

Licensing Act 2003

Frequently asked Questions

What is the Licensing Act 2003?

Under the Licensing Act 2003 (the Act) a single integrated system was introduced throughout England and Wales regulating 4 “licensable activities”. These are:

- 1 the sale by retail of alcohol
- 2 the supply of alcohol in a club
- 3 the provision of entertainment
- 4 the provision of late night refreshment

What are the Licensing Objectives?

The licensing objectives are:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

What is Regulated Entertainment?

The Act defines the provision of regulated entertainment as the provision of entertainment to the public or any section of it, or exclusively for members of a qualifying club and their guests or in any other case for consideration and with a view to profit. This includes raising money for charity. Entertainment is defined as:

- performance of a play
- exhibition of a film
- indoor sporting event
- boxing or wrestling entertainment
- performance of live music
- playing of recorded music
- performance of dance
- entertainment of a similar description to the performance of live music, the playing of recorded music or the performance of dance where the entertainment takes place in the presence of an audience and is provided for the purpose of entertaining that audience

What is Late Night Refreshment?

Late Night Refreshment is the supply of hot food or drink to members of the public, for consumption on or off the premises, between 11pm and 5am. Exemptions under the Act include provision of late night refreshment to residents and their guests in hotels and guesthouses and to members of a recognised club.

What is a Premises Licence?

A premises licence authorises the premises to be used for one or more of the following licensable activities:

- the sale by retail of alcohol
- the provision of regulated entertainment
- the provision of late night refreshment

A fee is payable upon application and then an annual fee is payable – this is based on the non-domestic rateable value of the property.

What is the application procedure for a Premises Licence?

An application may be made by an individual, who must be aged 18 or over, a company or partnership or a number of other persons or bodies such as a recognised club or a charity and must be made to the licensing authority in whose area the premises are situated. The application must be accompanied by:

- the fee
- operating schedule
- a plan of the premises
- written consent from the nominated designated premises supervisor where the sale of alcohol is involved
- evidence of entitlement to work in the UK where the application is made by individuals

The applicant must submit a copy of their application to each of the responsible authorities and must also advertise the application prominently on the premises for a period of not less than 28 days and in a local newspaper.

If no relevant representations are received, the licensing authority must grant the premises licence. Where relevant representations are made, a hearing will usually be held.

What is a Responsible Authority?

These are the authorities which must be served with a copy of a premises licence application and they may make representations in relation to the grant, variation or review of a premises licence. Details of who the responsible authorities are for the Eden District Council area are available in our Guidance Document GD07.

What is a Designated Premises Supervisor? (DPS)

Where the supply of alcohol is one of the licensable activities there must be a DPS. (The only exception is for community premises in respect of which a successful application has been made to disapply the usual mandatory conditions – see Guidance Document GD08A for further details). There can only be one DPS and this person will generally be the individual who is in day-to-day control of the premises. The DPS must be appointed by the premises licence holder, must be the holder of a personal licence and must consent to the appointment. The premises licence holder may also be the DPS.

How do I apply to vary an existing Premises Licence?

The holder of a premises licence may apply at any time to the licensing authority to vary the licence to add licensable activities, change timings or modify conditions. The procedure is basically the same as applying for a new premises licence and the existing licence must be submitted with the variation application. Small variations that will not impact adversely on the licensing objectives are subject to a simplified minor variations process.

How do I change the Designated Premises Supervisor (DPS)?

A change of DPS is a variation of the premises licence and the application must be sent to the licensing authority, together with the appropriate fee and the written consent of the proposed DPS. The application form must be copied by the applicant to the Chief Officer of Police who may, within 14 days, object to the proposed appointment. Where the police object, a hearing will be held unless both the applicant and police agree that such a hearing is unnecessary.

Who do I notify of a change of name and/or address?

The premises licence holder must inform the licensing authority of any change in name and/or address as soon as is reasonably practical after the changes have taken place. This also includes any change in the name and/or address of the DPS unless the DPS has already notified the authority. This notification must be in writing and should include the name of the licence holder and details of the change of name and/or address as applicable. It must be accompanied by the appropriate fee and the existing premises licence.

How do I apply for the Transfer of a Premises Licence?

