Chapter 5: Licensing law relevant to the role of a door supervisor

Licensing laws

This section is intended to bring to your attention some of the basic licensing laws that you should be aware of to enable you to carry out your duties as a door supervisor working on licensed premises. It is not a comprehensive guide to licensing but it will highlight some of the common regulations and offences you are likely to encounter as front-of-house security.

With many of the offences in licensing law, the licence holder may be liable for the actions of the people working for them, even if they are not actually present when the offence is committed. The license holder may be convicted of a licensing offence, even if the employee has acted with total disregard of their express instructions.

As a door supervisor, you act as an agent of the licence holder and as such, can in certain circumstances be held responsible for the observance or breach of those laws.

The Licensing Act 2003

The Licensing Act 2003 is focused on the promotion of 4 main licensing objectives. It introduced the separate licensing of the actual premises used to sell alcohol, and of the individuals that manage them. Its key aims are to:

- protect the public from alcohol-related crime, nuisance and anti-social behaviour
- provide police and other authorities with powers to deal with problem premises
- recognise the role of licensed premises in the community



NI

(Northern Ireland Licensing *(NI) Order 1996*)

- Offence for a minor (<18) to be on licensed premises
- Offence for a minor to purchase/ consume intoxicating liquor
- Offence to sell/permit consumption/ deliver for consumption on or off the premises
- Offence for minor to represent themselves as 18+ to purchase intoxicating liquor



Licensing objectives

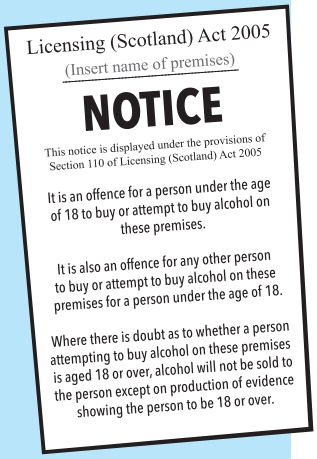
It is important that you know the 4 licensing objectives and understand how they impact how the premises you are working at must operate.

4 The **4** licensing objectives are:

- **the prevention of crime and disorder**
- **public safety**
- **the prevention of public nuisance**
- **the protection of children from harm**

All licensing authorities must promote these objectives in everything they do concerning licensed premises. The person managing licensed premises must implement practices and measures to promote them as well, and all members of staff working on the premises, including door supervisors, must be made aware of their roles in promoting the licensing objectives in everything they do.

Chapter 5: Licensing law relevant to the role of a door supervisor


Licensing (Scotland) Act 2005

(Insert name of premises)

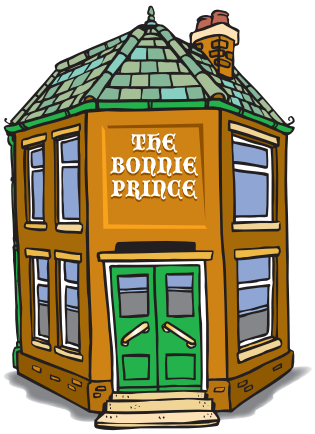
NOTICE

This notice is displayed under the provisions of Section 110 of Licensing (Scotland) Act 2005

It is an offence for a person under the age of 18 to buy or attempt to buy alcohol on these premises.

It is also an offence for any other person to buy or attempt to buy alcohol on these premises for a person under the age of 18.

Where there is doubt as to whether a person attempting to buy alcohol on these premises is aged 18 or over, alcohol will not be sold to the person except on production of evidence showing the person to be 18 or over.



SCO

The Licensing (Scotland) Act 2005

The Licensing (Scotland) Act 2005 came into force on 1 September 2009 and focused on the promotion of 5 main licensing objectives. It introduced the separate licensing of the actual premises used to sell alcohol and of the individuals that manage them. It has increased powers for police and licensing boards to deal with problem venues and close down licensed premises for breaching the Licensing (Scotland) Act 2005. Therefore, door supervisors have a direct role in ensuring licensed premises are compliant with the law.

