

IMPORTANT: This Policy document outlines the implications for churches under the Act. Please note that a number of amendments have been made to this legislation and can be found in this document commencing at paragraph 12.

1 Introduction

1.1 This summary sets out our understanding of the Licensing Act 2003 ("the Act") and its effect on church buildings. The advice here cannot be, and is not intended to be an authoritative interpretation of the Act, but it represents an attempt to summarise the provisions as currently understood. Legal advice has been sought and it is felt appropriate to draw attention to some of the requirements, specifically to the need for a "premises licence".

1.2 Annex "A" sets out the extracts of the most pertinent sections of the Act.

1.3 Until the Licensing Act 2003 came into force in November 2005, churches outside London were exempt from the need for a public entertainments licence for concerts. In 2000, the Government published a White Paper, 'Time for Reform' which recommended the wholesale revision of the legislative arrangements and the combining of the different licensing systems for alcohol, music and plays into a single system for the provision of alcohol, public entertainment and late night refreshments. The White Paper made no specific reference to churches or other places of worship.

1.4 The Act establishes a single integrated scheme for licensing premises which are used for the supply of alcohol, to provide regulated entertainment or to provide late night refreshment. Permission to carry on some or all of these licensable activities will now be contained in a single licence.

1.5 The Act provides a balanced package of freedoms and safeguards. It has an important role in the prevention of crime and disorder and public nuisance perpetuated by a minority.

1.6 The Act marks the end of the previous outdated licensing regimes. The legislation reflects that the licensable activity it covers are to be carried on in a modern, vibrant society which deserves a more streamlined and unified licensing system.

Key measures contained in the Act include:

- flexible opening hours;
- a single premises licence to be used to supply alcohol, to provide regulated entertainment and to provide refreshments late at night. A premises licence issued by the licensing authority (usually the local authority) after notification and scrutiny by the police and other responsible authorities;
- a new system of personal licences relating to the supply of alcohol which enables holders to move more freely between premises where a premises licence is in force. Personal licences are issued by licensing authorities after scrutiny by the police – where an applicant has been convicted of certain offences.

2 Licensable Activities

2.1 **The Act lists four licensable activities which are to be regulated by the provisions of the Act.**

These are:

- the sale by retail of alcohol; (see sections 191 and 192 of the Act at Annex A)
- the supply of alcohol by clubs;
- the provision of regulated entertainment;
- the provision of late night refreshment.

2.2 Licensable activities may only be carried on under, and in accordance with one of three authorisations namely, a premises licence, temporary events notice or club premises certificate. If

you intend to carry on any of the licensable activities then unless your activities are covered by one of the exemptions in the Act, you need one of the three authorisations. **It is an offence to carry on any licensable activity without the relevant authorisation.**

2.3 Exemptions

The exemptions most applicable to churches are contained in Part 9 Section 175 and Schedule 1 Part 2, the detailed provisions of which are set out in Annex A. Generally, as long as the conditions of Section 175 are satisfied the offering of alcohol as a prize in a lottery or tombola will not be a licensable activity. Schedule 1 Part 2 also provides exemptions for entertainment or entertainment facilities for the purposes of or incidental to a religious meeting or service or at any place of public religious worship and also for garden fetes as long as the proceeds of the same are not applied for private gain. Allowing a church hall to be booked by parents for a children's party where there will be entertainment provided at the party is not a licensable activity as long as no charge is made to the children attending the party.

2.4 However, some activities which churches carry out in a church hall will be licensable activities and therefore a premises licence is required.

2.5 Provision of regulated entertainment:

- (a) the performance of a play – this includes rehearsals;
- (b) the exhibition of a film;
- (c) indoor sporting events;
- (d) boxing or wrestling entertainment;
- (e) the performance of live music;
- (f) any playing of recorded music;
- (g) a performance of dance;
- (h) anything of a similar description to that falling in (e), (f) or (g).

2.6 Provision of entertainment facilities:

- (i) facilities for allowing people to make music;
- (j) facilities for allowing people to dance;
- (k) facilities for allowing entertainment of a similar description to that falling in (i) or (j).

It is evident that many common activities which churches carry out would now constitute "regulated entertainment" and require a premises licence. If you are in any doubt as to what might constitute "regulated entertainment", please consult your local licensing authority.

3 Premises Licences

3.1 Premises licences will not be time limited (unless requested) nor subject to renewal.

3.2 The principal category of those who can apply for a premises licence is anyone who proposes to carry on business involving licensable activities on the premises. This covers any individual (aged at least 18) or business. Recognised clubs, **charities**, a proprietor of educational establishments and other bodies can also apply.

3.3 The premises licence will be in a form regulated by statute and an example is attached at Annex A.

3.4 A premises licence summary or a certificated copy of the summary, must be prominently displayed at the licensed premises.

4 How to obtain a premises licence

An application for a premises licence must be made to the relevant licensing authority, that is, the authority within whose area the premises are situated. To make an application you must submit:

- a completed application form, including an operating schedule;
- a plan of the premises in the prescribed form;

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- if the application requests the authorisation to supply alcohol, a form containing the consent of the proposed designated supervisor (DPS) in the prescribed form;
- the prescribed fee - which does not apply to charities.

4.1 The application form itself is a comprehensive document and the questions require answers in a combination of written script and tick boxes. The forms may vary slightly from one local authority to another but they seek the same information as that required by the Act.

