

**EXPLANATORY MEMORANDUM TO  
THE LICENSING ACT 2003 (SUMMARY REVIEW OF PREMISES LICENCES)  
REGULATIONS 2007**

**2007 No. 2502**

1. This explanatory memorandum has been prepared by the Department for Culture, Media and Sport and is laid before Parliament by Command of Her Majesty.
2. **Description**
  - 2.1 These Regulations amend certain Regulations made under the Licensing Act 2003 (“the Act”), to make procedural and other provision in connection with the new summary review procedure under sections 53A to 53C of the Act in relation to premises licences.
  - 2.2 The summary review procedure was introduced by amendments to the Act made by sections 21 and 22 of the Violent Crime Reduction Act 2006 (c. 38).
  - 2.3 The 2006 Act provides the police and local communities with new powers in two specific areas: alcohol-related violence; and the use of weapons, particularly guns and knives. The summary review procedure allows the police to initiate an expedited review of a premises licence if a senior officer is of the opinion that the premises in question are associated with serious crime, serious disorder or both.
  - 2.4 These Regulations amend the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 (S.I. 2005/42), the Licensing Act 2003 (Hearings) Regulations (S.I. 2005/44) and the Licensing Act 2003 (Licensing authority’s register)(other information) Regulations 2005 (S.I. 2005/43), so as to include provisions addressing the new procedure, so to enable it to operate in practice.
  - 2.5 A summary of the changes is as follows:

*S.I. 2005/42 (The Premises licences, etc regulations)*

    - (a) A new regulation 16A and Schedule 8A are inserted, prescribing the form to be used by the police to initiate the new procedure.
    - (b) A new regulation 36A is inserted, requiring the licensing authority to give notice of an application by the police to the holder of the premises licence and to each responsible authority (as defined in section 13(4) of the Act) within 48 hours (excluding non-working days) of the receipt of the application. The notice must comprise a copy of the application, and a copy of the certificate given under section 53A(1)(b) of the Act recording the police opinion that the premises are associated with serious crime and/or serious disorder.

(c) Regulation 38 is modified so as to include references to the new procedure. This applies the advertising requirements in that regulation (which applies to reviews of premises licences generally) to the procedure, and specifies that the notice to be displayed at the premises must be displayed for at least seven consecutive days starting with the day after the licensing authority received the application.

(d) A new regulation 39A is inserted, which requires notices displayed in accordance with regulation 38 to specify the dates between which interested parties and responsible authorities may make representations about the application (ten consecutive working days following the day on which the notice was published); and to state the grounds on which the application is made, namely that a senior police officer is satisfied that the premises are associated with serious crime and/or serious disorder. The new regulation also specifies the period referred to above as the period prescribed for the purposes of section 53A(3)(e) of the Act.

*S.I. 2005/44 (The Hearings regulations)*

(a) Following a hearing under the new procedure, a licensing authority must take such steps as mentioned in section 53C(3) of the Act as it considers necessary for the promotion of the four licensing objectives in section 4(2) of the Act: its consideration is not confined to matters related to the crime prevention objective (section 4(2)(a)). Therefore, a new subsection (4) is inserted into the interpretation provision of these regulations (regulation 2), to make clear that the reference in regulation 19(b) to a notice given by a chief officer of police does not apply in relation to the new procedure. (The reference at 19(b) requires the licensing authority to disregard any representations that are not relevant to the crime prevention objective where the hearing is to consider a notice given by a chief officer of police, and is therefore too narrow in view of section 53C(3) of the Act).

(b) Regulation 3 is amended to specify that regulations 4 to 13, 16(a), 18, 20(2)(a) and (4), 22 (from “and shall” to the end), 27, 29 and 34 of the Hearing regulations do not apply to a hearing under section 53B of the Act. Such hearings, to consider interim measures under section 53B need to take place very rapidly, and the formalities in the regulations to be disapplied therefore ought to be dispensed with. It will be up to the authority, in the areas covered by these provisions, to determine the procedure to be followed at the hearing.

