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**Report To:** Community Health & Care  
Partnership Sub Committee

**Date:** 20 October 2011

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**Report No:** CHCP/45/2011/AH

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**Subject:** Alcohol Scotland Act 2010 -Implications for NHS Boards

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## 1.0 PURPOSE

- 1.1 The purpose of this paper is to advise the Sub Committee on the new legislation contained within the Alcohol Scotland Act 2010 and the implications of this for the NHS/CHCP

## 2.0 SUMMARY

- 2.1 The 2005 Alcohol Act outlined a number of requirements for Licensing Boards to adhere to and the recently passed 2010 Alcohol Act lays out further legislation for local Licensing Boards. A copy of the guidance for Licensing Boards is attached.
- 2.2 This new legislation comes into force on the 1<sup>st</sup> October 2011 and alongside new guidance relating to alcohol pricing, promotions and age verification policies, a number of the changes related to policy, licence applications and Licensing Forum membership will have an impact on NHS Boards.

## 3.0 RECOMMENDATIONS

- 3.1 That the Sub Committee note the changes in legislation brought about by the 2010 Alcohol Scotland Act  
That the Sub Committee agree the arrangements for implementation by the NHS/CHCP.  
That the Sub Committee agree the timescale for reporting Licensing applications to Committee.

## 4.0 BACKGROUND

4.1 The 2005 Alcohol Act outlined a number of requirements for Licensing Boards to adhere to, and the newly passed 2010 Alcohol Act lays out further legislation for local Licensing Boards. This comes into force on the 1<sup>st</sup> October 2011 and alongside new guidance relating to Alcohol pricing, promotions and age verification policies; a number of the changes related to policy, licence applications and Licensing Forum membership have an impact on NHS Boards as outlined below:

### Policy

- Section 11 (2) of The 2010 Act provides that in preparing a licensing policy statement or a supplementary licensing policy statement, a Licensing Board must now consult the relevant local Health Board.
- In addition, when preparing such a statement a Licensing Board may request certain statistical data or other information from the relevant Health Board and that Health Board is required to provide that information.

### Licence Applications

- Section 11(4) of the 2010 Act amends the 2005 Act to require Licensing Boards to notify the local Health Board of all premises licence applications. This will also include where an application for a variation to a premises licence is required (other than a minor variation).
- However, unlike the Police, the Health Board as a statutory consultee is not required to offer comment on every application and is only compelled to comment on those it feels necessary to.

### Licensing Forum Representation

- It will now be a requirement that at least one member of the Local Licensing Forum is nominated by the Health Board.

4.2 All licensing application decisions must be made with reference to the 5 licensing objectives as outlined in the Licensing (Scotland) Act 2005.

preventing crime and disorder,  
securing public safety,  
preventing public nuisance,  
protecting and improving public health,  
protecting children from harm

All are of equal importance and it is expected that any objections to premises applications/variations by the NHS will be related to the Public Health objective-protecting and improving public health.

## 5.0 PROPOSALS

5.1 Discussions have taken place between NHSGGC Public Health Directorate and representatives from all CHPs/CHCP as to how the NHS will respond to this new legislation and the following has been agreed for Inverclyde:

### Policy

- Agreement that Inverclyde CHCP will be the vehicle, on behalf of NHSGGC, through which the Licensing Board will consult on Policy Statements and the CHCP will provide statistical data as required. NHSGGC Public Health department have agreed to support the CHCP with any data requirements as deemed necessary.

### Licence Applications

- Agreement that the CHCP will be responsible on behalf of the NHS Board to respond to License applications. All licence applications will be sent from the Licensing Board to the Service Manager Health Improvement, Inequalities and Personalisation for consultation and to prepare any required response. All applications and CHCP responses will also be copied to Dr Catherine Chiang, NHSGGC Public Health Consultant to ensure NHS Board wide coordination and review.
- The number, outcome and reasons for the NHS to object to any licensing applications will be reported to CHCP Committee on a 6 monthly basis.

### Licensing Forum Representation

- Inverclyde Licensing Forum already has representation on the Forum from Inverclyde CHCP. The named NHS representative is the Service Manager Health Improvement, Inequalities and Personalisation with an additional CHCP representative from the Youth Alcohol Team

5.2 As previously stated, it is expected that any objections to premises applications/variations by the NHS will be related to the Public Health objective-protecting and improving public health.