4.2 Accompanying the application form will be “notes for guidance” about the application form for a premises licence. Please read the notes carefully and follow the instructions implicitly. Ensure all supporting documents are included otherwise the Licensing Authority will consider the process as incomplete and the application will be rejected.

4.3 It is therefore recommended that a church always obtains the application form from its own licensing authority or downloads it from the local authority website if available. See 4.6 for cross reference purposes.

4.4 When completing the application form it is advisable when filling in the papers marked A to K to insert times which cover most of the day. This will allow for morning, afternoon and evening events for the whole seven days. For example - 10am to 10:30pm Monday to Sunday. It is advisable to endorse the application form as follows – “Fee not enclosed due to being a charity”.

4.5 Once the application is completed and ready for submission it must be sent to the local licensing authority and copied to the following:

- the chief officer of police for any police area in which the premises are situated;
- the fire authority for any area in which the premises are situated;
- the enforcing authority within the meaning given by section 18 of the Health and Safety at Work etc. Act 1974, for any area in which the premises are situated. (This usually means the Environmental Health & Trading Standards Dept);
- the local planning authority within the meaning given by the Town & Country Planning Act 1990 (c.8) for any area in which the premises are situated;
- the local authority by which statutory functions are exercisable in any area in which the premises are situated in relation to the minimising or preventing the risk of pollution of the environment or of harm to human health;
a body which –
- represents those who, in relation to any such area, are responsible for, or interested in, matters relating to the protection of children from harm, and
- is recognised by the licensing authority for that area for the purposes of this section as being competent to advise it on such matters. (This is usually the local Child Protection Unit within the Social Services).

4.6 The first page of a specimen set of forms for a premises licence is attached annex “B” to this document. Area Secretaries have the complete document. However I draw your attention to paragraph 4.3 because the forms may vary slightly from licensing authority to licensing authority.

5 What is an operating schedule?

5.1 The operating schedule sets out various details on how the premises are proposed to operate when carrying on licensable activities. The operating schedule must include the following information:

- the licensable activities to be carried out;
- the proposed hours that the relevant licensable activities are to take place;
- the proposed hours the premises are to be open to the public;
- the duration of the licence (if it is to have a fixed term);

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- details of who is to be the Designated Premises Supervisor (DPS) if the activities include the supply of alcohol;
- where the alcohol is to be supplied whether the supplies are proposed to be for the consumption on and or off the premises;
- a statement of the steps the applicant proposes to take to promote the licensing objectives – for example, door security, the prevention of crime and disorder (relevant for churches – safe from harm procedures, CRB procedures, URC Good Practice and compliance with the law on all licensing matters).

6 What are the requirements relating to plans of the premises?

6.1 A plan of the premises will have to be submitted with every application for a premises licence. Unless previously agreed with the relevant licensing authority in writing that an alternative scale plan is acceptable, the plan should be drawn in standard scale (1 millimetre represents 100 millimetres). The plan will need to show:

- the boundary of the building, if relevant, and any external and internal walls of the building and, if different, the perimeter of the premises;
- points of access and exits from the premises, and the location of escape routes if different;
- where the premises are to be used for more than one licensable activity, the area within the premises used for each activity;
- fixed structures (including furniture) or similar objects temporarily in a fixed location (but not furniture) which may impact on exits or escape routes;
- the location and height of any stage or raised area or area relative to the floor;
- any steps, stairs elevators or lifts;
- any room or rooms containing public conveniences;
- the location of a kitchen, if any, on the premises.

6.2 Please note: The plan may include symbols to illustrate such matters and a key to explain them.

7 What is a designated premises supervisor?

Personal licences authorise an individual to supply alcohol, or authorise the supply of alcohol in accordance with a premises licence or a temporary event notice. Not everybody who works in any licensed premises will need to hold a personal licence, however, all premises licensed to sell alcohol will have an identified personal licence holder, known as the “designated premises supervisor” (DPS). In addition, all supplies of alcohol under a premises licence must be made or authorised by the person who holds a personal licence. They will be named in the operating schedule for any premises with a premises licence. The Act specifies there can only be one DPS for any premises.

8 Temporary Events Notice

Churches who do not envisage a regular use of their premises for any “licensable activity” but who may on the odd occasion require to use them for a licensable activity may, as an alternative to obtaining a full premises licence, be able to use the Temporary Event Notice System (“TENS”) subject to complying with all the conditions and procedures involved. These are set out in detail in Sections 98 -109 inclusive of the Act (See Annex A). Generally, TENS can be used to authorise small scale ad hoc events which are attended by fewer than 500 people and which last no longer than 96 hours. There are limits on the number of TENS that can be given. The TENS is given to the premises user and no more than (5) five TENS can be issued in any one year for the same premises.

9 Children

The protection of children from harm is one of the four main licensing objectives that underpin the Licensing Act 2003. The new licensing regime has been designed, in part, to close loopholes and

inadequacies of the previous law in relation to children, while allowing under 18s to experience the atmosphere of licensed premises in a family friendly safe environment.

9.1 The Act requires that all licensed premises and clubs set out in their operating schedule the steps they propose to take to promote the licensing objectives, including the protection of children from harm.

9.2 The new regime allows licensing authorities to attach conditions relating to children's access to reflect the individual nature of each establishment if relevant representations are made and this is necessary to protect children from harm.

