

**EXPLANATORY MEMORANDUM TO**  
**THE LICENSING ACT 2003 (PREMISES LICENCES AND PERMITTED**  
**TEMPORARY ACTIVITIES) (FORMS AND NOTICES) (AMENDMENT)**  
**REGULATIONS 2010**

**2010 No. 2851**

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 These Regulations amend the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 (SI 2005/42) (“the Licences and Certificates Regulations”) and the Licensing Act 2003 (Permitted Temporary Activities) (Notices) Regulations 2005 (SI 2005/2918) (“the Permitted Temporary Activities Regulations”).

2.2 The purpose of the amendments is to prescribe the forms in relation to applications for the grant of a premises licence, the grant of a provisional statement and the transfer of a premises licence, and forms in relation to an interim authority notice and a temporary event notice.

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

3.1 None.

**4. Legislative Context**

4.1 The Licensing Act 2003 (“the 2003 Act”) provides a system of authorisation for certain activities (referred to as “licensable activities”), namely: the sale by retail of alcohol; the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club; the provision of regulated entertainment; and the provision of late night refreshment.

4.2 Carrying on, or attempting to carry on, a licensable activity on or from any premises without an appropriate authorisation under the 2003 Act is a criminal offence. An authorisation under the 2003 Act may comprise a premises licence, a club premises certificate or a temporary event notice (“TEN”).

4.3 Premises licences and club premises certificates are granted (and may be varied or transferred) by licensing authorities, subject to the procedures, forms and fees prescribed by or under the 2003 Act. The form of the applications for the grant or transfer of a premises licence, and the grant of a provisional statement (an interim authority granted to e.g. a developer of a premises at which it is proposed licensable activities will be carried on), are prescribed in the Licences and Certificates Regulations.

4.4 The 2003 Act also contains provision enabling a person to obtain interim authority to carry on licensable activities following the death, incapacity or

insolvency of a premises licence holder. To obtain such authority, a person must send notice to a licensing authority within a prescribed time. The form of the interim authority notice is also prescribed in the licences and certificates regulations.

4.5 To carry on licensable activities by virtue of a TEN, a person must send the TEN to a licensing authority subject to the procedures, forms and fees prescribed by or under the 2003 Act. The form of a TEN is prescribed in the Permitted Temporary Activities Regulations.

4.6 Two Orders came into force on 1 October 2010 and amend the 2003 Act.

- The Health and Social Care Act 2008 (Consequential Amendments No 2) Order 2010 (SI 2010/813) (“the 2010 Order”) amended section 16 of the 2003 Act. This provision prescribes those persons who may apply for a premises licence, provisional statement or transfer of a premises licence; the effect of the 2010 Order is that the identity of the prescribed persons in section 16 of the 2003 Act has been amended. This amendment reflects the changes introduced in the Health and Social Care Act 2008, which altered the regulation of health and adult social care in England but not Wales in relation to which health is a devolved matter. These changes resulted in persons who are involved in the running of independent hospitals in England and Wales each being subject to different regulatory regimes, and therefore each having a separate identity for the purpose of prescribing who can apply for a premises licence under section 16 of the 2003 Act. The form of an application for the grant of a premises licence, the grant of a provisional statement and the transfer of a premises licence each contain the list of persons which is set out in section 16 of the 2003 Act. These Regulations, therefore, prescribe these forms so that each contains that list of persons to mirror the amendments to section 16 of the 2003 Act.
- The Legislative Reform (Licensing) (Interim Authority Notices etc) Order 2010 (SI 2010/2452) (“the LRO”) amended section 47 of the 2003 Act. This provision prescribes the time by which a person must give an interim authority notice to a licensing authority; the effect of the LRO is that the prescribed time limit has been amended. The form of an interim authority notice contains reference to this prescribed time limit, and the form of notice prescribed in these Regulations contains reference to the time limit as amended.
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4.7 The form of temporary event notice prescribed in these Regulations replaces the notice prescribed in the permitted temporary activities regulations. This does not arise as a consequence of legislative amendment.

## **5. Territorial Extent and Application**

5.1. These Regulations extend to England and Wales only.

## **6. European Convention on Human Rights**

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

## **7. Policy background**

7.1 The relevant policy background is set out in the Explanatory Document laid with the LRO under section 14 of the Legislative and Regulatory Reform Act 2006 and in the Explanatory Memorandum laid with the 2010 Order.

7.2 The purpose of the amendment to the form of temporary event notice is to remove a reference to the Department for Culture, Media and Sport and the address of its website. This reference became redundant following the transfer of responsibilities from that Department to the Home Office, and is therefore no longer relevant.

## **8. Consultation outcome**

8.1 The content of these Regulations in relation to the form of interim authority notice was the subject of consultation in the LRO. The content of these Regulations in relation to the forms of applications for the grant of a premises licence, the grant of a provisional statement and the transfer of a premises licence will have been the subject of consultation in relation to the Health and Social Care Act 2008. The content of these Regulations in relation to the form of temporary event notice has not been the subject of consultation because it is not a substantive amendment.

## **9. Guidance**

9.1 This is not applicable.

## **10. Impact**

10.1 Impact Assessments have been prepared as part of the process for introducing the LRO and the Health and Social Care Act 2008. An Impact Assessment was not prepared for the 2010 Order because it was not considered to impact on business, charities, voluntary bodies or the public sector.

## **11. Regulating small business**

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11.1 The measure will have no adverse impact on small firms.

## **13. Monitoring & review**

12.1 The impact of the amendments made by these Regulations will be kept under review by the Home Office.

## **13. Contact**

13.1 Mandy Stevens, ASU on ext 1541 can answer any queries regarding the instrument.