## **6.0 IMPLICATIONS**

6.1 Legal: The Head of Legal and Democratic Services has advised that there will be additional administrative resource issues for the Service.

6.2 Finance:None

<b>Cost Centre</b>	<b>Budget Heading</b>	<b>Budget Year</b>	<b>Proposed Spend this Report</b>	<b>Virement From</b>	<b>Other Comments</b>

6.3 Personnel: None

6.4 Equalities:None

## **7.0 CONSULTATION**

7.1 Consultation has taken place with Consultant in Public Health Medicine NHSGGC

## **8.0 BACKGROUND PAPERS**

8.1 None

**ALCOHOL ETC. (SCOTLAND)  
ACT 2010**

**GUIDANCE FOR LICENSING  
BOARDS**

**August 2011**

# **ALCOHOL ETC. (SCOTLAND) ACT 2010**

## **GUIDANCE FOR BOARDS AND LOCAL AUTHORITIES**

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Consultation of health boards

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## 1. INTRODUCTION

1.1 This Guidance has been prepared and issued in order to assist with the implementation of the Alcohol etc. (Scotland) Act 2010 (the “Alcohol Act”). Sections 2 to 13 of the Alcohol Act make amendments to the Licensing (Scotland) Act 2005 (the “2005 Act”). The guidance is issued under section 142(1) of the 2005 Act and has been laid before Parliament. The Alcohol Act can be viewed at the Legislation.gov.uk website at the following address:

<http://www.legislation.gov.uk/asp/2010/18/contents/enacted>

1.2 A list of the orders and regulations made under the Alcohol Act and related orders made under the 2005 Act is provided in Annex A to this Guidance.

1.3 Provisions in the Alcohol Act that are being commenced will commence on 1 October 2011, except for the provision in section 12 relating to the chief constables’ reports to Licensing Boards and Local Licensing Forums, which comes into force on 1 April 2012. This is because part of the obligation for the Report is to set out information relating to a full year preceding the end of a financial year. So the first year a report could realistically be produced would be from 1 April 2012 and would set out matters relating to the financial year 2011-12 (starting in April 2011).

1.4 This Guidance is provided for Licensing Boards, but we hope that local authorities, the Police, Local Licensing Forums, Licensing Standards Officers, and the licensed trade and their representatives may also find it useful.

## 2. PRICING OF ALCOHOL

### **Minimum price of packages containing more than one alcoholic product**

2.1 Section 2 of the Alcohol Act makes provision in respect of the minimum price of a package containing two or more alcoholic products. Section 2 amends the 2005 Act to insert a mandatory licence condition into premises and occasional licences. The licence condition prevents retailers from selling alcoholic products packaged together at a lower price than the customer could buy the same products individually. The intention behind this is to ensure that customers are not encouraged to purchase alcoholic products packaged together because it is cheaper than purchasing the products individually.

2.2 **The provision only applies where each alcoholic product in the package is available for sale on the premises separately.** So if the retailer does not sell single cans of beer, then the price of an 8-pack of beer does not have to be double the price of a 4-pack of the same beer (with the cans being of the same size).

2.3 The provision also only applies to a package containing more than one alcoholic product. So if an alcoholic drink is packaged with a non-alcoholic product, cheese for instance, then this provision does not apply. For example, the provision does not apply to a bottle of wine packaged with cheese.

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### **Off-sales: variation of pricing of alcoholic drinks**

2.5 Section 3 of the Alcohol Act amends the provision in the 2005 Act for premises and occasional licences (paragraph 7 of schedule 3 and paragraph 6 of schedule 4 respectively). The 2005 Act imposes a condition in premises licences and occasional licences that prohibits the price for alcohol being varied before the expiry of 72 hours since the price of any alcohol sold on the premises was last varied. Section 3 amends this so that for alcohol sold for consumption off the premises the 72 hour restriction on varying prices only applies in relation to the price of the particular product in relation to which the price has previously been varied, as opposed to in relation to all alcoholic products sold. This means that in relation to off-sales of alcohol retailers may vary the price of different products at different times provided that the price of each individual product is maintained for 72 hours and the price variation takes effect at the beginning of a period of licensed hours.

