



## On- Line Sale of Alcohol

It is important to note that there are no specific provisions under the Licencing Acts that specifically provides for on-line alcohol sales but nor is there any provisions banning on-line sales and deliveries. Accordingly, any producer carrying out online sales should be very mindful of all their obligations regarding selling to minors and should only transact and allow deliveries during their usual permitted hours as if open in the normal course of business.

As a seller of alcohol, you must have the relevant licence to sell under the various Intoxicating Liquor Acts, you also must comply with the Public Health (Alcohol) Act 2018 and as an on-line retailer with the Distance Selling Regulations.

### 1. Liquor Licence requirement

It is illegal to sell alcohol on-line without having the relevant liquor licence. Under current legislation, premises that are licensed with the following licenses may make sales of alcohol via the internet or by other distance selling means provided certain safeguards are put in place:

- A Publicans Licence
- A Wine Retailers Off Licence\*
- A Spirit Retailers Off Licence\*
- A Cider Retailers Off Licence\*
- A Beer Retailers Off Licence\*
- A Producers Retail Licence under the new Craft Drinks Act (Please refer to Appendix I for more details on this licence)
- A Wholesale Dealers Licence
- A Manufacturers Licence

\*The above Retailer's Off Licences can be held singly or in combination.

A Wholesale Dealers Licence authorises (a) the sale of spirits or wine in quantity not less than two gallons, or not less than one dozen reputed quart bottles and (b) the sale of beer or cider in quantity less than four-and-a-half gallons, or not less than two dozen reputed quart bottles.

A holder of a Manufacturers Licence need not take out any further licence in order to sell product in wholesale quantities. The sale of alcohol in quantities less than wholesale quantities requires a retail licence.

## **2. Delivery times for on-line sales**

Delivery of alcohol is restricted to those time and days when alcohol is permitted to be sold in physical premises for consumption off the premises.

## **3. Where must a sale take place?**

The law in Ireland requires sales to take place from a licensed premises itself. It would be an offence to supply alcohol to anyone where the payment for the alcohol has not been transacted at the licensed premises prior to delivery. Therefore, any computers on which a company takes in online orders should be present and situated within a licensed premises owned and operated by the relevant seller. It is not compliant simply to have some licensed premises somewhere in the state but to take in online orders in some unlicensed office away from the licensed premises (please refer to [Section 9 of the Public Health \(Alcohol\) Act 2018](#))

If companies are selling alcohol on-line through third parties, they must ensure the sale is made by a licensed premises. If not, this would be an unlicensed sale and contrary to law.

## **4. Delivery of alcohol**

It is important to keep in mind that the seller of the alcohol remains responsible in law for the conclusion of the contract i.e. the legal delivery of same. Therefore at a minimum, the seller must be in a position to show he is in control of the delivery and that proper methods are used to ensure that the actual person who bought the alcohol takes delivery of it and that the buyer must be over 18 years old.

If the alcohol is received by an underage person, the seller could be found guilty of the criminal offence of selling alcohol to a minor. So, sellers must take specific care to ensure they adopt adequate procedures in their systems which verify that customers are aged over 18.

## **5. Distance Selling Regulation**

The Consumer Rights Directive (CRD) has been implemented in Ireland by the [European Union \(Consumer Information, Cancellation and Other Rights\) Regulations, S.I. 484 of 2013](#),

[\(the Regulations\)](#). The CRD introduced a number of important changes to consumer protection law in Ireland that on-line traders need to be aware of. The Regulations apply to contracts concluded after 14 June 2014. The Regulations provide consumers with increased protection when they enter into distance contracts (such as online sales).

### **Summary of requirements**

- You cannot take any additional payments without the consumer's express prior consent (e.g. pre-ticked boxes are prohibited);
- You must deliver any goods purchased within 30 calendar days, unless agreed otherwise with the consumer;
- You cannot oblige the consumer to use a premium rate telephone line to contact you about an existing contract;
- You cannot impose excessive payment surcharges when consumers pay by certain means, such as credit or debit cards.