(c) Regulations 6 and 8 are amended to require the authority to give notice of a hearing under the new procedure (other than an interim hearing) no later than five working days before the day (or first day) on which the hearing is to be held; and to require a party to give notice no later than two working days before that day indicating whether he proposes to attend the hearing, or whether he considers the hearing to be unnecessary.

(d) Regulation 13 is amended to prevent the authority using its discretion to extend a time limit, or its discretion to adjourn or extend a hearing, in such a way that it would fail to reach a determination on a review under the new procedure within the 28-day period specified in section 53A(2)(b) of the Act.

(e) Regulation 26 is amended to require the authority to reach its determination at the conclusion of a hearing under the new procedure (whether an interim hearing or not).

(f) Schedules 2 and 3 are amended so that the authority is required to give the licence-holder, persons who have made representations and the police notice of the time and place of the hearing no later than five working days before the day (or first day) of the hearing; and that the authority is required to provide the licence-holder with a copy of any relevant representations (see section 53C(7) of the Act) that have been made.

*S.I. 2005/43 (The Register: additional information) regulations*

Regulation 2 is amended so that the licensing authority's register must contain a record of the fact that an application under the new procedure has been made, and the ground on which it was made (namely, that a senior police officer is of the opinion that the premises in question are associated with serious crime, serious disorder or both).

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None.

**4. Legislative Background**

4.1 Section 53A(3) of the Licensing Act 2003 requires the Secretary of State, by Regulations, to make provision for the matters set out in subsection (3) of that section.

4.2 These Regulations make such provision, and also make provision under section 54 (Form etc. of applications and notices under Part 3) and sections 9(2) (Proceedings of licensing committee) and 183(1) (Hearings) of the Act in connection with the new summary review procedure described above.

**5. Extent**

5.1 This Order extends to England and Wales.

**6. European Convention on Human Rights**

6.1 As the Order is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

**7. Policy background**

7.1 Sections 53A to 53C of the Licensing Act 2003 were introduced by the Violent Crime Reduction Act 2006, in order to allow the police to initiate an expedited review of a premises licence if a senior officer is of the opinion that the premises in question are associated with serious crime, serious disorder or both.

- 7.2 Mechanisms for the review of premises licences under the 2003 Act already exist (see sections 51 and 167). The new expedited procedure is designed to address the specific problems of serious crime and disorder associated with premises by allowing such problems to be dealt with speedily and effectively through a review process, whilst preserving the rights of the licence-holder to a fair hearing.
- 7.3 The amendments made by these Regulations aim to strike a balance between the need to ensure the expedited procedure works efficiently, and to ensure that the rights of the parties to the procedure are protected. Their effect is similar in many respects to the provisions governing reviews following closure orders made under Part 8 of the Act, in relation to which provision has been made under section 167(4) in the instruments that are amended by these Regulations.
- 7.4 The exception is in relation to hearings to consider interim measures under section 53B of the 2003 Act. In such cases, the timescales involved are extremely short, so the scope for statutory procedural safeguards is not as great as in relation to final hearings under section 53C. However, the interim nature of these measures, and the presence of more extensive safeguards in relation to final hearings means that the balance referred to in the previous paragraph falls in a different place.
- 7.5 It will also be noted that there is no prescribed minimum period between the end of the period for representations and the commencement of the hearing (see regulation 5 of, and Schedule 1 to the Hearings regulations referred to above). The matter will therefore be within the discretion of the licensing authority. However, this discretion will need to be exercised bearing in mind the authority's obligations under the general law governing procedural fairness as it applies to public bodies and the requirement in section 53A (2) for the licensing authority to review the licence and reach a determination within 28 days after receipt of the application for a summary review.

## **8. Impact**

- 8.1 A Regulatory Impact Assessment has not been prepared for this Order, as it does not of itself make any substantial changes to procedure, over and above those already introduced by sections 21 and 22 of the Violent Crime Reduction Act 2006.

## **9. Contact**

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