## **3. DRINKS PROMOTIONS**

### **Off-sales: restriction on supply of alcoholic drinks free of charge or at reduced price**

3.1 Premises licences and occasional licences contain a mandatory licence condition restricting irresponsible promotions. One of the ways in which a drinks promotion in respect of on-sales of alcohol can be irresponsible is if it “involves the supply of an alcoholic drink free of charge or at a reduced price on the purchase of one or more drinks (whether or not alcoholic drinks).” (paragraph 8(2)(b) of schedule 3 and paragraph 7(2)(b) of schedule 4 to the 2005 Act). Section 4 of the Alcohol Act amends the 2005 Act to extend the application of paragraph 8(2)(b) of schedule 3 and paragraph 7(2)(b) of schedule 4 to the 2005 Act to off-sales of alcohol. Examples of such promotions to which these paragraphs apply include:

- buy one, get one free
- three for the price of two
- five for the price of four, cheapest free
- 3 bottles of wine for £10
- buy six, get 20% off.

3.2 Paragraph 8(2)(e) of schedule 3 to the 2005 Act provides a licence condition in premises licences that a drinks promotion is irresponsible if it “encourages, or seeks to encourage, a person to buy or consume a larger measure of alcohol than the person had otherwise intended to buy or consume.” This condition applies to on-sales and off-sales of alcohol. Section 4 of the Alcohol Act amends this so that it only applies to on-sales of alcohol. This means that drinks promotions encouraging persons to buy

or consume larger measures will be restricted in relation to on-sales of alcohol. The reasoning behind this is that the use of the word “measure” was causing some confusion in an off-sales context as it is more associated with an on-sales environment.

### **Off-sales: location of drinks promotions**

3.3 Section 5 of the Alcohol Act imposes the mandatory licence condition in premises licences restricting the display of alcohol that is for sale for consumption off the premises. This licence condition is set out in paragraph 13 of schedule 3 to the 2005 Act (inserted by the Licensing (Mandatory Conditions No. 2) (Scotland) Regulations 2007 (SSI 2007/546)). The 2005 Act requires that such alcohol can only be displayed in either or both of (1) a single area of the premises agreed between the Licensing Board and the holder of the licence and (2) a single area of the premises which is inaccessible to the public. These areas are known as “alcohol display areas”. Paragraph 13(3) of schedule 3 provides an exemption from this restrictions for visitor attractions forming part of a manufacturing site and for visitor attractions that principally provide information about and promote the history and attributes of a particular alcoholic drink or a particular category of alcoholic drink.

3.4 Section 5(3) of the Alcohol Act inserts new sub-paragraphs into paragraph 13 of schedule 3 of the 2005 Act restricting the location of drinks promotions on the premises and prohibiting certain drinks promotions from taking place in the vicinity of the premises. These restrictions only apply to premises which, to the extent that they are used for the sale of alcohol, are used only or primarily for the sale of alcohol for consumption off the premises. As amended, paragraph 13 provides that any drinks promotion undertaken in connection with alcohol sold on the premises for consumption off the premises may take place only in the alcohol display areas or in a tasting room. A tasting room “a room on the premises which is used for offering the tasting of any alcohol sold on the premises (for consumption off the premises) and the resulting tasting and is separate from those areas.” (paragraph 13(1B)(b)).

Section 5(3) also amends paragraph 13 to prohibit drinks promotions in the vicinity of the premises if such promotions are “in connection with the premises”. This means that a licence-holder will not breach the licence condition if there is a drinks promotion in the vicinity of the premises that is not in connection with the premises, for example, an advertisement for an alcoholic product over which the licensee had no control on a bus shelter outside the premises. The reasoning behind this is a recognition that not all drinks promotions within the vicinity of the licensed premises will be within the control of the premises licence-holder. The “vicinity” means the area extending 200 metres from the boundary of the premises as shown on the layout plan.

3.5 Section 5(4) and (5) of the Alcohol Act amends paragraph 13 to provide that the display of branded non-alcoholic products (products that bear a name or image of an alcoholic product such as football tops, slippers, tea towels etc.) which are not for sale may constitute a drinks promotion and, if so, may only be displayed in alcohol display areas or in a tasting room.