9.3 In addition the licensing objectives on children, the law relating to the sale and consumption of alcohol by minors have been strengthened and updated to offer increased protection to children.

9.4 What are the offences of particular significance under the Act relating to children?

It is an offence for certain persons to allow children under 16 on relevant premises (which means premises to which a premises licence or a club premises certificate has been granted, or a permitted temporary event notice has been given) that are exclusively, or primarily used for the supply of alcohol, or premises open for such supply under the authorisation of a temporary event notice, if they are not accompanied by an adult and those premises are open for the supply of alcohol for consumption there.

9.4.1 It is an offence for any person to allow an unaccompanied child under 16 to be on relevant premises (see above) between the hours of midnight and 5am, when the premises are open for the supply of alcohol for consumption there.

9.4.2 It is an offence for any person to supply alcohol to children anywhere, not just on licence premises.

9.4.3 It is an offence for a child to buy or attempt to buy alcohol.

9.4.4 It is an offence for a child knowingly to consume alcohol on relevant premises (see above)

9.4.5 The legal drinking age remains unchanged by the new act at 18 years of age. The only exception is that 16 and 17 year olds may drink beer, wine or cider with a table meal in relevant premises, where accompanied by an adult aged 18 or over. In all other cases, it is illegal for children under 18 to knowingly consume alcohol on relevant premises, or to buy or attempt to buy alcohol. Where the alcohol is consumed by accident, the child will have committed no offence.

9.4.6 An exception to this law is when a child has been asked to test-purchase alcohol from relevant premises by a police officer or a trading standards officer. In these cases, the child will not be committing an offence.

9.4.7 There are other matters relating to children and alcohol which relate to nightclubs and discos and the definition of 'unaccompanied'. Reference to the Act itself will be necessary before making decisions on these matters.

9.4.8 Before issuing a licence the licensing authority (i.e. the local authority) must consider the application against four specified objectives:

- (a) prevention of crime and disorder;
- (b) public safety;
- (c) prevention of public nuisance and;
- (d) the protection of children from harm.

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10 Penalties

10.1 Penalties for offences committed under the Act can be substantial. There are various levels of penalty within the schedules against a standard scale. The maximum penalty for the most serious offence upon conviction is imprisonment for a term not exceeding six months, or a fine not exceeding £20,000, or both.

10.2 It is inadvisable to try to circumvent the Act by sharp practice. In the past there have been grey areas which have been exploited but the four objectives set by the government are very clear cut and you ignore them at your peril.

11 Should you need any further assistance please contact your Licensing Authority or the Synod office.

ANNEX A

Part 1

Section 1 Licensable offences

- (1) For the purposes of this Act the following licensable activities are:
- (a) the sale of alcohol by retail;
 - (b) the supply of alcohol by or on behalf of a club, or the order of, a club member;
 - (c) the provision of regulated entertainment, and
 - (d) the provision of late night refreshment.

Part 3

Premises Licence

Section 11 Premises licence

In this Act "Premises licence" means a licence granted under this Part, in respect of any premises, which authorises the premises to be used for one or more of the licensable activities.

Section 16 Applicants for premises licence

- 1 The following persons may apply for a premises licence – categories (a) to (i) but only (d) relates to the church.
- (d) a charity - "charity" has the same meaning as in section 96 (1) of the Charities Act 1993 (c.10);
- 2 But an individual may not apply for a premises licence unless he aged 18 or over.

Duration of the premises licence

Section 26 Period of validity of premises licence

- (1) Subject to sections 27 & 28 a "premises licence" has effect until such time as -
- (a) it is revoked under section 52, or
 - (b) if it specifies that it has effect for a limited period, that period expires.
- (2) But a premises licence does not have an effect during any period when it is suspended under section 52.

Section 27 Death, incapacity, insolvency etc. of licence holder:

- (1) A premises licence lapses if the holder of the licence;
- (a) dies;
 - (b) becomes mentally incapable (within the meaning of section 13(1) of the Enduring Powers of Attorney Act 1985 (c.29);
 - (c) becomes insolvent;
 - (d) is dissolved or
 - (e) if it is a club, ceases to be a recognised club.

Part 5

Temporary Events Notice

Section 98 Meaning of “permitted temporary activity”

- (1) A licensable activity is a permitted temporary activity by virtue of this Part if -
 - (a) it is carried on in accordance with a notice given in accordance with section 100, and
 - (b) the following conditions are satisfied.
- (2) The first condition is that the requirements of sections 102 (acknowledgement of notice) and 104(1) (notification of police) are met in relation to the notice.
- (3) The second condition is that the notice has not been withdrawn under this Part.
- (4) The third condition is that no counter notice has been given under the Part in respect of the notice.

Section 99 The relevant licensing authority

In this Part references to the “relevant licensing authority” in relation to any premises, are references to –

- (a) the licensing authority in whose area the premises are situated, or
- (b) where the premises are situated in the areas of two or more licensing authorities, each of those authorities.

Temporary events notices

Section 100 Temporary event notice

1 Where it is proposed to use premises for one or more licensable activities during a period not exceeding 96 hours, an individual may give the relevant licensing authority notice of the proposal (a temporary events notice).

2 In this Act, the “premises user”, in relation to a temporary events notice, is the individual who gave the notice.

3 An individual may not give a temporary events notice unless aged 18 years or over.

4 The temporary events notice must be in the prescribed form and contain:

statement of the matters mentioned in subsection (5);

- (a) Where subsection (6) applies, a statement of the condition mentioned in that subsection;
- (b) and such other information as may be prescribed.

