

*These notes refer to the Licensing Act 2003 (c.17)
which received Royal Assent on 10 July 2003*

LICENSING ACT 2003

EXPLANATORY NOTES

SUMMARY AND BACKGROUND

3. In April 2000 the Government published a White Paper on reforming alcohol and entertainment licensing (Time for Reform: Proposals for the Modernisation of Our Licensing Laws; CM 4696). This White Paper set out proposals for modernising and integrating the alcohol, public entertainment, theatre, cinema, night café and late night refreshment house licensing schemes in England and Wales. The White Paper outlined the key aims of the proposals:
 - a) to reduce crime and disorder;
 - b) to encourage tourism;
 - c) to reduce alcohol misuse; and
 - d) to encourage self-sufficient rural communities.
4. The White Paper also set out proposals for reducing the burden of unnecessary regulation. Its proposals were intended to ensure that the provision of additional opportunities for licensable activities were matched by additional measures enabling the police and licensing authorities to act promptly to maintain public order and safety.
5. Since the publication of the White Paper in 2000, responsibility for alcohol and entertainment licensing policy has been transferred from the Home Office to the Department for Culture, Media and Sport.
6. The Act provides for a unified system of regulation of the activities of the sale and supply of alcohol, the provision of regulated entertainment (see Schedule 1), and the provision of late night refreshment (see Schedule 2). In the Act, these activities are referred to collectively as “the licensable activities”.
7. The purpose of the system of licensing for licensable activities is to promote four fundamental objectives (“the licensing objectives”). Those objectives are –
 - a) the prevention of crime and disorder;
 - b) public safety;
 - c) the prevention of public nuisance; and
 - d) the protection of children from harm.
8. The system of licensing is achieved through the provision of authorisations through personal licences, premises licences, club premises certificates and temporary event notices.
9. Personal licences authorise individuals to sell or supply alcohol, or authorise the sale or supply of alcohol, for consumption on or off premises for which a premises licence is in force for the carrying on of that activity (see paragraph 10). To qualify for a personal licence an individual must be aged 18 or over, possess a recognised qualification and

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be in a position to show the licensing authority (see paragraph 34 below) that he has not been convicted of certain offences (“relevant offences” and “foreign offences”, see paragraph 189 below). If a person has been convicted of a relevant offence or foreign offence, following notification to the chief officer of police and consideration of any objections from the police, the licensing authority must grant a personal licence unless it considers that doing so would undermine the crime prevention objective (see paragraph 7a) above). Personal licences last for ten years and are be renewable.

10. A premises licence authorises the holder of the licence to use the premises to which the licence relates (“the licensed premises”) for licensable activities. The premises licence details operating conditions. The purpose of these conditions is to regulate the use of the premises for licensable activities in line with the licensing objectives. A premises licence has effect until the licence is revoked or surrendered, but otherwise is not time limited unless the applicant requests a licence for a limited period. Representations may be made about an application for the grant of a premises licence; for example by local residents and businesses, the police, the fire authority and public bodies with responsibility for environmental health. The representations must concern the promotion of the licensing objectives. Once the licence has been granted the same classes of persons and bodies may seek a review of the premises licence and the conditions attaching to it.
11. Club premises certificates provide authorisation for qualifying clubs (see paragraph 119 below) to use club premises for qualifying club activities. The qualifying club activities are a subset of the licensable activities. They are the supply of alcohol by or on behalf of a club to a member of the club, the sale by retail of alcohol by or on behalf of a club to a guest of a member for consumption on the premises and the provision of regulated entertainment by or on behalf of a club for its members and guests. As with premises licences, the right to make representations on the application for a club premises certificate is given to a range of persons and bodies.
12. In contrast to the existing law, the Act does not prescribe the days or the opening hours when alcohol may be sold by retail for consumption on or off premises. Nor does it specify when other licensable activities may be carried on. Instead, the applicant for a premises licence or a club premises certificate will be able to choose the days and the hours during which they wish to be authorised to carry on licensable activities at the premises for which a licence is sought. The licence will be granted on those terms unless, following the making of representations to the licensing authority, the authority considers it necessary to reject the application or vary those terms for the purpose of promoting the licensing objectives.
13. Personal licences, premises licences and club premises certificates are granted by licensing authorities under the Act, which generally will be the local authority for the area in which the premises are situated or, in the case of personal licences, in which the individual applicant is normally resident.
14. The Act provides procedures for regulating the discharge by the licensing authority of its functions. Authorities are required to publish a policy framework document every three years. In producing the document a licensing authority is required to take account of the views of those representing the holders of licences and certificates, local residents and businesses, the police, and the fire authority. Licensing authorities are also required to take into account guidance issued by the Secretary of State.
15. In addition, the Act establishes new arrangements for the carrying on of licensable activities at occasional, temporary events. These arrangements replace systems of “occasional permissions” and “occasional licences”. They apply in relation to events with less than 500 people attending. The new arrangements are based on a notification to the licensing authority of salient details of the event and an acknowledgement by that authority of the notification. To reflect the temporary nature of the events, these arrangements do not place organisers under the same obligations as apply in relation to those who regularly wish to undertake licensable activities on or from premises.

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16. The Act provides for the setting of fees in relation to applications, notifications, licences and certificates. The fees will be set centrally and are intended to be set on the basis of full cost recovery. The Act requires each licensing authority to establish a register relating to the grant of licences and certificates and the giving of temporary event notices and associated matters. The Act includes a power for the Secretary of State to provide for the establishment of a central database to maintain matters a licensing authority is obliged to register.
17. The Act provides licensing authorities with the power, on review of a premises licence, to suspend or revoke the licence, to exclude specific licensable activities from the licence, or to modify operating conditions attaching to the licence. These powers must be exercised with a view to promoting the licensing objectives. These same powers attach to club premises certificates.
18. In addition, the Act confers powers on the police to close licensed premises to deal expeditiously with disorderly behaviour and excessive noise; these powers are both anticipatory and reactive.
19. The new regime will be supported by a range of offences, inspection powers and enforcement provisions.