3.6 Newspapers, magazines and other publications which are not for sale may constitute a drinks promotion where they relate only or primarily to alcohol. In this instance, they must be in the alcohol display area. Where newspapers, magazines and other publications not for sale do not relate only or primarily to alcohol they may be displayed anywhere on the premises. Where branded non-alcoholic products and newspapers, magazines and other publications are for sale then they do not constitute a drinks promotion and so may be displayed anywhere in the premises and in the vicinity of the premises, including in alcohol display areas and any tasting room.

#### **4. AGE VERIFICATION POLICY**

4.1 Section 6 of the Alcohol Act amends the 2005 Act to impose a mandatory licence condition in relation to both premises and occasional licences that there must be an age verification policy in relation to the sale of alcohol. An age verification policy is a policy where 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). This condition does not apply to remote sales of alcohol. The minimum age that an age verification policy applies in relation to must be at least 25 years of age. It does not prescribe the details of the policy that must be in place, allowing flexibility for retailers to adopt the most appropriate procedures for them. Where current procedures are already in place and have a minimum age set at 25, it is envisaged that no further action will be required by the licence holder. This does not change the legal age at which alcohol may be purchased which remains at 18 years of age. A premises licence holder may wish to adopt a written document stating what the policy is. An example of a policy is attached as annex B

#### **5. LICENSING POLICY STATEMENT**

##### **Presumption against prohibition on off-sales to under 21s**

5.1 Licensing Boards are required by section 6 of the 2005 Act to publish a licensing policy statement every three years and they may also publish a supplementary licensing policy statement during the three year period. Section 9 of the Alcohol Act amends the 2005 to prohibit Licensing Boards from stating in their licensing policy statement, or supplementary licensing policy statement, that they intend to introduce a prohibition on the sale of alcohol for consumption off the premises to those over 18 but under 21, whether in relation to some or all premises in their area. Licensing Boards are not prevented from imposing licence conditions restricting off-sales of alcohol to persons aged under 21 but are prevented from including such a policy in their licensing policy statement or supplementary licensing policy statement. This provision will apply to licensing policy statements or supplementary licensing policy statements published on or after 1 October 2011.

## **Consultation of health boards**

5.2 Licensing Boards are required by section 6 of the 2005 Act to publish a licensing policy statement every three years and they are required to consult with various bodies in compiling the statement. They may also publish a supplementary licensing policy statement during the three year period and if they do this they are required to consult various bodies on this. Section 11(2) of the Alcohol Act amends the 2005 Act to add the relevant health board to the bodies the Licensing Board is required to consult when preparing a licensing policy statement or supplementary policy statement. In addition, when preparing such a statement a Licensing Board may request certain statistical data or other information from the relevant health board and that health board is required to provide that information. Section 11(5) defines relevant health board as the health board for the Licensing Board's area or if there is more than one health board for the Licensing Board's area then each of those health boards.

5.4 Section 11(4) amends the 2005 Act to require Licensing Boards to notify the relevant health board of all premises licence applications. By virtue of section 29(4) of the Act, where an application for a variation to a premises licence is required (other than a minor variation), the Licensing Board has to notify the same people as it would be required to notify of a premises application which will now include the relevant health board. However, unlike the Police, the health board as a statutory consultee is not required to offer comment on every application.

5.5 Section 11 also amends the 2005 Act so that Licensing Boards are required to consult the relevant health board when considering whether there is overprovision of licensed premises within its area. Section 11(7) amends the 2005 Act to provide that at least one member of the Local Licensing Forum must be nominated by the health board in a Local Licensing Forum's area. If there is more than one health board in a Local Licensing Forum's area then at least one member of the Local Licensing Forum must be nominated by the health board which covers the larger or largest part of the Local Licensing Forum's area. The maximum number of members of a Local Licensing Forum has been increased from 20 to 21 to allow for an additional member of the Health Board to be appointed (The Licensing (Local Licensing Forum) (Scotland) Order 2011).