5 Those matters are:

- (a) the licensable activities to which the proposal mentioned in subsection (1) relates (“the relevant licensable activities”);
- (b) the period (not exceeding 96 hours) during which it is proposed to use the premises for those activities (“the event period”);
- (c) the times during the event period when the premises user proposes that licensable activities shall take place;
- (d) the maximum number of persons (being a number less than 500) which the premises user proposes should, during those times, be allowed on the premises at the same time;
- (e) where the relevant licensable activities include the supply of alcohol, whether supplied are proposed to be for the consumption on the premises or off the premises, or both;
- (f) and such other matters as may be prescribed.

6 Where the relevant licensable activities include the supply of alcohol, the notice must make it a condition of using the premises for such supplies that all such supplies are made by or under the authority of the premises user.

7 The temporary events notice:

- (a) must be given to the relevant licensing authority (in duplicate) no later than ten working days before the day on which the event period begins, and
- (b) must be accompanied by the prescribed fee.

Section 101 – Minimum 24 hours between event periods.

Section 102 – Acknowledgement of the notice – subsections 1, 2 and 3 relate to the requirement of the Licensing Authority to acknowledge receipt of Temporary Events Notice.

Section 103 – Deals with the withdrawal of a Temporary Events Notice

Section 104 – Deals with objections to the Temporary Events Notice by the Police

Section 105 – Deals with Counter notice following police objection

Section 106 - Deals with modification of notice following police objection

Section 109 – Deals with the need to keep and produce the Temporary Events Notice if required.

Part 9

Section 175 – Exemptions for raffle, tombola, etc.

(1) The conduct of a lottery which, but for this subsection, could to any extent constitute a licensable activity by reason of one or more of the prizes in the lottery consisting of alcohol, is not (for that reason alone) to be treated as a licensable activity if-

- (a) the lottery is promoted as an incident of an exempted entertainment,
- (b) after the deduction of all relevant expenses, the whole proceeds of the entertainment (including those of the lottery) are applied for purposes other than private gain, and
- (c) subsection (2) does not apply.

(2) This subsection applies if -

- (a) the alcohol consists of or includes alcohol not in a sealed container,
- (b) any prize in the lottery is a money prize,
- (c) a ticket or chance in the lottery is sold or issued, or the result of the lottery is declared, other than at the premises which the entertainment takes place and during the entertainment, or
- (d) the opportunity to participate in a lottery or in gaming is the only main inducement to attend the entertainment.

Section 191 - Meaning of “alcohol

(1) In this Act, “alcohol” means spirits, wine, beer, cider or any other fermented, distilled or spirituous liquor, but does not include -

- (a) alcohol which is of a strength not exceeding 0.5% at the time of the sale or supply in question,
- (b) perfume,
- (c) flavouring essences recognised by the Commissioners of Customs and Excise as not being intended for consumptions or with dutiable alcoholic liquor,
- (d) the aromatic flavouring essence commonly known as Angostura bitters,
- (e) alcohol which is, or is included in, a medicinal product,
- (d) denatured alcohol,
- (e) methyl alcohol,
- (f) alcohol contained in liqueur confectionery.

Section 192 - Meaning of “sale by retail”

(1) For the purposes of this Act “sale by retail”, in relation to any alcohol, means a sale of alcohol to any person, other than a sale of alcohol that -

- (a) is within subsection (2),
- (b) is made from premises owned by the person making the sale, or occupied by him under a lease to which provisions of Part 2 of the Landlord and Tenant Act 1954 (c.56) (security of tenure) apply, and
- (c) is made for consumption off the premises.

(2) A sale of alcohol is within this subsection if it is -

- (a) to a trader for the purposes of his trade,
- (b) to a club, which holds a club premises certificate, for the purposes of that club,
- (c) to the holder of a personal licence for the purpose of making sales authorised by a premises licence,
- (d) to the holder of a premises licence for the purpose of making sales authorised by that licence, or
- (e) to the premises user in relation to a temporary events notice for the purpose of making sales authorised by that notice.

Part 7 Offences

Section 136. Unauthorised licensable activities

(1) A person commits an offence if –

- (a) he carries on or attempts to carry on a licensable activity on or from any premises otherwise than under and in accordance with an authorisation, or
- (b) he knowingly allows a licensable activity to be so carried on.

(2) Where the licensable activity in question is the provision of regulated entertainment, a person does not commit an offence under this section if his only involvement in the provision of entertainment is that he –

- (a) performs in a play,
- (b) participates as a sportsman in an indoor sporting event,
- (c) boxes or wrestles in a boxing or wrestling entertainment,
- (d) performs live music,
- (e) plays recorded music,
- (f) performs a dance,
- (g) does something coming within paragraph 2 (1) (h) of Schedule 1 (entertainment similar to music, dance, etc.).

(3) Subsection (2) is construed in accordance with Part 3 of Schedule 1.

(4) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £20,000, or to both.

(5) In this Part “authorisation” means -

- (a) a premises licence,
- (b) a club premises certificate, or
- (c) a temporary events notice in respect of which the condition of section 98 (2) to (4) are satisfied.

