EXECUTIVE NOTE

DRAFT : THE LICENSING (MANDATORY CONDITIONS) (SCOTLAND) REGULATIONS 2009

The above order was made in exercise of the powers conferred by sections 27(2), (8) and (9) and 146(2) of the Licensing (Scotland) Act 2005. The order is subject to affirmative resolution procedure

Background

The Licensing (Mandatory Conditions No.2) (Scotland) Regulations 2007 (SSI 2007 No. 546) ("the 2007 Regulations") impose a condition in a premises licence that, alcohol which is for sale only for consumption off the premises may be displayed only in (a) a single area of the premises agreed between the licensing board and the holder of the licence; and/or (b) a single area of the premises which is inaccessible to the public.

From 1 September 2009, this conditions will be imposed on all premises licences.

The 2007 Regulations responded to concerns from stakeholders that some retailers were promoting alcohol as an ordinary commodity by placing alcohol displays all around stores, and cross-merchandising alcohol with other products to encourage impulse purchasing (e.g. cans of gin and tonic with lunchtime sandwiches).

The policy intention behind the 2007 Regulations was to ensure that premises such as supermarkets and convenience stores were no longer able to create numerous alcohol displays and that alcohol should be contained within specified areas of the store.

The vast majority of retailers have submitted their applications for a premises licence under the Licensing (Scotland) Act 2005 and are already re-arranging displays to ensure compliance with the 2007 Regulations. Consideration of how best to comply with the 2007 Regulations has raised particular difficulties for distillery visitor centres which the Licensing (Mandatory Conditions) (Scotland) Regulations 2009 ("the 2009 Regulations") seek to address.

Policy Objectives

The policy objective is primarily to exempt distillery visitor centres from the requirements of the 2007 Regulations. Distillery visitor centres are part of distillery sites, many of which are open for distillery tours. They seek to explain the method of production, history and heritage of whisky and showcase the best of Scottish products. Although alcohol is available for purchase, the main function of the visitor centre is to provide a high quality visitor experience. Operators of such visitor centres have explained that the effect of the 2007 Regulations would mean that such facilities would need to alter their layout to one that resembled a grocery store, rather than allowing them to enhance the visitor experience and develop their facilities. The Scottish Government accepts that view.

The Scottish Government does not wish to restrict the exemption to distillery visitor centres. Some breweries also operate visitor centres on a similar basis (or may choose to do so in the

future) therefore the regulations refer to premises used principally for the production of alcoholic drinks, rather than specifically to distilleries. Furthermore, the Scottish Government notes that there are other visitor attractions (such as the Scotch Whisky Heritage Centre) which are not part of a production site but which carry out a similar function. They provide information about, and promote, the history and attributes of Scotch Whisky. Again, the Scottish Government does not want to diminish the visitor experience at these premises which are designed to showcase Scotch Whisky.

Consultation

The development of the 2007 Regulations, and the draft 2009 Regulations, have been discussed in detail with the Scotch Whisky Association which represents most distillers. The proposed change has also been discussed at the Scottish Government Alcohol Industry Partnership which includes representatives from major distillers, brewers and other industry colleagues.

Financial Effects

The regulations raise no financial effects. Premises which are exempted by the 2009 Regulations from the requirements of the 2007 Regulations need make no changes to the layout of their premises or their displays. The proposed change does not impact on licensing boards or local authorities.

Regulatory Impact Assessment

This was not considered necessary as this is not a new policy. The effect of the 2009 Regulations means that premises benefitting from the exemption will not need to make any changes to their layout with effect from 1 September 2009 when the Licensing (Scotland) Act 2005 comes fully into force. The impact of these regulations is therefore a positive one that does not impose new burdens on these businesses.

Scottish Government
May 2009