## **6. CHIEF CONSTABLES' REPORTS**

### **Chief constables' reports to Licensing Boards and Local Licensing Forums**

6.1 Section 12 of the Alcohol Act amends the 2005 Act to impose a duty on every chief constable to send a report to Licensing Boards in the chief constable's police area in respect of the policing of the 2005 Act in the Board's area and any police work in preventing the sale or supply of alcohol to those under 18. This report must be sent to the Licensing Board as soon as practical after the end of each financial year. The report should set out the Chief Constable's views about matters relating to policing in connection with the operation of the 2005 Act in the Board's area. in the previous year and the following year, and also set out any steps taken in the previous year, or to be taken in the following year, to prevent the sale or supply of alcohol to those under

18. The Chief Constable is also required to send a copy of the report to the Local Licensing Forum for the Board's area, and requires a police officer to attend a meeting of the Licensing Board or the Local Licensing Forum to discuss the report if the Licensing Board or the Forum requests it.

## **Annex A**

### List of regulations/orders made under the Alcohol etc. (Scotland) Act 2010 or related orders under the Licensing (Scotland) Act 2005

#### **The Alcohol etc. (Scotland) Act 2010 (Commencement) Order 2011**

This Order sets out the commencement date of the provisions in the Act. The commencement date for all provisions that are being commenced, except for section 12, is 1 October 2011. Section 12 will commence on 1 April 2012.

Section 9 (presumption against prohibition on off-sales to under 21s) is commenced for all purposes in respect of licensing policy statements or supplementary licensing policy statements published on or after 1 October 2011.

Section 11(2)(a) and 11(3) (consultation etc. of health boards) is commenced for all purposes in respect of licensing policy statements or supplementary licensing policy statements published on or after 1 October 2011.

Section 11(4) (consultation etc. of health boards) is commenced for all purposes in respect of premises licence applications received on or after 1 October 2011.

#### **The Licensing (Local Licensing Forum) (Scotland) Order 2011**

This Order increases the maximum number of members of a Local Licensing Forum from 20 to 21 in order to allow a member to be appointed from the Health Board for the Forum's area or if the Forum's area forms part of the area of more than one Health Board, the Health Board whose area contains the larger or the largest part of the Forum's area.

**Some possible queries relating to the provisions in the Alcohol Act**

Query	Response
<p>1. If a retailer does not sell an alcoholic product in singles, for example, a can of beer, is there any restriction on the price that multi-packs can be sold for?</p> <p>How does this scenario change if a retailer does sell single cans?</p>	<p>Section 2(2) of the Alcohol etc. (Scotland) Act 2010 (the “Alcohol Act”) refers.</p> <p>Paragraph 5 of the explanatory note to the Alcohol Act states: “Section 2 makes provision in respect of the minimum price of a package containing two or more alcoholic products (for example, a case containing 12 bottles of wine, or a pack containing 6 cans of beer). The price of such packages must be equal to or greater than the sum of the prices at which each product is for sale. <b>This provision only applies where each alcoholic product in the package is available for sale on the premises.</b> This provision means the retailer cannot both sell an alcoholic product individually and offer a discount to the buyer for buying a package containing a multiple of alcoholic products which includes that product.</p> <p>For example, if a bottle of wine is sold at £4, then a retailer would not be able to sell a package of 2 of those bottles for less than £8. If one bottle of wine is sold for £4 and another bottle of wine is sold for £4.50, a retailer would not be able to sell a package of one of each of those bottles for less than £8.50.</p> <p>Similarly, a case of 24 x 440ml cans of beer may not be sold at a price less than the cost of buying 24 of those cans (provided that individual 440ml cans of that beer were available for sale on the premises).”</p> <p>There is only a restriction on the price you can sell multi-packs at if you sell the product individually. If the product is sold individually, any multi-pack must be sold at a price at least equal to the multiple of the single product. So if a single can is sold at £1, then a 4-pack of the same size of can must sell for at least £4 and a 6-pack for at least £6.</p>