Schedule 1

Provision of Regulated Entertainment

**Part 2
Exemptions**

9 Religious services, places of worship etc,

The provision of any entertainment or entertainment facilities –

- (a) for the purposes of, or for purposes incidental to, a religious meeting or service, or
- (b) at any place of public religious worship, is not to be regarded as the provision of regulated entertainment for the purposes of this Act.

10 Garden fetes, etc

- (i) The provision of any entertainment or entertainment facilities at a garden fete, or a function or event of a similar character, is not to be regarded as the provision of regulated entertainment for the purposes of the Act.
- (ii) But the above sub-paragraph (i) does not apply if the fete or event is promoted with a view of applying the whole or part of the proceeds for the purposes of private gain.
- (iii) In sub-paragraph 2 (above) “private gain” in relation to the proceeds of a fete or function or event, is to be construed in accordance with Section 22 of the Lotteries and Amusement Act 1976 (c.32).

**Part 3
Interpretation**

General

13 This Part has effect for the purposes of this Schedule.

Plays

- 14 (1) A “performance of a play” means a performance of any dramatic piece, whether involving improvisation or not,-
- (a) which is given wholly or in part by one person or more persons actually present and performing, and
 - (b) in which the whole or a major proportion of what is done by the person or persons performing, whether by way of speech, singing or action, involves the playing of a role.

(2) In this paragraph, “performance” includes rehearsal (and “performing” is to be construed accordingly).

Music

18 “Music” includes vocal or instrumental music or any combination of the two.

CHANGES TO THE LICENSING ACT 2003 – APRIL 2012

12.1 Important changes to the Licensing Act 2003 have been introduced by the Police Reform and Social Responsibility Act (PRSA) 2011 which came into force on the 25 April 2012. The Home Office have released updated guidance in view of the changes. The changes are the most radical to the licensing system.

12.2 Responsible Authorities

The Licensing Authority became a Responsible Authority for premises and club premises applications and will have the power to refuse, remove or review a licence without representation from the Police or other Responsible Authority. Primary Care Trusts and Local Health Boards also joined the list of Responsible Authorities and are able to make representations regarding licensing

applications and apply for reviews, even though the licensing objectives have not been revised to include health.

12.3 Interested Parties

The term 'interested parties' has been replaced by 'any other person', meaning that anyone can voice objections, regardless of geographic vicinity, however any such objection must relate to one or more of the licensing objectives.

12.4 Notification of applications will be the responsibility of the Licensing Authority

The Secretary of State has made changes to the Licensing Act Regulations 2005, requiring the Licensing Authority to advertise applications 'in a manner which is prescribed and is likely to bring the application to the attention of the persons who are likely to be affected by it'.

12.5 Determination of applications

The word 'Necessary' has been replaced with the word 'appropriate' in relation to the steps a licensing authority may take when determining applications/requests for review. The police and Environmental Health Officers are now able to object to TENs where they consider that the proposed activities are likely to undermined Licensing Authority objectives.

12.6 Conditions may be applied to TENs if the Authority considers it appropriate for the promotion of the licensing objectives to do so, providing the conditions are also imposed on a premises licence or club premises certificate that has effect in respect of the same premises, or any part of the same premises, as the temporary event notice, and the conditions would not be inconsistent with the carrying out of the licensable activities under the temporary event notice.

12.7 Temporary Event Notice

A Temporary Event Notice is given by a person, referred to as the 'Premises User' who proposes to undertake licensable activities for a limited period. A TEN can be granted for premises which does not already have an existing authorisation under the Licensing Act 2003, or indeed for premises that does have a TENs and where the intention is to offer additional licensable activities and/or alter the existing licensed hours. Temporary Event Notices (TENs) have changed significantly with some changes imposing more restriction whilst others relax certain controls.

12.8 Restrictions

Previously only the Police could object to an application for a Temporary Events Notice (TENs) on the grounds of preventing crime and disorder; now the Environmental Health Department (EHO) may also object to TENs and along with the Police and Licensing Authority must be served a copy of the TENs. Both the Police and the EHO can object based on any of the licensing objectives. The authorities named have three working days in which to make an objection.

12.9 Relaxations

There are certain controls on TENs which have not been affected by these changes and these include:

- the maximum number permitted in attendance is 499;
- the number of TENs permitted per premises per calendar year is 12;
- the minimum period between TENs is 24 hours; and
- the maximum number of TENs permitted per personal licence holder per calendar year is 50 or 5 for a non-personal licence holder.

12.10 Also some other controls have been relaxed for instance:

The maximum duration one TEN can last has increased from 96 hours to 168 hours, the maximum aggregate duration of the period TENs per premises per calendar years has increased from 15 days to 21 days.

12.11 Standard and late TENs

The new TENs regime creates two types of TEN, the 'standard TEN' and the 'late TEN'.

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A standard TEN is one that has been submitted to all the relevant authorities on no less than 10 clear working days' notice before the day of the event i.e. as per the previous TEN.

12.12 A late TEN is one that is served on the relevant authorities no later than five (5) working days and no earlier than nine (9) workings before the event. However, if an objection is made to a late TEN then the Licensing Authority must issue a counter notice. In effect, a late TEN which receives an objection cannot go ahead. It is important to understand that the maximum number of TENs permitted per personal licence holder per calendar year is 10 and in the case of a non-personal licence holders 2.

12.13 The maximum number of TENs permitted for personal licence holders every year remains 50 in total. The number is 5 for non-personal licence holders whether the TENs obtained are standard or late.