Its key aims are to:

- protect the public from alcohol-related crime, nuisance and anti-social behaviour
- provide police and other authorities with powers to deal with problem premises
- recognise the role of licensed premises in the community

5

licensing objectives: SCOTLAND

If you are working as a door supervisor in Scotland, it is important that you know the 5 licensing objectives and understand how they impact how the premises you are working at must operate.

The 5 licensing objectives are:

- **preventing crime and disorder**
- **securing public safety**
- **preventing public nuisance**
- **protecting children and young persons from harm**
- **protecting and improving public health**

Licensable activities

The Licensing Act refers specifically to premises and individuals engaged in what are called licensable activities. Licensable activities include:

- the sale of alcohol by retail
- the supply of alcohol on club premises
- the provision of regulated entertainment
- the provision of late-night refreshment

The types of businesses, organisations and individuals that are normally regulated by the act include:

- pubs
- wine bars
- nightclubs
- members' clubs
- off-licences
- supermarkets
- corner shops
- restaurants
- hotels
- cinemas
- charities
- late-night takeaways
- burger vans

There are 2 types of licence required before any premises can be used to conduct any of the licensable activities; a premises licence and a personal licence.

Premises licences

A premises licence is the single licence, issued by the local licensing authority, that allows specific premises to be used for any of the licensable activities. A premises licence can be granted to an individual over the age of 18, a company that wants to run a business from there and/or organisations such as charities or educational institutions. Once a premises licence has been granted for a specific venue, it will remain in force until it is either revoked or surrendered, or until such times as the venue is no longer being used for licensable activities, or the actual premises licence holder dies, becomes incapacitated or goes bankrupt.

Chapter 5: Licensing law relevant to the role of a door supervisor

It is illegal to operate a licensed premises without the relevant licenses being granted by the local authorities.

Personal licences
(Not applicable in Northern Ireland)

A personal licence, however, can be granted to an individual who wishes to sell or authorise the sale of alcohol at a venue with a premises licence.

Designated premises supervisor (DPS)

The designated premises supervisor (DPS) is a person who holds their own personal licence and has been nominated as the individual for the time being specified in that licence as the premises supervisor. There can only be one DPS for each premises and they are the person responsible for the day-to-day running of the premises.

The DPS is the main point of accountability and should be easily identifiable by the police and other authorities as the person in overall charge of the venue. The DPS must be named on the operating schedule and will, for example, devise and implement the venue's admissions policy and other venue-specific house rules.

SCO

Scotland: The premises manager (PM) is the person responsible for the day-to-day control of the licensed premises. One (and only one) PM is required where the sale of alcohol by retail takes place.

NI

In Northern Ireland the role of the designated premises supervisor (DPS) is known as a 'responsible person'.

Door supervisors

Door supervisors, acting as agents of the DPS, need to work under the direction of the DPS at all times. They need to enforce the admissions policy and house rules on the DPS's behalf, and work to help run the venue in line with the 4 licensing objectives.

Point of entry

The first contact that potential customers have with the premises or event is at the point of entry (the entrance). It is the first 'point of sale', and the door staff are the first members of the venue's staff that they will meet. It is important, therefore, that all members of the door team display a professional appearance and attitude at all times.

It is here, at the entrance, that you will get the chance to improve the image of your profession in the eyes of the public. The way that a customer is treated here can have a significant impact on their perceptions of the whole venue.

It is at the point of entry that you are required to use your judgement fairly and effectively while enforcing both the laws of the land and the venue's own policies and conditions.

Refusals

Refusing entry to unsuitable people is an important and necessary part of your job as a door supervisor. Acting on behalf of the DPS, and under licensing laws, door supervisors and other members of staff have the right to refuse entry to anyone who is drunk, for example, or anyone whose presence on the premises would subject the DPS to possible prosecution.

Chapter 5: Licensing law relevant to the role of a door supervisor

Each venue will have its own admissions policy and house rules. In fairness to customers, and to help the door supervisors working at the entrance, a notice should be displayed outside the premises explaining what those policies and rules are. This helps potential customers to assess for themselves whether they are likely to be allowed entry before joining the queue, and shows the grounds on which people are likely to be refused entry, showing that it is not just a decision made by a particular door supervisor at the time.

