

**EXPLANATORY MEMORANDUM TO
THE LICENSING ACT 2003 (PERSONAL LICENCES) (AMENDMENT)
REGULATIONS 2014**

2014 No. 3284

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 (Personal licences) Regulations 2005 (S.I. 2005/41) (“the 2005 Regulations”). The purpose of the amendments is to prescribe a simplified version of the application form for the renewal of a personal licence, remove the need to pay a fee to accompany the application and remove other current requirements.

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 an 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. The 2003 Act requires (subject to limited exceptions) that any supply of alcohol, at premises authorised by a premises licence to carry on that activity, can only be made at a time when there is a designated premises supervisor (“DPS”) in respect of the licence. A DPS must hold a personal licence. Moreover, every supply of alcohol must be made or authorised by a personal licence holder, whether the holder or the DPS. The 2003 Act, therefore, contains provision enabling an individual to apply for the grant or renewal of a personal licence. A personal licence has effect for the period of 10 years beginning with the date on which it is granted. A licence holder may apply to renew the licence before it ceases to have

effect. The process by which such applications are made includes a requirement that the application must be accompanied by:

- two photographs of the applicant;
- a criminal conviction certificate, a criminal record certificate or the result of a subject access search, and a declaration relating to a conviction or the absence of a conviction for a relevant or foreign offence (defined in section 113 of the 2003 Act); and
- a fee.

4.3 These Regulations remove these requirements, although the applicant continues to be required by virtue of section 123 or 132 of the 2003 Act to notify the licensing authority of a conviction for a relevant or foreign offence either during the period when the application to renew is being determined or at any other time. These Regulations also prescribe a simplified version of the application to renew.

5. Territorial extent and application

5.1 These Regulations apply to England and Wales only.

6. European Convention on Human Rights

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

7. Policy background

- What is being done and why

7.1 The Government is aiming to remove the requirement to renew a personal licence by provisions in the Deregulation Bill; this legislation is intended to remove unnecessary bureaucracy and reduce financial burdens on businesses. The 2005 Regulations came into effect on 7 February 2005, and some personal licences are therefore due for renewal early in 2015.

7.2 These Regulations amend the 2005 Regulations to simplify the renewal process for applicants. This means that applicants will not have to pay a processing fee, undertake a Disclosure and Barring Service (criminal records) check or provide updated photographs. Safeguards aimed at preventing those with relevant convictions from holding a licence will remain. Applicants will still have to notify courts of the fact that they are personal licence holders if they are charged with a relevant offence (these offences are listed in Schedule 4 to the 2003 Act) and the requirements to notify the licensing authority of convictions for relevant or foreign

offences remain. The courts are also required to notify licensing authorities when a licence holder is convicted of a relevant offence.

- Consolidation

7.3 The Department does not consider that consolidation is appropriate at this stage, but will consider the need for this if the 2005 Regulations are amended in future. There are no planned further amendments.

8. Consultation outcome

8.1 No consultation has been undertaken in relation to these Regulations. The provisions in the Deregulation Bill to remove the requirement to renew personal licences formed part of the wider Alcohol Strategy consultation in 2012, and is available on the gov.uk website.

9. Guidance

9.1 Fact sheets have been provided to licensing authorities for them to place on their websites; these outline how the process would work for applicants and licensing authorities, and what action they would need to take. Information has also been provided on the licensing section of the Gov.UK website.

10. Impact

10.1 An impact assessment has not been specifically prepared in respect of this instrument. However, an impact assessment has been published in respect of the measure in the Deregulation Bill to remove the requirement to renew personal licences. The impact of this instrument on personal licence holders is captured in that assessment. This change to the 2005 Regulations will have a positive impact on businesses as it removes their costs associated with licence renewals.

11. Regulating small business

11.1 These Regulations apply to small businesses as all licensed premises must comply with requirements imposed in accordance with the 2003 Act. This measure will have a positive impact on small businesses run by or which employ personal licence holders who need to renew their licences in early 2015.

12. Monitoring and review

12.1 The changes made by these Regulations will remain subject to review.

13. Contact

13.1 Please contact Sam Hardy, Drugs and Alcohol Unit, the Home Office on 020 7035 1784 or Sam.Hardy@homeoffice.gsi.gov.uk.