12.14 Other significant measures set out in the Police Reform Social Responsibility Act include:

- doubling the fine for persistent sale of alcohol to children to £20,000;
- introducing a late night levy to help cover the cost of policing the late night economy;
- increasing the flexibility of early morning alcohol restriction orders;
- lowering the evidential threshold on licensing authorities;
- removing the vicinity test for licensing representations to allow wider local community involvement;
- the suspension of premises licenses due to non-payment of annual fees.

12.15 Changes to the Licensing Act 2003 – Live Music Act 2012

The Live Music Act came into force on the 1 October 2012 and has made a number of changes to the Licensing Act 2003. These changes are summarised and as set out below.

12.16 Live music in licensed venues

Live music is no longer considered to be regulated entertainment in venues licensed for the sale of alcohol for consumption on the premises in the following situations:

- when it is unamplified and takes place between 8am and 11pm; and
- when it is amplified and takes place in the presence of an audience of 200 persons or less and is provided between 8 am and 11pm.
- the premises must be open for the sale of alcohol during the time live music is provided for the exemption(s) to take effect.

12.17 Any condition attached to the Premises Licence relating to live music will cease to have effect in respect of the live music when offered between 8am and 11pm, unless such conditions have been reinstated by the Licensing Authority as part of a Review Hearing.

12.18 Live music in venues which are not licensed

Unamplified, live music has been deregulated between 8am and 11pm in all non-licensed venues. However, unamplified live music after 11pm and amplified live music in non-licensed venues will still require formal authorisation from the Licensing Authority by way of a Premises Licence, Club Premises Certificate or Temporary Event Notice.

12.19 Provision of facilities for making music and dancing

The provision of facilities for making music, the provision of facilities for dancing and the provision of facilities for anything similar to either music or dancing are no longer licensable activities under the Licensing Act 2003.

12.20 Morris dancing and other similar forms of dance

Morris Dancing and other similar forms of dance, such as maypole dancing, are exempt under the Licensing Act 2003, however, historically only unamplified, live music that accompanied the dance

was exempt. The exemption has now been extended to include amplified live music and recorded music, when used to accompany Morris dancing or anything similar.

12.21 A 'standard' TEN must ordinarily be given with at least 10 clear working days' notice before the date on which the event is to commence. However, the legislation now provides in **exceptional circumstances** for a 'late' TEN to be given where the notice period is between 5 and 9 clear working days. Please note that 'clear working days' does not include the day the Notice is given, the first day of the event or statutory Bank Holidays. We would **strongly recommend** that if submitting a TEN very close to, or indeed on the final date for submission, that you obtain a written receipt as evidence of service.

12.22 For both 'standard' and 'late' TENS, the following statutory requirements must also be met:

- A person who does not hold a Personal Licence may only give 5 TENS in a calendar year, of which only 2 can be 'late' TENS;
- A person who holds a Personal Licence may only give 50 TENS in a calendar year, of which only 10 can be 'late' TENS;
- No premises may be the subject of TENS on more than 12 occasions per calendar year;
- No premises may be the subject of TENS for more than 21 days per calendar year in total;
- A maximum of 168 hours (7 days) can be licensed by way of a single TEN, and there must be at least 24 hours between TENS when submitted by the same person, associate or business colleague in relation to the same premises; and
- No more than 499 people including any staff, organisers, stewards and performers may be in the licensable area at any one time.

12.23 Should any of the above requirements not be met, then this Licensing Authority will not be able to acknowledge receipt of the TEN and the proposed licensable activities will not be permitted to take place.

12.24 Once a valid notice has been given to this Licensing Authority, we will send to the proposed Premises User an acknowledgement.

12.25 Where an objection is received in respect of a 'late' TEN then the legislation does not provide for any modifications to be made and therefore the licensable activities would simply not be permitted to take place. Under such circumstances, this Licensing Authority will serve the proposed Premises User with a Counter Notice.

12.26 When using either of the above methods, please ensure the unique 6-digit transaction identification number provided to you by the Customer Services Team is recorded at the top of the TENS form.

12.27 Sanctions for persistently selling alcohol to children

The fine for persistent underage sales has doubled from £10,000 to £20,000 and the new legislation makes it easier to shut down businesses found to be persistently selling alcohol to those under 18.

12.28 The new legislation also increases the period of voluntary closure, as an alternative to fine, from 48 to 336 hours.

12.29 Licence Fee – Suspension of Licence

Premises licences and club premises certificates will be suspended on failure to pay the annual licence fee, although exceptions are built in to allow for administrative error, disputes and a 'grace period'.

12.30 Licensing Policies

Licensing Policy Statements will be reviewable every 5 years (section 122 of the PRSR Act).

12.31 Alcohol Disorder Zones

Alcohol Disorder Zones have been repealed.

12.32 Review of provisions and effect

There is a requirement that the Secretary of State reviews the effect of these amendments on the scheme established by the Licensing Act 2003 five years after their commencement.

12.33 Further Planned Changes to the Licensing Act 2003

The Home Office are currently consulting on the secondary legislation for EMROs and the Late Night Levy. Further information in relation to locally set fees is expected to follow later in the year.

12.34 The Government has also announced that the forthcoming alcohol strategy, expected to be published in the coming months, will set out the government's plans to tackle excessive alcohol consumption and the wide range of harms that alcohol causes.

