



# Licensing Act 2003

## 2003 CHAPTER 17

### PART 9

#### MISCELLANEOUS AND SUPPLEMENTARY

#### *[<sup>F1</sup>Modification of premises licences to authorise off-sales for limited period*

#### **[<sup>F1</sup>172F Authorisation of off-sales for limited period**

- (1) Subsection (2) applies to a premises licence if—
  - (a) the licence has effect, or is capable of having effect, on the day on which this section comes into force (“day X”),
  - (b) immediately before day X, it is an on-sales only licence, and
  - (c) no disqualifying event has occurred in relation to the licence in the period of three years ending with day X.
- (2) The premises licence is to be treated as if, at the beginning of day X, it is varied so that it authorises off-sales during the relevant period subject to the condition that every off-sale must be made at a pre-cut off time when the licensed premises are open for the purposes of selling alcohol for consumption on the premises.
- (3) Any provisions of the premises licence on day X are suspended in so far as they are inconsistent with the authorisation granted by virtue of subsection (2) (and for so long as that authorisation has effect).
- (4) Subsection (5) applies to a premises licence if—
  - (a) the licence has effect, or is capable of having effect, on day X,
  - (b) immediately before day X, it authorises the sale by retail of alcohol for consumption on the licensed premises and it also authorises off-sales, and
  - (c) at that time that authorisation is subject to one or more of the following—
    - (i) one or more conditions relating to the time when an off-sale may be made that would prevent an off-sale during the relevant period being

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*Status: Point in time view as at 20/06/2021. This version of this provision has been superseded.*

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- made at a pre-cut off time when the licensed premises are open for the purposes of selling alcohol for consumption on the premises;
- (ii) one or more conditions applicable to pre-cut off times that would prevent an off-sale during the relevant period where the alcohol is sold in an open container;
  - (iii) one or more conditions applicable to pre-cut off times that would prevent an off-sale during the relevant period where it is a sale for delivery.
- (5) The premises licence is to be treated as if, at the beginning of day X, it is varied so that, in so far as and for so long as it authorises off-sales during the relevant period, it includes—
- (a) where the requirement in subsection (4)(c)(i) is met, a condition that off-sales that would otherwise have been prevented by the condition or conditions mentioned in subsection (4)(c)(i) from being made at a pre-cut off time when the licensed premises are open for the purposes of selling alcohol for consumption on the premises may be made at such a time;
  - (b) where the requirement in subsection (4)(c)(ii) is met, a condition that off-sales at a pre-cut off time that would otherwise have been prevented by the condition or conditions mentioned in subsection (4)(c)(ii) from being in the form of alcohol sold in an open container may be in that form;
  - (c) where the requirement in subsection (4)(c)(iii) is met, a condition that off-sales at a pre-cut off time that would otherwise have been prevented by the condition or conditions mentioned in subsection (4)(c)(iii) from being a sale for delivery may be such a sale.
- (6) For so long as a condition has effect by virtue of subsection (5)(a), (b) or (c), the conditions of the licence referred to in subsection (4)(c)(i), (ii) or (iii) (as the case may be) are suspended in so far as they prevent the matters mentioned in that provision.
- (7) The references in subsections (3) and (6) to an authorisation or condition having effect include the authorisation or condition as subsequently varied or modified in so far as it has effect in relation to the relevant period.
- (8) For the purposes of subsection (1)(c) a disqualifying event has occurred in relation to a premises licence in the three year period mentioned in that provision if, at any time during that period—
- (a) the relevant licensing authority refused to grant a premises licence in respect of the licensed premises authorising off-sales,
  - (b) the relevant licensing authority refused to vary the premises licence so as to authorise off-sales, or
  - (c) the premises licence was varied or modified so as to exclude off-sales from the scope of the licence.
- (9) In the case of a premises licence which is capable of having effect on day X, references in this section to what the licence authorises are to be read as references to what it would authorise were it to have effect.
- (10) In this section—
- (a) “on-sales only licence” means a premises licence which—
    - (i) authorises the sale by retail of alcohol for consumption on the licensed premises, but
    - (ii) does not authorise off-sales;

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- (b) “off-sales” in relation to a premises licence means the sale by retail of alcohol for consumption off the licensed premises; and references to an off-sale are to be read accordingly;
  - (c) “sale for delivery” in relation to a premises licence means an off-sale for delivery by or on behalf of the holder of the licence to a building which is used for residential or work purposes (or both);
  - (d) “the relevant period” means the period beginning with day X and ending with—
    - (i) 30 September 2021, or
    - (ii) if earlier, the revocation or expiry of the premises licence or the exclusion of off-sales from the scope of the licence.
- (11) In this section “pre-cut off time”—
- (a) in relation to licensed premises and a day, means any time between when the premises first open that day for the purposes of selling alcohol for consumption on the premises and 11pm (but this is subject to paragraph (b));
  - (b) in relation to licensed premises and a day throughout which the premises are open for the purposes of selling alcohol for consumption on the premises, means any time between when the premises are first open that day for the purposes of selling alcohol for consumption on the premises and 11pm.
- (12) Where a premises licence authorises the sale by retail of alcohol for consumption in an outdoor area of the licensed premises at some, but not all, of the times when it authorises the sale by retail of alcohol for consumption elsewhere on the premises, times when the premises are not open for the purposes of selling alcohol for consumption in the outdoor area of the premises are to be regarded for the purposes of this section as times when the premises are not “open for the purposes of selling alcohol for consumption on the premises”.]

#### Textual Amendments

- F1** Ss. 172F-172L and cross-heading inserted (temp.) (22.7.2020) by [Business and Planning Act 2020 \(c. 16\)](#), **ss. 11(2), 25(1)** (with s. 11(13))

#### Modifications etc. (not altering text)

- C1** S. 172F(10)(d): power to amend conferred (22.7.2020) by [Business and Planning Act 2020 \(c. 16\)](#), **ss. 11(11)(14)(a), 25(1)**
- C2** Ss. 172F-172J modified by [S.I. 2020/1374](#), **Sch. 3A para. 13(8)** (as inserted (20.12.2020 at 7.00 a.m.) by [The Health Protection \(Coronavirus, Restrictions\) \(All Tiers and Obligations of Undertakings\) \(England\) \(Amendment\) Regulations 2020 \(S.I. 2020/1611\)](#), regs. 1(2), **2(13)**)
- C3** Ss. 172F-172J modified (temp.) (29.3.2021) by [The Health Protection \(Coronavirus, Restrictions\) \(Steps\) \(England\) Regulations 2021 \(S.I. 2021/364\)](#), reg. 1(2), **Sch. 2 para. 11(7)** (with reg. 21) (as amended (20.6.2021 at 11.55 p.m.) by [The Health Protection \(Coronavirus, Restrictions\) \(Steps and Other Provisions\) \(England\) \(Amendment\) \(No. 2\) Regulations 2021 \(S.I. 2021/705\)](#), regs. 1(2), **2(3)** (with reg. 1(4)))

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