**Some possible queries relating to the provisions in the Alcohol Act**

Query	Response
<p>2. If a retailer stocks a 15 x 275ml pack, are they required to stock smaller pack sizes i.e. 4 x 275ml or 6 x 275ml?</p>	<p>There is no restriction in the Alcohol Act on the size of multi-pack a retailer is able to stock.</p>
<p>3. If a retailer sells 15 x 275ml pack for £9.99, and breaks the packs into singles, does this mean the price for each 275ml product needs to be 67p?</p>	<p>Answer to query 1 refers. If the retailer sells 275ml of a single product for 67p and also a 15-pack of the same size of product, then the 15-pack must be sold for at least 15 x 67p i.e. £10.05. If the retailer breaks down a pack of 15 and sells them individually and also in a 15-pack, then the 15-pack will need to be 15 times the price of the individual product.</p>
<p>4. If a retailer stocks the following packs - 4 x 440ml, 8 x 440ml, 12 x 440ml, and the 4 x 440ml is priced at £4, what price would the 8 and 12 pack be?</p>	<p>Answer to query 1 refers. There will only be a restriction on the price of the multi-packs if the product is sold individually. If the product is sold individually then the 4-pack will need to be at least 4 times the price of the individual product, the 8-pack will need to be at least 8 times the price of the individual product and the 12-pack will need to be at least 12 times the price of the individual product.</p> <p>If the product is not sold individually then there is no restriction on the price of the multi-packs.</p> <p>"Alcoholic product" means "a product containing alcohol and includes the container in which alcohol is for sale." Given that "alcoholic product" includes the container which holds the alcohol then a 500ml bottle of an alcoholic drink is a different alcoholic product to a 500ml can of the same alcoholic drink.</p>
<p>5. An alternative interpretation put forward by the industry of the legislation on the price of multi-packs is that a retailer would not be able to sell 12 single cans of beer for less than they would sell 1 individual can of beer but they could sell a multi-pack of 12 cans for less than 12 single cans as these are regarded as different Stock Keeping Unit (SKU) in retailer terms.</p>	<p>Section 2 refers to the minimum price of <b>packages</b> containing more than one alcoholic product. Section 2(2)(3) of the Alcohol Act refers.</p> <p>Paragraph 6 of the explanatory notes states “Sub-paragraph (3) of inserted paragraph 6B provides that <b>the packaging of the bottles or cans in a case does not make the bottle or can a different product. That is, the product is the bottle or can and its contents, not the case.</b> This means that under sub-paragraph (1), a pre-packed package containing multiples of an alcoholic product is not a</p>

**Some possible queries relating to the provisions in the Alcohol Act**

Query	Response
	<p>separate product but a package to which sub-paragraph (1) may apply.” So a 12-pack of beer would be regarded as a pre-packed package and if the beer was also sold in single cans then there would be a restriction on the selling price of the 12-pack i.e. it would need to be at least 12 times the price of a single can.</p> <p>There is no mention in the Alcohol Act of Stock Keeping Units.</p>
<p>6. What is the position regarding advertising such as a neon ‘Cold Beer Here’ sign displayed in the window / outside the alcohol display area / A boards?</p>	<p>Section 5 (off-sales: location of drinks promotions) of the Alcohol Act refers.</p> <p>Paragraph 17 of the explanatory notes states: “Section 5(3) inserts new sub-paragraphs into paragraph 13 of schedule 3 of the 2005 Act restricting the location of drinks promotions on the premises and prohibiting certain drinks promotions from taking place in the vicinity of the premises. <b>These restrictions only apply to premises which, to the extent that they are used for the sale of alcohol, are used only or primarily for the sale of alcohol for consumption off the premises.</b> As amended, paragraph 13 provides that any drinks promotion undertaken in connection with the premises in respect of off-sales of alcohol on the premises may take place only in the alcohol display areas or in a tasting room. A drinks promotion in the vicinity of the premises will only be prohibited under paragraph 13 if it is “in connection with the premises” ”. Exceptions are set out in section 5(5) and are a branded non-alcoholic product for sale on the premises or a free newspaper, magazine or other publication which does not relate only or primarily to alcohol.</p> <p>This scenario only raises an issue if the premises are used only or primarily for the sale of alcohol for consumption off the premises. If this is the case, then any signage would only be affected to the extent that it may be regarded as a drinks promotion. It will be for Licensing Standards Officers and Licensing Boards to take a view on whether any specific signage may be regarded as a drinks promotion.</p>

