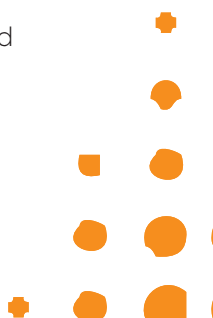
A Yes, but if the majority - more than 50% - of the flyer is advertising alcohol, it must only be made available in the authorised alcohol areas.

Q Can I stock promotional material (e.g., glasses, sports shirts, rugby balls, etc.) if they are sponsored by a drinks company?

A Yes. If these are for display only, they are classed as drinks promotions and you can display them only in the authorised alcohol areas. If, however, these items are for sale they do not constitute a drinks promotion and may be displayed anywhere in the premises.

Q Does a "promotion" have to be advertising a specific product or brand?

A No. The guidance notes state that even a sign saying "Cold Beer Sold Here" would be considered a promotion. This suggests that any reference to alcohol can be classed as a "promotion".



Q Are there restrictions on where I can position my promotions?
A Most definitely... YES! Read the PLACE section.

- *DO take advice if you're not sure about a promotion*
- *DON'T try to bend the rules - your licence could be at risk*



PRICE & PRODUCT

Q Are multi-buy discounts now banned?

A Yes, although there are SOME exceptions. The basic rule is that if you sell a product individually – say a single 500ml can of lager – then if you sell more than one can, the price for three cans must be AT LEAST three times the price of the individual can.

Q But there are exceptions to this rule. Can you explain?

A The rule only applies if you are selling single units of an individual product. So, in the example given above, provided you don't sell individual 500ml cans of lager at the same time, there is nothing to stop you selling four 500ml cans for ANY price you choose.

Q If I sell a single unit for 75p, must I sell an 8 pack of the same unit size for at least £6.00.

A Yes. The multi-pack must reflect the unit price times the quantity.

If you do not sell the single units, you can sell the 8 pack at whatever price you wish.



Single 500ml can **Price £1**

4 x 500ml cans **Price £4**



Single 500ml can **Price £1**

4 x 500ml cans **Price £2.99**



Bottles of wine **3 for £10**

Bottle of wine **Price £3.33**



Bottles of wine **3 for £10**

Bottle of wine **Price £4**



PRICE & PRODUCT

Q What if I'm selling products in different quantities e.g., lager as 500ml cans and 330ml bottles?

A The cans and bottles will be regarded as separate products. They are viewed exactly the same way that Vodka is considered a separate product from Whisky.

Q Are cans and bottles always treated differently – even if they both contain the same volume quantity?

A Yes. Bottles are regarded as separate products, regardless of whether the quantity is the same. So, if you sell 500ml cans of lager individually for £1, you cannot charge any less than £4 for a four pack. But, you could charge less than £4 for a four pack of 500ml bottles.

Q I sell only multi-packs of 500ml cans of lager. I sell them in packs of four, eight and 12. I charge £4 for the 4 pack. What prices do I have to charge for the 8 and 12 packs?

A There are no restrictions because you do not sell individual units.

Q Are 500ml cans viewed as separate products from 330ml cans?

A Yes. If you sell 500ml cans of lager for £1 that does not mean you have to charge £6 for a six pack of 330ml cans of lager. Provided you do not sell individual 330ml cans then the pricing of that multi-pack product is at your discretion.

Q Am I allowed to offer quantity discounts (like “buy five, get six”) if I do not stock a single unit of the product?

A No.

You can no longer offer:

- Buy one, get one free
- Three for the price of two
- Five for the price of four, cheapest free
- Buy six, get 20% off



Q What changes have been made to the 72 hour rule on the pricing of alcohol?

A The new regulations offer more flexibility on the pricing of individual products. You can now change the price of a product at the start of any day, provided you keep the price of that product the same for 72 hours. So you could change the price of all (or some) of your beers on a Thursday, spirits on a Friday, and wines on a Saturday. The thing to remember is that the price change must take effect as soon as you open for trading on Day 1 and can't be changed until the beginning of trading on Day 4.

Q What about offering a percentage discount on alcohol in my shop?

A A percentage discount for volume sales is illegal. There is nothing to stop you marking down the price on single bottle sales, (e.g., "Was £20, Now £17"), provided you remember the 72 hour rule and apply the £17 price tag to single bottle sales as well as to multiple sales. Traditional store loyalty card schemes are unaffected, but if you are thinking about setting up a new scheme, always take advice before you do so.