When refusing entry to customers, it is important that you do so in a polite and professional way, fully explaining the reasons for the refusal.

Entry can and should be refused for the following reasons:

- the venue is already full (capacity figures)
- the customer is under the influence of alcohol or drugs
- the customer is underage or cannot prove age suitably
- the customer does not comply with the venue's dress code
- inability or refusal to pay the entry fee
- a refusal to be searched
- known troublemakers
- banned or subject to an exclusion order
- poor attitude
- any other breaches of other reasonable venue-specific entry conditions

Ejections

As a door supervisor working on licensed premises, one of your main tasks is to maintain order. Furthermore, the prevention of **crime** and **disorder** is one of the licensing objectives.

During the course of your duties, you may well have to ask people to leave a pub or a club as a result of their behaviour, and as a last resort may have to physically eject them from the premises if they refuse to leave when asked.

Licensed premises offer what is called an **open invitation** to members of the public to enter, whether on payment or otherwise, for an evening's entertainment. That invitation may, however, be **withdrawn** at any time.

Door supervisors, acting on behalf of the DPS, have the right in law to refuse entry to anyone whose presence is not welcome. Further to this, customers already on the premises may become trespassers if the invitation to remain is withdrawn and they refuse to leave when asked to.

As a door supervisor, you will need to use the rules of trespass mentioned in chapter 2 of this module to remove unwanted people from the premises.

Police powers

The Licensing Act 2003 gave the police and other authorities specific powers in relation to licensed premises.

The police, the licensing authority and other responsible authorities have the right to enter and inspect licensed premises at any reasonable time to assess the venue against the licensing objectives.

They can also enter to investigate whether the licensable activities taking place or about to take place are actually licensed, and whether they are being held in accordance with the premises licence itself and any of its specific conditions.

The police may enter at any time and search any licensed premises if they suspect that an offence under the Licensing Act is taking place or is about to take place. The police do not need a search warrant to be able to do this, and it is an offence for a door supervisor or any other member of staff to obstruct or prevent the police from carrying out their duties. Furthermore, the police are allowed to use reasonable force to enter licensed premises to carry out their duties if they need to.

Closure of all premises

A police superintendent may apply to a magistrates' court for a closure order requiring all licensed premises in a specific area to close for up to 24 hours.

Chapter 5: Licensing law relevant to the role of a door supervisor

Environmental health officers (EHOs) also have the power to close specific licensed premises to prevent noise nuisance. Again, the police can use reasonable force to close a premises if they need to.

They can also apply to a magistrates' court (sheriff court in Scotland) for a closure order to close all licensed premises in a specific area for up to 24 hours. They may may do this if they anticipate public disorder or nuisance problems due to a demonstration or a large sporting event.

It is an offence to open a licensed premises while it is subject to a closure order.



Other authorised persons

Other authorised agencies that are allowed to enter licensed premises to carry out their duties include:

- **licensing authority officers**
- **fire safety inspectors**
- **environmental health officers**
- **health and safety inspectors**
- **weights and measures officers from Trading Standards**
- **HM Revenue and Customs**

Representatives of these agencies, once their identities have been verified, must be allowed to enter to conduct their statutory duties.

Children and young people

The protection of children from harm is one of the 4 licensing objectives in England and Wales and one of the 5 licensing objectives in Scotland. This is to protect children from any form of harm arising from licensable activities. This might include psychological harm caused by 'adult' entertainment, or physical harm from unsafe premises or alcohol itself.

Everyone working on licensed premises has a moral as well as legal duty to protect children and young people. The following information will focus on the law regarding children on licensed premises, and in particular on the consequences of selling alcohol to those under the age of 18.

Selling alcohol to under-18s

It is always against the law to sell alcohol to anyone under 18 – without exception. Fines of an unlimited amount for doing so can be imposed by the courts.

Furthermore, a premises licence holder whose premises are caught selling alcohol to under-18s on 2 occasions within a 3-month period can be fined up to an unlimited amount and can have their licence suspended for up to 3 months (Policing and Crime Act 2009).