**Some possible queries relating to the provisions in the Alcohol Act**

<b>Query</b>	<b>Response</b>
<p>7. What is the position regarding linking alcohol with food? For example, is a retailer permitted to advertise in the alcohol display area that the consumer is able to get a money off voucher for specific food on the purchase of a specific alcoholic product?</p> <p>What about the advertising of ‘meal deals’ – can the alcoholic product that goes with the food in the ‘meal deal’ be advertised in the food section?</p>	<p>It will be for Licensing Standards Officers and Licensing Boards to take a view on whether any such advertising may be regarded as a drinks promotion or signage informing customers where the particular products are located.</p>
<p>8. Are ‘money off next purchase’ vouchers permitted in the off trade?</p> <p>If so, what would be regarded as a responsible level of money off?</p> <p>Is it possible to provide ‘money off next purchase’ vouchers as prizes in the off trade?</p>	<p>There are no specific provisions in the Alcohol Act regarding money-off vouchers though the Act applies to them. The schemes under which these points are issued all operate differently and so it isn’t possible to give generic advice. For example, some money-off vouchers reduce the price of a product, e.g. a coupon for 10p off reduces the purchase price from 90p to 80p, whereas some money off vouchers are accepted in lieu of payment. The amendments made by section 2 of the Alcohol Act are only relevant to money-off purchase vouchers if these affect the price that the product is for sale.</p> <p>Section 2 of the Alcohol Act on the minimum price of packages containing more than one alcoholic product may be affected by money-off coupons and loyalty points. It will be for Licensing Standards Officers and Licensing Boards to take a view on whether any specific promotion falls within the irresponsible promotions set out in Schedules 3 and 4 of the Licensing (Scotland) 2005. The aim of section 2 of the Alcohol Act is to ensure customers are not encouraged to purchase alcohol packaged together because it is cheaper than purchasing the products individually. Any money-off coupons, loyalty points award or similar promotion that encourages customers to purchase packaged alcoholic products as opposed to purchasing the products individually may be considered an irresponsible promotion. It may be that in some cases the determination of what is and is not an irresponsible promotion will be left for the courts to determine.</p>



**Some possible queries relating to the provisions in the Alcohol Act**

Query	Response
<p>9. Is a retailer able to award loyalty points on the purchase of alcoholic products?</p> <p>If so, is there a restriction on how many loyalty points could be awarded?</p>	<p>There are no specific provisions in the Alcohol Act regarding loyalty / bonus points. See answer at query 8 for further comments.</p>
<p>10. Are producers able to have competitions on multi-packs?</p>	<p>There are no specific provisions in the Alcohol Act regarding competitions. It may be that in some cases the determination of what is and is not an irresponsible promotion will be left for the courts to determine.</p>
<p>11. Are internet sales involving quantity discounts caught under Alcohol etc (Scotland) Act 2010?</p>	<p>This depends on where the alcohol is despatched from. If the despatch location is in Scotland then the Licensing (Scotland) Act 2005 applies so quantity discounts would not be permitted. If the despatch location is outwith Scotland then the Act does not apply.</p>
<p>12. Will pre-priced flash packs still be manufactured and provided to retailers?</p>	<p>There is nothing specific in the Alcohol Act that refers to pre-priced flash packs. So long as these packs comply with the provisions set out in the Alcohol Act, we would consider they would still be able to be manufactured and provided to retailers.</p>
<p>13. Are there restrictions on drinks likely to appeal to under 18's in the Alcohol Act?</p>	<p>There is nothing specific in the Alcohol Act that refers to drinks likely to appeal to under 18s.</p>
<p>14. What is the effect of mandatory condition 8(2)(b) of Schedule 3 to the Licensing (Scotland) Act 2005?</p>	<p>Paragraph 8(2)(b) provides that one of the ways in which a drinks promotion can be irresponsible is if it “involves the supply of an alcoholic drink free of charge or at a reduced price on the purchase of one or more drinks (whether or not alcoholic drinks).” This previously applied only to on-sales but the Alcohol Act now applies this to off-sales as well. This in effect is the quantity discount ban.</p>
<p>15. In relation to the location of drinks promotions, is there a difference between factual information in text and imaging, for example window vinyls?</p>	<p>The form a promotion takes (whether text, imaging or other) is not relevant to the consideration of whether the promotion constitutes a drinks promotion or not.</p>
<p>16. Does a promotion need to promote a specific brand or simply generic alcohol promotion /</p>	<p>A promotion is not limited to specific brands – it relates to all drinks promotions. A “drinks</p>

