

Implementation of the Licensing (Scotland) Act 2005 - a document review of developments since 2012: A Summary

The following summarises the report originally published as part of the “*Monitoring and Evaluating Scotland’s Alcohol Strategy programme: Fifth Annual Report, March 2016*”. The full report can be found [here](#).

Background

The Licensing (Scotland) Act 2005 introduced two instruments - the statement of licensing policy and the overprovision statement - that allow strategic planning of alcohol availability for the purposes of pursuing the public interest purpose of alcohol licensing. The Act was implemented in 2009.

The Act was evaluated in 2012. In 2015 a document review was performed to determine *what developments have been made in the licensing regime since 2012, with respect to the six outstanding areas identified in the original evaluation?*

Trends in the availability of alcohol were also explored.

Key findings: Impact of the Act on licensing practice

The original evaluation identified positive developments - such as the positive role of Licensing Standards Officers. This review and the original evaluation identified areas of the Act that continue to be less well implemented, including:

Public health provisions

The public health provisions are still in the “bedding in” phase. Relationships between licensing and public health actors are still in their infancy, with both needing to develop skills and confidence to allow these provisions to be effectively operationalised.

Transparency and accountability

Limited accountability and transparency in the licensing system has limited the transfer of good practice, compromises adherence to legislation and limits engagement of stakeholders. The requirement for licensing boards to annually report on their operation could potentially increase accountability and transparency.

Public access

There is limited involvement, and thus scrutiny, from the public in the licensing system. Further action to enable involvement from the public is required.

Local licensing forums

Six years after the implementation of the Act forums continue to have a limited role in terms of their oversight and advising function in relation to the public health provisions in the Act. Given forums have these key and unique roles in the licensing system further work is need to ensure forums function effectively.

The integrity of the system

Some argue that high profile challenges by supermarkets of licensing board decisions, has made licensing boards more cautious in utilising their discretionary powers in making licensing decisions, particularly where supermarkets are the applicant.

Impact on availability

At the national level it is not possible to monitor trends in alcohol availabilityⁱ, only data on the number of outlets is available (see below for these data). The large variation in the alcohol available by different types of outlets (e.g. large supermarkets compared to small corner shop grocers) means it is not possible to determine how changes in outlet numbers has affected alcohol availability.

Data availability

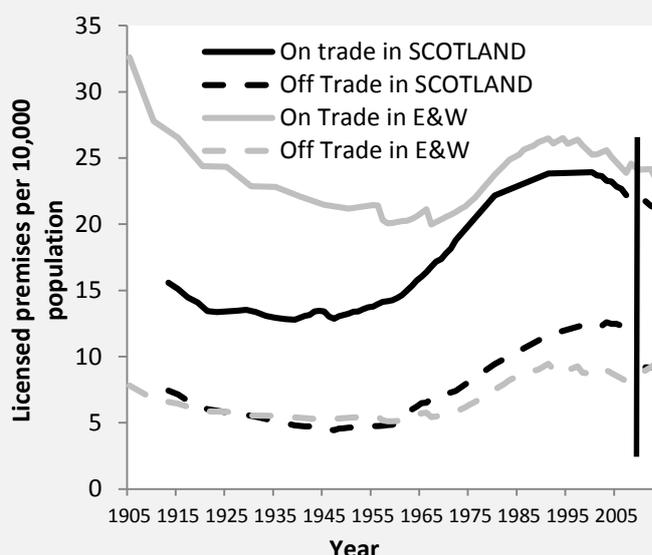
More rigorous and systematic information from the licensing regime is required to facilitate better engagement of stakeholders and to enable better monitoring and evaluation of the Act.

ⁱ Alcohol availability reflects not just the number of outlets selling alcohol but the opening times of outlets, the shelf space dedicated to alcohol (for off-trade) or the capacity (for on-trade).

Key findings: alcohol availability

At the national level it is not possible to monitor trends in alcohol availability, only data on the number of outlets is available – which provides only a partial picture.

Figure 1: Number of licensed premises per capita: Scotland and England & Wales, on- and off-trade premises, 1905 to 2013 (The year 2009 is identified by the solid horizontal line)



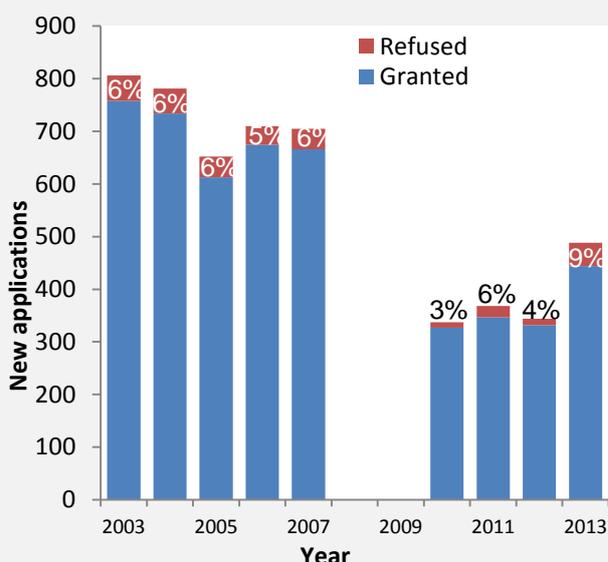
Outlet numbers increased from the 1960s, but more recently the number of outlets has decreased (Figure 1).

Since the new legislation there has been no change in the number of new licences refused, but there was a fall in the number of new applications (Figure 2).

The lower number of **new licence applications** after the Act could be because:

- Fewer premises were applying for licences because of the more stringent requirements of the new Act or because of the economic downturn
- There were fewer new applications in overprovided areas in response to robust overprovision statements

Figure 2: Number of new premises licence applications granted and refused in Scotland, 2003-2013 (Note: labels indicate % of applications refused and no data were available for 2008 and 2009)



The similar level of **refusals** before and after the Act could reflect that:

- New applications in overprovided areas were not being refused
- New applications in overprovided areas were being refused, but is not reflected in the national statistics (overprovided areas cover only a portion of Scotland)
- Licensing conditions are being used to ensure that granting a licenses is consistent with the licensing objectives (e.g. limited shelf space dedicated to alcohol)

Each explanation reflects very different operation of the Act, but because of the limited licensing data available it is not possible to distinguish between these explanations and therefore not possible to determine if the public health provisions of the Act have had an impact on licensing decisions.