A transfer of a premises licence only changes the ownership of the licence – it does not change any terms or conditions attached to the licence. Application must be made on the prescribed form to the licensing authority and should be accompanied by the premises licence, the written consent to the transfer from the current premises licence holder and the appropriate fee. The application form must be copied by the applicant to the Chief Officer of Police and, where the licence authorises the sale of alcohol or provision of late night refreshment, to Home Office Immigration Enforcement. Provided no objections are raised, the transfer must be granted.

Where the application includes a request that the transfer comes into effect immediately, the transfer application is given interim effect which means that the applicant is deemed to be the holder of the premises licence during the application period.

What is an Interim Authority Notice?

A premises licence lapses on the death, mental incapacity or insolvency of the premises licence holder and, in any of these circumstances, a person may give the licensing authority an interim authority notice within 28 days, if he:

- is an individual with a legal interest in the premises as a freeholder or leaseholder
- is a limited company, partnership, unincorporated association or other organisation with a legal interest in the premises as a freeholder or leaseholder
- is a personal representative for the former premises licence holder where the licence holder has died
- has power of attorney for the former premises licence holder

- is the insolvency practitioner for the former premises licence holder

The applicant must give notice of the application to the Chief Officer of Police and, if the licence authorises the sale of alcohol or provision of late night refreshment, to the Home Office Immigration Enforcement.

On receipt of the interim authority notice, the licence authority will issue the person giving the notice a copy of the licence and summary in his name. As soon as the interim authority notice is given to the licensing authority, the business may continue to operate as before. The premises licence lapses unless and until such a notice is given and continued trading in those circumstances would constitute a criminal offence. The maximum period for which an interim authority notice may have effect is 3 months, during which time an application for transfer of the licence needs to be made otherwise the licence lapses and an application for a new premises licence would have to be made.

What is a Provisional Statement?

A provisional statement is a means by which a person may seek confirmation as to whether a premises under construction (or being substantially altered) would be granted a premises licence upon completion of the building works and, if so, what conditions would be imposed. The application must be accompanied by the fee and a schedule of works which includes particulars of the premises to which the application relates, details of the proposed licensable activities and plans of the work being done at the premises.

As with other applications for a premises licence, the application must be advertised and copied to responsible authorities and there will be a period of 28 days during which representations may be made. Where representations are received, a hearing will be held to consider them. A licensing authority may grant a provisional statement with an indication that, when application is made for a premises licence, certain conditions may be imposed or the application might be rejected.

When the work on the premises is complete or near completion, an application for a premises licence should be made in the normal way and the licence will usually be granted provided the application is in the same form as described in the provisional statement and the work has been completed satisfactorily.

What is a Club Premises Certificate?

The Act sets out 5 conditions which a club must meet in order to be considered a qualifying club:

- under the rules of the club, persons may not be admitted to membership or be admitted as candidates for membership to any of the privileges of membership without an interval of at least 2 days between their nomination or application for membership and their admission
- under the rules of the club, persons becoming members without prior nomination or application may not be admitted to the privileges of membership without an interval of at least 2 days between becoming members and their admission
- the club is established and conducted in good faith as a club
- the club has at least 25 members
- alcohol is not supplied to members on the premises other than by or on behalf of the club

There are 3 additional conditions in relation to the supply of alcohol:

- the purchase of alcohol for the club and the supply are managed by a committee, the members of which must be 18 years of age or over, be members of the club and have been elected by other members of the club to sit on the committee
- there must be no arrangements in place for anyone to receive any commission at the expense of the club based upon purchases of alcohol made by the club
- there must be no arrangements for anyone to receive any direct or indirect monetary benefit from supplying alcohol on behalf of the club to members or guests

The arrangements for applying for a club premises certificate and application procedures are very similar to those in respect of a premises licence. The authority must grant the club premises certificate unless there are relevant representations, in which case a hearing must be held to determine the matter.

What is a Premises Licence Review?

An application may be made to the licensing authority to review either a premises licence or a club premises certificate at any time by either a responsible authority or any other person should they feel that there are problems on the premises. The application must be relevant to the licensing objectives and, upon receipt of such an application, the licensing authority must advertise the application for 28 days and invite representations from other responsible authorities and any other person during that period. It must then arrange a hearing at which all parties concerned may put their case. At such a hearing, the authority may take any of the following steps:

- modify the conditions of the licence
- exclude a licensable activity
- remove the DPS (premises licence only)
- suspend the licence for a period not exceeding 3 months
- revoke the licence

Any party to the hearing may appeal against a decision of the authority to the Clerk of the Magistrates within 21 days of being notified of the decision.