12.35 Early morning alcohol restriction order

Early morning alcohol restriction orders will be a new facility for licensing authorities providing the statutory process is followed, and may be applied to different types of premises, between the hours of midnight and 6am.

12.36 Late Night Levy

Provisions have been added to introduce a 'late night levy' which would be intended to cover the costs of policing and other arrangements for the reduction or prevention of crime and disorder, in connection with the supply of alcohol between midnight and 6 am. A licensing authority may not decide that 'the late night levy requirement is to apply in part only of its area'.

12.37 It could cost businesses between an additional £299 and £4,400 each year for their premises licence, if they operate after midnight depending on the non-domestic rateable value.

12.38 Locally Set Licence Fees

Subject to ministerial approval, the Licensing Authority will have the power to set fees on a cost-recovery basis. The costs may also include the costs of acting as other responsible authorities under the Act, e.g. planning authority. However, there will be a consultation on this matter and the minister has indicated that the new fee structure is unlikely to fully take effect until 2013.

12.39 Applying for a licence

The types of businesses and organisations that need alcohol licences might include:

- pubs and bars
- cinemas
- theatres
- nightclubs
- late-opening cafes
- takeaways
- village and community halls
- supermarkets

12.40 The types of licences required are defined as follows:

- any business or other organisation that sells or supplies alcohol on a permanent basis needs to apply for a premises licence
- anyone who plans to sell or supply alcohol or authorise the sale or supply of alcohol must apply for a personal licence
- qualifying members' clubs (such as the Royal British Legion, working men's clubs and rugby clubs) need to apply for a club premises certificate if they plan to sell or supply alcohol.

12.41 Anyone who plans to sell or supply alcohol on a temporary basis must submit a temporary event notice.

12.42 How to apply for an alcohol licence

To apply for a licence, you will need to complete an application form and send it to your local council, along with the fee. You may also need to send copies of your form (depending on the type of application you are making) to the police and other 'responsible authorities'. You can apply online if your council accepts electronic applications. Otherwise, you can apply by post:

- premises licence application
- personal licence application forms
- club premises certificate forms
-

Forms are also available for:

- temporary event notices
- early morning restriction orders
- designated supervisors
- variations
- reviews

You should also contact your local council for advice on the application process.

12.43 Responsible authorities

- police
- local fire and rescue
- primary care trust (PCT) or local health board (LHB)
- the relevant licensing authority
- local enforcement agency for the Health and Safety at Work etc Act 1974
- environmental health authority
- planning authority
- body responsible for the protection of children from harm
- local trading standards
- any other licensing authority in whose area part of the premises is situated

12.44 Determining a licence application

Where an application is properly made and no responsible authority or other person makes representations, the licensing authority must grant the application, subject only to conditions which are consistent with the operating schedule and relevant mandatory conditions in the act. This should be undertaken as a simple administrative process by the licensing authority's officials.

12.45 If representations are made by a responsible authority or other person, it is for the licensing authority to decide whether those representations are relevant to the licensing objectives and not frivolous or vexatious. If the licensing authority decides that any representations are relevant, then it must hold a hearing to consider them.

12.46 At a hearing, the licensing authority may:

- grant the application subject to modifying conditions that are consistent with the operating schedule in a way it considers appropriate for the promotion of the licensing objectives
- reject one or more requested licensable activities
- reject the application
- refuse to specify a person as a designated premises supervisor
- All decisions of the licensing authority, and any conditions imposed, must be appropriate for the promotion of the licensing objectives. If you disagree with the council's decision, you have a right of appeal to the magistrate's court.

12.47 Personal licence

You are not required to have a personal licence to be employed in a pub or other business that sells alcohol. Premises licensed to sell alcohol must have a designated premises supervisor, who holds a personal licence. The one exception is a community premises that has successfully applied to waive the DPS requirement under section 41D of the act. Anyone who does not hold a personal licence must be authorised to sell alcohol by a personal licence holder. There is no such requirement for the supply of alcohol in a members' club.

12.48 Personal licences allow you to sell alcohol on behalf of any business that has a premises licence or a club premises certificate. The relationship is similar to the way that a driving licence permits the driving of any car.

12.49 About the licence

The personal licence is designed to ensure that anybody running or managing a business that sells or supplies alcohol will do so in a professional fashion. Once you receive your personal licence, you can act as the designated premises supervisor for any business that sells or supplies alcohol.

12.50 Who can apply

In order to apply, you must be aged 18 years or over, and (in almost all cases) hold a licensing qualification - for example, a BII Level II examination certificate or a similar accredited qualification such as the EDI NCPLH level 2 qualification.

12.51 If you are applying for a personal licence, you must obtain an accredited qualification first. The aim of the qualification is to ensure that licence holders are aware of licensing law and the wider social responsibilities involved in the sale of alcohol. Personal licence qualification providers are accredited by the Home Secretary.

12.52 Your local council will want to know of any relevant criminal convictions, and these may impact on whether or not you're found to be suitable as a licensee. You will also need to provide a basic criminal conviction disclosure form.

12.53 Changing a licence or club certificate

If you wish to change any aspect of your licence or club certificate once it has been granted, you will need to apply to your local council for either a full or a minor variation.

12.54 Full variations

The full variation process is very similar to the application process for a new premises licence and the fee is the same. You should use this process if you want to make a substantial change to your licence, for example, increasing the hours when you sell alcohol.