**Some possible queries relating to the provisions in the Alcohol Act**

Query	Response
consumption?	promotion” means any activity which promotes, or seeks to promote, the buying of any alcohol sold on the premises for consumption off the premises but does not include the display of any product which is— (a) a branded non-alcoholic product for sale on the premises, or (b) a newspaper, magazine or other publication—(for sale on the premises, or if not for sale on the premises, which does not relate only or primarily to alcohol.)”
17. In relation to the location of drinks promotions, are tannoy announcements in stores permitted?	Irrespective if price is mentioned, if the announcement is about a drinks promotion (as defined in the legislation –see answer to question 16),we would consider this would not be permissible as it would be audible outwith the alcohol display area.
18. For stores with pre-agreed display areas that include a window (for example dedicated off-sales) can the licence holder place promotions in their window facing out?	The general provision (with some exceptions) is that any promotional material has to be within the alcohol display area. There is no reason why an alcohol display area cannot include a window.
<p>19. If promotional leaflets don't reference specific stores, can they be distributed to neighbours within the vicinity of the premises (200m)?</p> <p>Is a billboard by a producer acceptable?</p>	<p>As the Alcohol Act stands just now, promotional leaflets/flyers/mail shots are not permitted to be displayed within the vicinity of the premises which is defined as 200m from the boundary of the premises. It is intended to pass regulations prior to the commencement of the Alcohol Act on 1 October 2011 which will allow retailers to carry out mail shots in their area provided the leaflets etc. do not relate only or primarily to alcohol (on the same basis as those made available in store). The intention would also be to not restrict the leaflets etc. so they could reference a specific store.</p> <p>It would be acceptable for a producer to have a billboard as it wouldn't relate to the specific premises. A retailers billboard would not be acceptable.</p>
20. What is the definition of when a promotional leaflet etc. is 'only or primarily' promoting off sale consumption i.e. is it the percentage of the surface area or the prominence of the alcohol promotion?	The definition of whether a promotional leaflet is used 'primarily' for the sale of alcohol for consumption off the premises will be open to interpretation. At this stage, however, we would consider that if the surface area was devoted to

**Some possible queries relating to the provisions in the Alcohol Act**

<b>Query</b>	<b>Response</b>
	50% or more on drinks promotions then this would be likely to not comply with the proposed provisions.
21. What about delivery vans within the vicinity of the premises (200m)?	If a delivery van has a drinks promotion (as defined in the legislation – see question 16) in connection with the premises on it, then it would not be allowed within 200m of the boundary premises.

## SPAR policy

It is our policy that all staff operating under the SPAR brand comply with the following when selling age-related or restricted products:

- To always assess the customer's age in relation to the purchase of age-restricted goods and if thought to be under 25 years, to always ask for proof of age every visit.
- To always refuse if in any doubt as to the intended customer's age, unless satisfactory proof of age can be established.
- To always refuse the sale of Alcohol, Fireworks & Sparklers, Lighter Fuel/Butane Gas, Cigarettes/Tobacco, Tobacco Related Products, Sharp Instruments/Offensive Weapons and Adult Magazines to anyone who looks under the age of 25 years unless they can prove they are over the age of 18.
- To always refuse any sale where it is suspected that the customer, although of age, is suspected of acting as an agent for a person below the respective age restriction.
- To closely monitor the pattern and frequency of alcohol sales and where deemed excessive (e.g. more than 2 alcoholic transactions or large quantities within a 2 hour period) refer to Manager or Supervisor who may refuse the sale.
- To always refuse the sale of Lottery Tickets, Scratchcards and Petrol or Diesel Fuel, to anyone who looks under the age of 25 years unless they can prove they are over the age of 16.
- To always refuse the sale or hire of any Video/DVD/Computer Game to anyone in relation to the customer's age/ classification of the product and if any doubt as to the customer's age to always ask for proof-of-age.
- Only accept the licensing authority-approved forms of identification (ID) as proof of the intended customer's age i.e. current Passport, EU photo card Driving Licence, National Identity card, PASS hologram ID card.
- To always refuse the sale of Paracetamol or Aspirin based products to anyone who looks under the age of 25 years unless they can prove they are over the age of 16. To never sell more than 16 Paracetamol or Aspirin tablets to a customer at any one time.
- To always refuse the sale of solvents to children under the age of 16 years and, regardless of age, where it is believed that misuse may or could occur.
- Whilst not illegal, it is recommended not to sell energy drinks to children under the age of 16.

***A table of age-restricted products  
can be found on page 13***