What is a Personal Licence?

A personal licence allows a person to sell alcohol or authorise the sale of alcohol under the authority of a premises licence and is valid indefinitely unless surrendered, suspended or declared forfeit by the courts or licensing authority which granted the licence.

What is the procedure when applying for a Personal Licence?

Applicants for a personal licence must:

- be 18 years of age or above
- possess an accredited licensing qualification
- not have forfeited a personal licence in the preceding 5 year period
- not have any unspent convictions for any relevant offences or for any foreign offences

- have the right to work in the UK

The application must be made to the licensing authority for the area in which the applicant ordinarily resides and must be made on the appropriate form together with the following:

- original certificate of an approved licensing qualification
- two photographs of the applicant, one of which must be endorsed with a statement verifying that the photograph is a true likeness of the applicant
- either a basic disclosure criminal conviction certificate or the results of a subject access search under the Data Protection Act 1998(b) of the Police National Computer by the National Identification Service
- completed disclosure of convictions and civil immigration penalties and declaration
- evidence of right to work in the UK
- fee

What are my duties as a Personal Licence Holder?

- an applicant for a personal licence has a duty to inform the licensing authority of any convictions for relevant or foreign offences where the conviction is given while the application for a personal licence is being considered
- changes in name and/or address must be notified to the licensing authority, accompanied by the appropriate fee and both parts of the personal licence
- if a personal licence holder loses his licence or it is stolen or damaged, he must apply to the relevant licensing authority for a replacement, enclosing a photograph and the appropriate fee
- a personal licence holder must notify the court before which he is charged with a relevant offence no later than the first hearing that he is a personal licence holder
- where a personal licence holder has not complied with the above, he must inform the licensing authority of any conviction for a relevant or foreign offence and his personal licence must be returned to the authority so that details of the conviction can be recorded on the licence.

The courts and, from 6 April 2017 licensing authorities, have the ability to order the forfeiture of a personal licence or to suspend it for a period of up to 6 months if the holder is convicted of a relevant offence.

What are Temporary Events?

Under the Act, a procedure is provided whereby small-scale events, known as temporary events, involving licensable activities can take place without the need for a premises licence or club premises certificate provided specific criteria are met. Any individual aged 18 years or over can submit a temporary event notice (TEN) subject to the following conditions:

- an event may last for up to a maximum of 168 hours
- no more than 499 people (including staff) may attend the event at any one time
- the same premises cannot be used on more than 15 occasions in any calendar year) and are subject to an overall aggregate of 21 days' use

- there must be a minimum of 24 hours between events at the same premises when given by the same person or associates of that person (for example, spouse, child, parent, grandchild, brother, sister, agent or employee of the notice giver)
- the number of notices given by one individual within any one calendar year is limited to 50 for a personal licence holder and 5 for any other person (late notices are limited to 10 for a personal licence holder and 2 for any other person)

How do I give notice of a Temporary Event?

A temporary event notice (TEN), given in the prescribed form and accompanied by the relevant fee, must be given to the licensing authority, with a copy to the Chief Officer of Police and Environmental Services, at least 10 clear working days before the event is to take place. There is nothing to prevent simultaneous notification of multiple events provided the restrictions on the use of TENs are observed and each notification is made on a separate form.

The police and Environmental Services have a period of 3 working days to object to a TEN on the basis on any of the 4 licensing objectives and, if an objection is received, the licensing authority must hold a hearing to consider the objection unless all parties agree that this is unnecessary. At any time before a hearing is held, the police or Environmental Services may, with the agreement of the premises user, modify the TEN to meet their concerns. It is possible to submit a late TEN between 9 and 5 clear working days before the day on which the event is to start. However, if an objection is received in relation to a late TEN, the event will not go ahead. In these circumstances there is no scope for a hearing.

Where can I obtain application forms and further information?

All application forms relating to the Licensing Act can be downloaded from the licensing section of our website (www.eden.gov.uk) and are available in both PDF and Word. More detailed guidance on specific areas such as fees, responsible authorities, format for notice/advertisement is also available on our website.

Further information can be obtained by contacting the licensing team during office hours (08.45 hours to 17.15 hours Monday to Thursday and 08.45 hours to 16.45 hours Friday) on 01768 212148/212273 or by email to admin.licensing@eden.gov.uk