- ***DO remember that some promotions are acceptable***
- ***DON'T forget you can only change prices at the beginning of licensed hours***



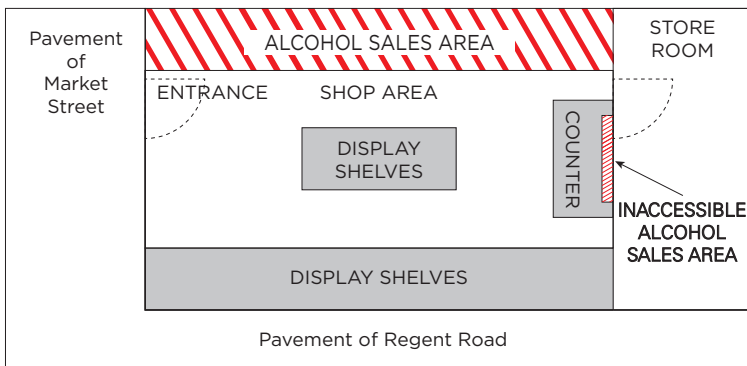
PLACE

Q Surely, I can place promotions wherever I like inside my own shop?

A **Definitely not.** There are restrictions in most shops. If you sell nothing but alcohol, you may be able to have promotions throughout the shop. BUT, that does not apply to a convenience store. Advertising and promotion of alcohol will be restricted to the areas of your shop which the licensing board has authorised for the sale of alcohol. You will find these on the layout plan which forms part of your licence.

Q Can you remind me about the rules regarding authorised sales areas?

A You can have one public sales area and one other area inaccessible to the public - in many stores this is behind the till areas. These will be shown in the layout plan attached to your licence. It is an offence to display alcohol outside these designated areas. Make sure all staff are aware of this, and a copy of the plan is available to them at all times. Be especially careful if you are rearranging stock displays.



Q What can I display in the inaccessible area?

A You can display alcohol and other goods. The restrictions on mixing displays of alcohol and non-alcoholic goods apply only to the public display areas.

Q What can I display in the authorised public area?

A You can display alcohol, non-alcoholic drinks or anything which is packaged with, and can only be purchased along with, alcohol. Changes in the law mean you can now display branded, non-alcoholic products in this area e.g., a sporting item bearing the logo of a drinks company, or clothing with a drink's brand name. If you wish, you can also display newspapers, magazines or other publications.

Q What can I display in the parts of the store which are not authorised?

A **NOT** alcohol. **NOT** any alcohol promotion. **NOT** any free newspaper, magazine or other publication which contains promotion of alcohol (unless the space devoted to alcohol is less than 50% of the space).



PLACE

Q I do a food and drink combination deal. 3 course dinner for 2 plus a bottle of wine for a fixed price. Where can I display that promotion?

A You cannot display the food in the authorised display area unless it is a fixed package which leaves the customer no choice of either food or wine. So far as material promoting your meal deal is concerned, if that material relates solely or primarily to the alcohol part, it may be displayed only within the authorised alcohol display areas. If 50% or less of the promotional material relates to alcohol, it may be displayed anywhere inside the store.

Q How do I promote a food and drink combination deal?

A If you have a flyer, if you make sure that less than 50% of that flyer is promoting the wine, you can display it anywhere.

Q What about window displays?

A If your window area is outside the authorised display areas you cannot use it for alcohol promotions. If the window display is inside the authorised display area, Government guidance states there is no reason why you cannot have an alcohol promotion in the window facing out.

Q What about promotions outside the shop?

A You are not allowed to run a drinks promotion within 200 metres from the boundary of your premises. The boundary is shown on your layout plan. This may include the car park as well. Remember to check the plan carefully!



Q Does this mean I can't distribute flyers to my neighbours?

A Anything distributed within the 200 metre zone must not be a "drinks promotion".

However, current guidance states that flyers that contain less than 50% of material promoting alcohol can be distributed.

Q There's a bus stop 50 metres away from our shop. It frequently carries adverts for alcohol. Will I get into trouble?

A You cannot be held responsible - unless the drinks promotion is in connection with the premises and you have some control over it.