Bar staff are committing an offence if they knowingly allow the sale of alcohol to anyone under the age of 18, particularly when they could have prevented the sale from taking place; the maximum penalty if convicted is an unlimited fine.

Also, adults are committing a separate offence if they buy or even attempt to buy alcohol for someone under 18; fines of an unlimited amount can be imposed by the court for doing so.



Chapter 5: Licensing law relevant to the role of a door supervisor

Proof of age

If there is any doubt at all as to whether a person attempting to buy alcohol is 18 or not, then they must be asked to provide reliable photographic evidence that they are 18 before the sale can be allowed.

All licensed premises need to have an age verification policy in place to ensure that underage sales are not allowed to take place.

Premises that operate a Challenge 21 or Challenge 25 scheme will request photographic documentary evidence from those that appear to be under the ages of 21 or 25, before they can be served alcohol. Those unable to provide such evidence should be politely but firmly refused service.

Acceptable documents are passports, driving licences and some proof of age schemes.

Proof-of-age scheme cards and local Challenge 21 and Challenge 25 schemes are not applicable in Northern Ireland.

Allowing under-18s to consume alcohol

Even just allowing a person under the age of 18 to consume alcohol on the premises is an offence.

There is, however, one exception to this. Anyone aged 16 or 17 may be allowed to drink the beer, wine or cider bought for them by an adult, provided that it is consumed with a proper table meal when accompanied by the adult. (This exception does not apply in Northern Ireland.)

SCO

Scotland: A person who is 16 or 17 may consume beer, wine, cider or perry, only if it is bought for them by an adult and provided that it is consumed with a proper table meal when accompanied by the adult.

Collecting or taking delivery of alcohol

It is illegal for an adult to send anyone under the age of 18 to collect alcohol for them, from an off-licence for example.

It is also an offence for alcohol to be delivered to a person under the age of 18, or to allow that delivery to take place.

There are only two situations when a person under 18 can take delivery of alcohol that has been ordered by an adult:

- at home
- when working on licensed premises, if it is a part of their duties

The sale of alcohol by under-18s

It is against the law to allow anyone under 18 to sell alcohol, unless each and every sale is specifically approved by a responsible person on the premises.

SCO

Scotland:
In Scotland, Challenge 21 is no longer permitted and the Challenge 25 Scheme is enshrined under Section 6 of the Alcohol etc. (Scotland) Act 2010 and must be followed.

Age verification policy

There must be an age verification policy in relation to the sale of alcohol on the premises. An 'age verification policy' is a policy in which steps are to be taken to establish the age of a person attempting to buy alcohol on the premises ('the customer') if it appears to the person selling the alcohol that the customer may be less than 25 years of age (or such older age as may be specified in the policy).

When you, as a door supervisor, or any other members of staff are checking the age of someone attempting to buy alcohol, you should remember

LADS.



L — LOOK
carefully at the person attempting to buy alcohol.

A — ASSESS
their likely age. Do they look under 18, 21 or 25?

D — DECIDE
whether to ask them for appropriate documentary proof of age.

S — SURE?
Make sure that they are old enough before the sale is allowed.

Chapter 5: Licensing law relevant to the role of a door supervisor

Test purchasing

Test purchasing is where a person under the age of 18 is legally sent into licensed premises to attempt to buy alcohol, to find out if those premises are complying with the law regarding the sale of alcohol to children and young people.



Test purchasing operations are usually carried out by either the police or the weights and measures department of Trading Standards.

If, during such an operation, the underage person manages to buy alcohol, then the police can issue an on-the-spot fine of £90 to the person that actually sells the alcohol.

If the person is taken to court for the offence and found guilty, they could be fined up to an unlimited amount.

The police or Trading Standards may even ask for a review of the premises licence itself, which could ultimately lead to its suspension or revocation.

