

**EXPLANATORY MEMORANDUM TO
THE LICENSING ACT 2003 (FORMS) (AMENDMENT)
REGULATIONS 2013**

2013 No. 432

1. This explanatory memorandum has been prepared by the Home Office (“the Department”) 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 2005 Regulations”). The purpose of the amendments is to prescribe a new version of the form of an application for the variation of a premises licence, an application for the minor variation of a premises licence or club premises certificate and an application for the variation of a club premises certificate.

3. **Matters of special interest to the Joint 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. It is a criminal offence to carry on, or attempt to carry on, a licensable activity on or from any premises without an appropriate authorisation under the 2003 Act. Such an authorisation may comprise a premises licence, a club premises certificate or a temporary event notice.

 - 4.2 Premises licences and club premises certificates are granted (and may be varied) by licensing authorities, subject to the procedures, forms and fees prescribed by or under the 2003 Act. The form of the application for the variation of a premises licence or club premises certificate, and an application for the minor variation of a licence or certificate, is prescribed by the 2005 Regulations. The forms prescribed in these

Regulations replace the forms prescribed in the 2005 Regulations in relation to those processes.

- 4.3 These Regulations have been made as a result of the introduction of the late night levy (“the levy”) under Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011 (“the 2011 Act”). In a case where a licensing authority decides to introduce the levy in its area, the authority is required under the 2011 Act to arrange that no application fee is required to be paid by licence or certificate holders (who would otherwise become liable to the levy on its introduction by virtue of their authorisations permitting them to supply alcohol at times in respect of which the levy will be chargeable) who apply to vary their authorisations so as to avoid becoming liable for the levy.
- 4.4 The form of application for the variation or minor variation of a licence or certificate now includes a specific reference to the requirement that no fee is required to accompany the application in the circumstances to which the 2011 Act apply.

5. Territorial Extent and Application

- 5.1 These Regulations apply to England and Wales only.

6. European Convention on Human Rights

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

7. Policy background

- *What is being done and why*

- 7.1 These Regulations amend statutory licensing forms to ensure consistency with the legislation which introduced the levy.
- 7.2 The levy was introduced by the 2011 Act and enables licensing authorities to charge it to premises in their area which are licensed to sell alcohol late at night, dividing the revenue between themselves and the local policing body for the area.
- 7.3 When introducing a levy, licensing authorities must allow those who may become liable to the levy an opportunity to apply for a free variation to their licence. This gives premises licence holders the opportunity to vary their licensed hours to the effect that they sell alcohol outside the time when the levy would apply and, as a consequence, avoid becoming liable for it.

7.4 These Regulations prescribe versions of certain forms which have been revised to reflect the entitlement to make such free variation applications.

- ***Consolidation***

7.5 This is not applicable.

8. Consultation outcome

8.1 The content of these Regulations has not been the subject of consultation because the revisions they make are necessarily consequent on the introduction of the levy by the 2011 Act. As such, they are in effect a part of the proposals which were the subject of consultation in relation to the 2011 Act. This consultation took place between July and September 2010. It generated over 1,000 formal responses and over 2,500 campaign responses. The detailed proposals in relation to the implementation of the levy were also the subject of a further public consultation between January and April 2012. This generated over 600 responses.

8.2 Details of both consultations, and the Government's responses, are available on the Home Office's website at www.homeoffice.gov.uk/.

9. Guidance

9.1 Information on these changes will be made available through updates to the Department's website and statutory guidance issued under section 182 of the 2003 Act. Any changes will also be communicated to licensing authorities in England and Wales.

10. Impact

10.1 There is no impact on businesses, charities or voluntary bodies.

10.2 The impact on the public sector is less than £5 million.

10.3 An Impact Assessment has not been prepared for this instrument. A full Impact Assessment was prepared for the levy and is available via the Government's legislation website:
<http://www.legislation.gov.uk/uksi/2012/2730/impacts>

11. Regulating small business

11.1 The legislation applies to small businesses but will not have an adverse impact on it.

12. Monitoring & review

- 12.1 The impact of the revisions made by these Regulations will be kept under review by the Department.

13. Contact

- 13.1 Contact Robert Williams, Drugs and Alcohol Unit, the Home Office on: 020 7035 0266 or robertthomas.williams9@homeoffice.gsi.gov.uk for any queries regarding the instrument.