

## THE CHURCH AND ALCOHOL

Church Halls and connected facilities all over Scotland are constantly used as venues for special events. Many of these occasions are for family functions such as weddings or anniversaries, and others might be connected to fundraising or charitable purposes.

At such events, the question of the provision and, indeed, sale of alcohol may arise. In considering this, both the Church law and the provisions of licensing law will have to be taken into account.

The position with regard to alcohol and Church buildings was considered by the General Assembly in 1969 when, on a Report from the Committee on Moral Welfare, it passed the following Deliverance:-

"The General Assembly, emphasising the need for careful Christian stewardship and believing that the Church in its corporate witness should not encourage the growth of the drinking habit, enjoin that the funds of Church Courts or Committees should not be used to provide alcoholic drinks, and recommend that alcoholic drinks should not be provided at functions held on Church premises or organised by Church bodies."

This Deliverance has been considered on at least two occasions subsequently by the Assembly and its terms affirmed.

As will be noted, there is, therefore, no outright prohibition on alcoholic drinks being provided on Church premises and it is accordingly for the Kirk Session itself to decide whether or not to permit the holding of functions when drink is to be served. Furthermore, the General Assembly did not draw a distinction between functions for members only and those where the participants would be mostly or, indeed, entirely, non-members of the Congregation.

In cases where the matter causes considerable division within the Kirk Session and there is no consensus view, it is suggested that the question should be referred on to the Presbytery for its view. Also relevant is Section 26 of GA Act II, 2000, which makes clear that use of Church buildings is "subject to the control of the Presbytery". Attention is also drawn to Section 27(2) which states that the Session or the Financial Board are not entitled to use the buildings for any purpose without the consent of the Minister nor are they to grant use of the buildings without his or her consent. The section goes on to add:-

"In deciding for what uses the Church may be granted the sacred character of the building shall be kept in view."

It is the case that few Church Halls are "permanently" licensed and, indeed, having such a licence would result in the building being ineligible from exemption from water rates in terms of the small organisations exemption scheme. Special permissions, therefore, require to be sought from the local Licensing Board to allow the sale (as opposed to the provision) of alcohol.

### Legal position prior to 1 September 2009

In relation to charity and fundraising events, these were typically catered for by way of an “Occasional Permission” under s.34 of the 1976 Act which allowed a voluntary organisation such as a church group to make application. These permissions could be used no more than 4 times a year.

In relation to weddings and events where a personal profit is made from the sale of alcohol, an existing licence holder would have to be found to apply for an “Occasional Licence” under s.33 of the 1976 Act.

These applications would typically cost £17 and would have to be applied for up to 3 weeks in advance of the date it was required. The maximum duration of the effect was 14 days.

A third type of event would be completely unlicensed – and that is where no sale of alcohol occurred, or where no supply of alcohol occurred in return for a form of payment.

### Legal position from 1 September 2009

The approach to this type of event will be governed by a new licensing Act, the 2005 Act, from 1 September 2009. Special events will still occur in church halls and related premises, so how does the new Act cater for these?

The 2005 Act merely provides for an “Occasional Licence” and there is no separate provision for an “Occasional Permission”. However, applicants for an occasional licence may be a premises licence holder, a personal licence holder, or a voluntary organisation. The maximum duration of an Occasional Licence remains at 14 days.

There is a new restriction on applications made by voluntary organisations; which is that they can only have up to 4 occasional licences covering a period of 4 or more days, and not more than 12 occasional licences for a period of 3 days or less, and between the two the maximum number of days which can be covered in total is 56.

Church groups which operate a large number of events may find this restrictive and cumbersome and instead turn their attention to the “personal licence” route. Any person can apply to hold a personal licence: you apply to the local licensing board where you reside; and so long as you are over 18, free of convictions, and have passed a training course, your application must be granted. The fee for a personal licence is £50. Once you are the holder of a personal licence, you can apply for as many occasional licences as you wish and it is entirely up to you what happens to the profit.

The fee for an occasional licence under the new system is only £10. It must, however, be applied for well in advance of the date required, perhaps as much as 52 days. The Government is looking at introducing a “fast track” system but this is not yet law.

What then, of events where no licence is sought but which alcohol is consumed? If there is no “sale” of alcohol then there is no licence required at all. What then, is a sale? Under the new Act a sale in itself is a sale of alcohol for money (or money’s worth) but is also a **supply** of alcohol pursuant to a contract. So, if an event had a £10 entry fee and the ticket said

“Includes drink” then that would fall to be classed as a sale of alcohol. Only where the alcohol is genuinely provided free of charge can it safely be said that no licence is required.

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## **FREQUENTLY ASKED QUESTIONS**

### **Question 1**

We are organising a revue to be put on in the Church hall and had planned to sell tickets for £5 which would indicate that the price would include wine and nibbles. Will this require a licence?

### **Answer 1**

Yes –you will need to apply for an Occasional licence to cover the event.

### **Question 2**

I note that where alcohol is provided as part of a meal or an event (e.g., Church lunch club or a Burns Supper) for which a charge is made, this requires a licence. What would be the position if the alcohol is not included in the cost of the meal/ticket?

### **Answer 2**

If those purchasing the ticket are unaware that they will receive, say a glass of wine with their meal and the wine is therefore not part of the “package” they are paying for, in terms of the legislation, this would not require a licence. As will be appreciated, however, this sort of arrangement could well be perceived as being a “dodge” to circumvent the legislation. If the arrangement was challenged, it would be necessary to be able to show that those buying tickets had no expectation of alcohol being served at the event at no extra cost to them.

### **Question 3**

What is the position about raffles, tombolas and bottle stalls and the like held on Church premises, where some of the prizes consist of bottles of alcohol? Is a licence required?

### **Answer 3**

Since paying to participate conveys no right to the alcohol, this would not qualify as a sale and would be regarded as an “incidental non-commercial lottery” which is an exempt lottery in terms of the gambling legislation. There are, therefore, no licensing obligations for such arrangements. However, steps should be taken to ensure that such prizes cannot be won by children and young people under the age of 18.