

## **Licensing Act 2003**

### **Minor Variations to Premises Licences and Club Premises Certificates**

The Licensing Act 2003 has been amended with effect from 29 July 2009 by the insertion of sections 41A to 41C relating to minor variations. Small variations that will not impact adversely on the licensing objectives are subject to a simplified minor variations process. Under this process, the applicant is not required to advertise the variation in a newspaper or copy it to responsible authorities. However, they must display it on a white notice (see Guidance Document GD16B for details of format) for a period of ten working days starting on the working day after the application was given to the licensing authority.

On receipt of an application for a minor variation, the licensing authority must consider whether the variation could impact adversely on the licensing objectives and, if so, consult the relevant responsible authorities and take their views into account in reaching a decision. There is no requirement to consult all responsible authorities on each application and, in many cases, the licensing authority may be able to make a decision without consultation.

The licensing authority must also consider any relevant public representations received within the time limit. To be relevant, a representation must clearly relate to the likely effect of the grant of the variation on at least one of the licensing objectives. There is no right to a hearing (as for a full variation or new application), but licensing authorities must take any representations into account in arriving at a decision.

Members of the public have ten working days to submit representations and the licensing authority must determine the application within 15 working days with effect either that the minor variation is granted or the application is refused. If the licensing authority fails to respond to the applicant within 15 working days, the application will be treated as refused and the authority must return the fee to the applicant. The licensing authority and applicant may agree, instead, that the undetermined application should be treated as a new application and the fee originally submitted will be treated as a payment towards the new application fee. Where an application is refused and then re-submitted through the full variation process, the 28 days notification period will apply from the date the new application is received and the applicant will be required to advertise the application and copy it to all responsible authorities.

### **Main Categories of Minor Variations**

Minor variations will generally fall into four categories:

#### **1. Minor changes to the structure or layout of a premises**

Many small variations to layout will have no adverse impact on the licensing objectives. However, changes to layout will be referred to the full variation process if they could potentially have an adverse impact by, for example, increasing the capacity for drinking on the premises; affecting access by blocking emergency exits or impeding the effective operation of a noise reduction measure such as an acoustic lobby.

#### **2. Small adjustments to licensing hours**

Variations to extend licensing hours for the sale or supply of alcohol for consumption on or off the premises between the hours of 23.00 and 07.00 or to increase the amount of time on any day during which alcohol may be sold or supplied for

consumption on or off the premises are excluded from the minor variations process and must be treated as full variations in all cases. Applications to vary the time during which other licensable activities take place will be considered on a case by case basis with reference to the likely impact on the licensing objectives. Factors to be considered will include the nature of the licensable activity, the extent of the additional hours sought, the proximity to residential areas, existing conditions in place and any additional conditions volunteered by the applicant.

### **3. Removal of irrelevant conditions or addition of volunteered conditions**

Premises may change over time and the circumstances which originally led to a particular condition being attached may no longer apply. Similarly, some embedded conditions may no longer apply or there may be cases where the wording of a condition is unclear or unenforceable. In such cases, a minor variation would be acceptable. Applicants may volunteer conditions as a result of their own risk assessment of the variation or from informal discussions with responsible authorities or the licensing authority.

### **4. Addition of certain licensable activities**

Variations to add the sale by retail or supply of alcohol to a licence are excluded from the minor variations process and must be treated as full variations in all cases. However, the Act covers a wide range of other activities and each application will be considered on a case by case basis and in light of any licence conditions volunteered by the applicant in much the same way as applications to make adjustments to licensing hours.

In all cases, the overall test is whether the proposed variation could impact adversely on any of the four licensing objectives.

The fee for a minor variation is £89 – cheques should be made payable to Eden District Council.

All applications forms and guidance documents are available on our website <http://www.eden.gov.uk/licensing/licensing-act-2003/>

If you have any further queries please telephone 01768 212148/212273, or email [admin.licensing@eden.gov.uk](mailto:admin.licensing@eden.gov.uk).