

MAJOR CHANGES TO SCOTTISH LICENSING LAWS AHEAD



McGRIGOR DONALD LICENSING LAWYER, AUDREY FERRIE, EXAMINES THE MAIN POINTS OF THE FIRST REVIEW IN NEARLY 30 YEARS.

The Nicholson Committee's long-awaited Report on Licensing Law and Practice in Scotland was published on 19 August. Justifiably it has already provoked a great deal of comment because, if enacted, its proposals will radically alter Scottish licensing laws and the way in which the licensing system is administered.

The Committee's terms of reference were to review liquor licensing law and practice with particular reference to the implications for health and public order. Those issues colour many of the recommendations, none more than the proposed objectives of any future legislation – the prevention of crime or disorder, the promotion of public safety, the prevention of public nuisance, the promotion of public health and the protection of children from harm.

The most significant recommendations are –

- ◆ The abolition of the present system of 7 different types of licence and the introduction of a single premises licence based on an operating plan lodged at the time when application for the licence is first made, the licence to remain in force indefinitely but subject to variation of modification
- ◆ The creation of a personal licence to remain in force for a period of 10 years
- ◆ The abolition of permitted hours
- ◆ Mandatory training for personal licence holders and Licensing Board members
- ◆ A ban on promotional advertising which might be considered to encourage excessive consumption of alcohol.
- ◆ The employment of Liquor Licensing Standards Officers by every Licensing Board
- ◆ A wider range of sanctions to be available to Licensing Boards in the event of non-compliance
- ◆ The creation of a National Licensing Forum to formulate standard conditions and devise appropriate guidance in relation to licensing restrictions
- ◆ The introduction of a national proof of age card
- ◆ Children to have access to all licensed premises if desired and on certain conditions but the age-limit of 18 for sale and consumption to remain.

Many of the other recommendations are aimed at standardising procedures and minimising bureaucracy and these are to be welcomed. No-one involved in licensing will regret the passing of the quarterly boards! Equally, the ability to lodge applications electronically is a positive step as is the duty on licensing boards to publish policy statements. However, there may be a price to pay. The system is to be self financing and statutory fees are likely to increase.

Anomalies such as the inability of supermarkets to sell alcohol on a Sunday morning or the ferry operators to sell alcohol on a Sunday afternoon would disappear and the Committee has proposed changes to the appeals procedure to speed up the process.

It is now for the Scottish Executive to take matters forward following a further period of consultation.

BACKGROUND TO THE REVIEW... ... AND THE FUTURE TIMETABLE

By VALMAI BARCLAY, HEAD OF RESEARCH AT
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When the Scottish Executive announced in summer 2001 that it intended to review Scottish licensing laws, then Deputy Justice Minister Iain Gray explained that although the laws were not "systematically failing", they had not been examined in nearly 30 years, and were now in need of comprehensive review.

Soon after, the senior Justice Minister, Jim Wallace, pointed to the related issues of health and antisocial behaviour saying: "We now need to look afresh at what the Scottish people expect; at how we encourage healthy patterns of drinking; and at how we discourage the links between drinking and violent crime".

This was followed, at the start of 2002, by the Executive's "Plan for Action on Alcohol (continued on page 2...)"

HARMONY AMONGST SCOTTISH POLITICIANS... ALMOST

The proposals put forward by the Nicholson Committee have been broadly welcomed by Scottish politicians.

Scottish Executive Justice Minister, Cathy Jamieson said that the proposed changes could help to encourage "greater personal responsibility and greater responsibility for licence holders". Both she and Health Minister, Malcolm Chisholm, pointed to the importance of safe and sensible attitudes towards alcohol, with Mr Chisholm noting that "there is an increasing trend of excessive and harmful drinking in Scotland which needs to be addressed."

SNP spokesperson, Nicola Sturgeon, called for the Committee's recommendations to be implemented quickly and commented that the report, "provides the impetus for parliament to radically overhaul Scotland's licensing laws, and not before time".

So far, only the **Tories** have given a somewhat mixed response to Sheriff Nicholson's report. Local Government spokesman, Brian Monteith welcomed the potential liberalisation of opening-hours but raised concerns about possible restrictions on "happy hours" and discounted prices, saying: "Government should not be interfering in the price setting of private businesses, and it should not be dictating to Scots how they should run their lives... Whilst I would welcome the liberalisation and simplification of licensing hours, it is unfortunate that the nanny state is still with us when it comes to happy hours."

ORGANISATIONS PREPARE RESPONSES TO CONSULTATION

Initial comments from health groups, the police and the drinks industry suggest that they will be anxious to contribute to the Executive's consultation.

The Association of Chief Police Officers in Scotland warned that longer opening times alone will not bring about more responsible "continental-style" attitudes to drinking, but could even increase the risk of crime, disorder and nuisance. In future discussions, the organisation is likely to lobby for enhanced police, transport and health resources.

Similarly, the Scottish Licensed Trade Association, whilst welcoming proposals to end "happy hours", have also questioned the logic behind extending opening hours. Chief Executive, Paul Waterson said: "allowing a free for all with opening hours is only going to give people the chance to drink for longer. Pubs will be open later and clubs will be opening during the day and that is a situation no one wants."

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Problems", which included:

- A national advertising campaign, aimed at changing attitudes toward binge drinking.
- Better and more widespread training for bar staff on their responsibility to encourage sensible drinking.
- Specific action targeted at children including better education in schools and better early support where problems arise.
- Increased funding and resources for local alcohol action teams.
- Improved information on problem drinking – including more consistent recording by health professionals.
- Approaches to the UK government regarding concerns about the advertising and marketing of drinks.

Health groups, the police, the drinks industry and others have all since been involved in the initiatives, and there is little doubt that they will also wish to contribute to the new consultation.

In the meantime, the new Justice Minister Cathy Jamieson, is remaining tight-lipped about the timetable for legislative change. The new consultation on Sheriff Nicholson's proposals, will be open to contributions until Christmas and will be followed by a consultation "early next year". Actual legislation however, could be introduced any time between late 2004 and early 2007 (i.e. within the life of the current parliament).

TIMETABLE FOR LEGISLATION

The Scottish Executive has launched an initial **four-month consultation** on the proposals, and will accept submissions until Christmas 2003.

A **White Paper**, based on the Committee's report and on submissions made during the consultation, will be published **early in 2004**.

Future **legislation** on Scotland's licensing laws could be introduced any time **between late 2004 and early 2007**.

FURTHER INFORMATION

The **Nicholson Committee's report** can be found online at: [Review of Liquor Licensing Law in Scotland](#)

If you require further information on anything to do with the current consultation, or future changes to legislation, please **contact** either:

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