### **These information requirements apply to off-premises and distance contracts and the information must be provided prior to the contract being concluded:**

- A description of the goods or service the consumer is buying
- The name of the trader, including any trading names
- The trader's address and telephone number
- The total price, including any taxes
- In the case of an open-ended contract or a subscription, the costs per billing period or, if unknown, how the price will be calculated
- The cost of completing the contract – for example, the cost of a premium rate phone call if the consumer is obliged to order this way
- Arrangements for payment and time of delivery committed to by the trader
- Details of how the consumer can cancel their order
- Notice that the consumer will have to pay reasonable costs to the trader if they cancel their contract but have already used part of the service (for example, a phone or electricity contract)
- Notice of whether and, if so, why the right to cancel does not apply (this is explained further under the 'extended withdrawal period' section)
- For contracts for the sale of goods; the trader is legally obliged to inform the consumer of the trader's obligation to provide goods in conformity with the contract

### **These additional information requirements will apply to off-premises and distance contracts, where applicable:**

- Any unavoidable costs associated with the contract, such as delivery or postal costs
- The trader's complaint handling policy
- Notice that the consumer will have to bear the cost of returning the goods, unless they are faulty

- Details of after-sales service and guarantees
- In the case of an open-ended contract or a contract that is automatically extended, the duration of the contract or the conditions for terminating it
- The minimum duration of the consumer's obligations under a contract they have entered into
- Details of any deposit to be paid by the consumer
- Information on the functionality of digital content, including any technical protection measures
- Details of any operational issues that digital content may have with certain hardware or software
- Where applicable, the option of an out of court complaint mechanism which the trader can avail of, for example the Small Claims process

**Traders must also provide further information either before the order is delivered, or when it is delivered, including (but not limited to):**

- Confirmation of the order in a durable form
- Details on what to do if the consumer changes their mind, and a copy of the model cancellation form for cancelling their contract. The trader must inform the consumer about the withdrawal period, or inform them if the withdrawal period doesn't apply (see extended withdrawal period section for exclusions)
- A postal address that the consumer can send complaints to – not a PO box number
- Details of how and when to end a contract if there is no end date or if it is to be extended automatically.

The Regulations do not apply to contracts for food, regularly delivered to the consumer, which would include grocery delivery service.

**Please contact the Drinks Ireland team if you have any queries on the working of this legislation. It is advisable to seek independent legal advice should you decide to commence selling alcohol on-line.**

## **APPENDIX I**

### **Producers Retail Licence**

The principle purpose of the new Craft Drinks Act (2018 Intoxicating Liquor (breweries and distilleries) Act) was to create a Producers Retail Licence to allow breweries and distilleries sell alcohol produced on their premises for consumption on or off the premises.

Drinks Ireland sought specific advice from a licensing expert on whether it is possible to sell online under this licence. The advice provides that while Section 1 of the relevant 2018 Act states that the sale of alcohol is restricted to persons who have completed a tour, the later paragraph states that sales for consumption off the premises can be made to persons who have not completed a tour. Consequently, given the later paragraph in the section, it appears that any persons holding a producers retail licence is in the same situation as those holding normal off licences.

In effect, there is nothing in the Act that precludes holders of this licence from selling their own product on-line. However, as previously discussed, producers carrying out on-line sales under this licence must be very mindful of all their legal obligations.

For holders of a Producers Retail Licence delivery of alcohol can only take place between 10.00am and 7.00pm Monday to Saturday and 12.30pm to 7.00pm on Sundays and St. Patrick's Day.

#### **Court application**

The granting of a new Producer's Retail Licence requires a court certificate. This means that to be granted a licence, an application must be made in the District Court or Circuit Court.

A retail licence authorising the sale of alcohol for consumption on and off the premises must be made to the Circuit Court. A retail licence for consumption off the premises only must be made to the District Court.