Disorderly conduct

It is an offence to knowingly allow disorderly conduct to take place on licensed premises. The maximum penalty for this offence is a fine of up to £1,000. Everyone working at a venue, including door supervisors, has a legal duty to prevent disorderly conduct from being allowed on the premises. This is why it is so important that as a door supervisor, you are careful in your selection of customers at the point of entry, and that you monitor the behaviour of those already inside the venue. Anyone displaying disorderly or anti-social behaviour should be asked to leave or must be ejected if they refuse to do so.

Drunkenness

It is also an offence to allow someone who is drunk and/or disorderly to remain on the premises. Anyone who is obviously drunk should be asked to leave or must be ejected if they refuse to do so. Anyone removed from the premises for being drunk or disorderly commits a further offence if they re-enter or attempt to re-enter the venue.

Selling alcohol to someone who is drunk

It is a specific offence to sell or allow the sale of alcohol to someone who is drunk. Selling alcohol to someone who is already drunk can result in on-the-spot fines or court fines of up to £1,000.

This is why it is so important that all door supervisors are vigilant at the point of entry, so that people who arrive already drunk are refused entry, to prevent them from being allowed more alcohol once inside.





Acceptable documents to prove age include:

- a valid passport



- a valid EU photographic driving licence



- a Proof of Age Standards Scheme (PASS) card with a hologram



Chapter 5: Licensing law relevant to the role of a door supervisor

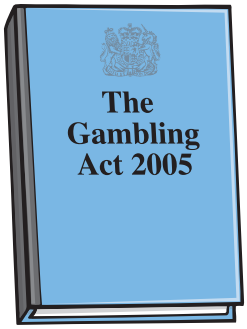
Other relevant offences

There are a variety of other offences that the licence holder or other members of staff may knowingly or unwittingly commit while working on licensed premises, and so it is important that everyone working at the venue, including door supervisors, is aware of what those offences are, and how to deal with them when they occur.

Door supervisors need to check with the DPS as to what gambling activities are permitted on any premises they are working at.



Gambling



The Gambling Act 2005 states that certain gambling activities are permitted without authorisation on licensed premises **(Northern Ireland The Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985)**.

Gambling activities now allowed include:

- equal chance games (with stake/winnings limits)
- poker and poker-style games (with stake/winnings limits)
- small incidental raffles
- customer lotteries
- bingo

Owners and managers of all licensed premises are expected to comply with the Code of Practice on gambling and gaming machines published by the Gambling Commission. It is recommended that specialist advice is sought before allowing other types of gambling to take place on the premises.

Smoking on licensed premises



Smoke-free legislation aims to protect both employees and the public from the damaging effects of second-hand smoke.

In 2007 (2006 in Scotland) it became illegal for anyone to smoke in virtually all enclosed (or substantially enclosed) public places or workplaces. This includes licensed premises like pubs, clubs, hotels and restaurants. Smoking rooms are no longer allowed.

As a door supervisor, you should familiarise yourself with the areas around your premises where staff and customers are allowed to smoke and you must ensure that customers refrain from smoking inside the venue itself.

If anyone smokes in an area where they are not allowed to, then the person smoking as well as the venue could be fined. Customers who do not comply with your requests regarding smoking should be asked to leave the premises.

Prostitutes/Soliciting

It is against the law to allow prostitutes to solicit for business on any licensed premises.

They are allowed to come onto the premises for a drink or a meal but cannot ply their trade from there.

It is also against the law to allow any licensed premises to operate as a brothel.

Sex establishments

Under the Policing and Crime Act 2009, certain licensed premises are licensed by the local authority so that they can operate as sex establishments **(Northern Ireland The Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985)**.

A sex establishment is essentially any premises at which lap dancing or nudity is provided as entertainment for profit. Local authorities can grant a licence for such activities on licensed premises but will always attach stringent policies and conditions to it. It is against the law to run a sex establishment without a licence, and to contravene any of the terms, conditions or restrictions on the licence.

All sex establishment licences prevent anyone under the age of 18 from entering, for example.

Door supervisors working at licensed sex establishments need to make sure that they know and fully understand the terms, conditions and restrictions covering the venue, so that they can effectively help the DPS to ensure that the premises are run according to the law.