- ***DO check with your local adviser or LSO about window displays.***
- ***DON'T change your alcohol display without checking your layout plan.***



PEOPLE

Recent changes in the law affect your customers, you as premises licence holder and your staff.

CUSTOMERS

Q What new laws have been brought in to stop sales of alcohol to under-18s?

A The minimum legal age is still 18 – this hasn't changed. And, you are still required by law to have a policy for checking you aren't selling alcohol to persons under 18. Many stores have for a long time required ID from people they believe to be under 21. This became known as a Challenge 21 policy. **You are now required to have in place a Challenge 25 policy.**

Q So what do I have to do?

A If you don't have an age verification policy in place, you are now required by law to have one. If it appears that a customer may be less than 25, you should take steps to verify that customer's age. It is essential that all staff involved in the sale of alcohol are made aware of this policy. They should receive training and regular reminders. Posters and notices are useful. Your tills may even be able to give electronic prompts when alcohol is being sold. Detailed records should be kept of everything you do. If you refuse a sale, it should be recorded in a refusal book as evidence you are enforcing a Challenge 25 policy.

Q What form should the policy take?

A It must be in writing, checked, reviewed and updated regularly.

Q What types of ID are acceptable?

A Passports, EU style (photographic) driving licence, or a photographic ID card approved by the PASS scheme. Make sure that your staff know what genuine driving licences and ID cards look like – there are many fake and look alike cards in circulation.

Q My present Challenge 21 policy works very well. Do I have to change it?

A Yes. Having a Challenge 25 policy is compulsory.

Q Can I get into trouble for not operating the Challenge 25 policy effectively?

A Yes. This is now a mandatory condition of your licence. Your licence could be at risk if you don't obey the law.



YOU AS PREMISES LICENCE HOLDER

Q Can I be held liable for the actions of my staff?

A Yes. Your licence can be revoked or suspended as a result of a mistake made by your staff. If a staff member sells alcohol to someone under 18, you, as licence holder, can be prosecuted as well as your employee.

PEOPLE

YOUR STAFF

Q All my staff either have personal licences or have had the two hour training – is this enough?

A **No!** The law makes clear that it is your responsibility to make sure that your staff are fully up-to-date and made aware of the changes.

Q How do the new rules about alcohol promotions affect my staff?

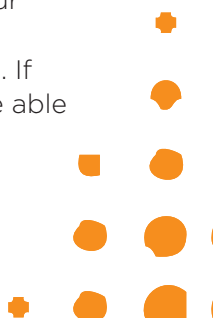
A All of the rules about promotions are conditions of your licence. If they are breached, your licence could be suspended or even revoked. It would be recommended to carry out refresher training for staff at least every six months.

Q How do I prove I have exercised due diligence to prevent prosecution if something goes wrong?

A You must be able to show that you have a watertight system in place to prevent a breach of the law. Think training, training, and more training! It's worthwhile going over all the basics again and again. All training must be recorded by you and countersigned by the staff member to confirm they have received and understood the training. The trainer should be a person who is suitably qualified.

Q I delegate training to my store managers. Is this acceptable?

A You are not required to do it all yourself BUT it is recommended you check (a) that the training is being done regularly and (b) that it is being done properly. Even if your staff have been with you a long time and you trust them, always remember that you have to protect your livelihood. If you lose your licence they will find other jobs – will you be able to rebuild your business?



- *Do record all training you give*
- *Don't assume all your existing training records are enough*
- *Do remember that all of the rules about promotions are conditions of your licence*



CONCLUSION

DON'T WORRY - HELP IS ALWAYS AT HAND

We hope this fingertip guide proves useful as you juggle getting to grips with the new laws with your already important and busy role as a responsible, licensed retailer.

Just remember to always have this guide readily available for you and your staff - out of sight, is out of mind!

We've done our best to clarify these new laws to help everyone in the Off-Trade to be prepared for 1st October 2011 and onwards.

But if you have ANY doubts about anything in this booklet then don't panic - make sure you are always up-to-date by keeping your eye on the trade press or the website

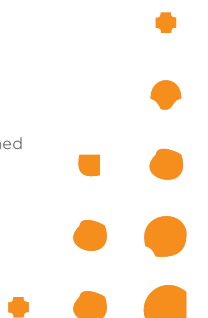
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For further information visit:

www.AlcoholComplianceScotland.co.uk

www.scottishshop.org.uk

www.scottishwholesale.co.uk



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