12.55 Minor variations

If you want to make a small, low-risk change to your premises licence, you may be able to use the minor variation process. This is cheaper and quicker than the full variation application.

Small changes could include:

- removing a licensable activity
- reducing the hours you sell alcohol
- making small changes to the layout of your premises

If you apply for a minor variation and your application is rejected, you will not be able to appeal. However it is possible to reapply using the full variation process.

12.56 Contact your local council for advice on which process is more suitable for the change you want to make.

12.57 Community involvement in licensing

Any person or business may make representations on premises licence applications or variations, premises licence reviews, representations in relation to club premises certificates and reviews of club premises certificates.

12.58 Making representations

Any person can make representations or comments to the council about applications for new licences, variations or reviews.

12.59 Comments may be positive or negative, but will only be considered relevant by the council if they relate clearly to the licensing objectives. Councils will also reject comments considered to be frivolous (not serious or time-wasting) or if they relate to personal disputes between businesses.

12.60 Requesting a review of a licence

You can also call for an existing licence to be reviewed by the council if you have concerns relating to the licensing objectives.

12.61 Hearings

If the council considers your reasons for making representations or calling for a review are relevant, it will arrange a hearing to consider the evidence. You - or someone representing you - will be invited to the hearing to explain your concerns. Representations and requests for the review of a licence must be made in writing. Forms can be obtained from your local council. If you disagree with the council's decision following a hearing, you have the right to appeal to the magistrates' court. Your council will be able to provide further details.

12.62 Licensable activities

All businesses and organisations that undertake licensable activities on a permanent basis must have a premises licence from their local authority.

12.63 Sale or supply of alcohol

The sale by retail of alcohol and the supply of alcohol by or on behalf of a club are both licensable activities.

12.64 Regulated entertainment

Regulated entertainment is broadly defined as any entertainment that takes place in the presence of an audience (whether members of the public or a club), or otherwise for profit, and the premises have the purpose of providing the entertaining concerned. It may include:

- a performance of a play
- an exhibition of a film
- an indoor sporting event
- a boxing or wrestling entertainment
- a performance of live music
- playing of recorded music
- a performance of dance

12.65 Late night refreshment

Late night refreshment is the sale of hot food or drink to the public to consume off or on the premises) between 11pm and 5am

12.66 Club premises certificates

Members' clubs can operate under club premises certificates instead of premises licences.

12.67 This means, for example, that they are not required to have a designated premises supervisor, and sales of alcohol do not need to be authorised by a personal licence holder.

F MANAGEMENT ISSUES

F8 Licensing Act 2003

November 2014

12.68 Qualifying clubs

To be classified as a club for the purpose of this certificate, a group must meet several conditions.

These include:

- legitimacy - each applicant must be a real club with at least 25 members
- a membership process that takes at least two days between application and acceptance
- alcohol must not be supplied on the premises other than by the club
- alcohol must be purchased by a committee made up of members all of whom are at least 18 years old
- alcohol for the club must be purchased legally
- Other legal restrictions for clubs operating under a club premises certificate are in the Licensing Act 2003.

12.69 Designated premises supervisors

A designated premises supervisor (DPS) is the person who has day-to-day responsibility for the running of the business.

12.70 All businesses and organisations selling or supplying alcohol, except members clubs and certain community premises must have a designated premises supervisor.

12.71 Whoever holds this role must be named in the operating schedule, which you will need to complete as part of the application process, when you apply for a premises licence.

12.72 What the DPS does

The person chosen to be designated premises supervisor (DPS) will act as primary contact for local government and the police. They must understand the social issues and potential problems associated with the sale of alcohol, and also have a good understanding of the business itself.

12.73 While they need not be on site at all times, they are expected to be involved enough with the business to be able to act as its representative, and they must be contactable at all times. If the police or local government have any questions or concerns about the business, they will expect to be able to reach the designated supervisor. Each business may have only one supervisor selected for this role, but the same person may act as the designated supervisor at more than one business.

12.74 Taking responsibility

The Licensing Act requires the supervisor - and all personal licence holders - to take responsibility **for the sale and supply of alcohol.**

12.75 This is because of the impact alcohol has on the wider community, on crime and disorder, and antisocial behaviour.

12.76 Because of these issues, selling alcohol carries greater responsibility than licensing regulated entertainment and late night sales of food and non-alcoholic drinks.

12.77 Becoming a DPS

A designated premises supervisor must have a personal licence and must be nominated by the premises licence holder for the role of designated supervisor.

12.78 Community premises

If you run or are involved in a community, church or village hall that wishes to sell alcohol or already sells it, you can apply for the sale of alcohol to be made the responsibility of a management committee instead of a premises supervisor. Or you can also apply to replace the designated premises supervisor, if you already have one, with the management committee.

F MANAGEMENT ISSUES

F8 Licensing Act 2003

November 2014

12.79 Temporary events

If you're organising a temporary event and want to serve or sell alcohol, provide late night refreshment, or put on regulated entertainment, you'll need to complete a temporary event notice (TEN).

12.80 A TEN is a form that you provide to the local council, the police and environmental health, letting them know about the planned event.

There are 2 types of TENs:

- a standard TEN, which is given no later than 10 working days before the event to which it relates
- a late TEN, which is given not before 9 and not later than 5 working days before the event.

12.81 What qualifies for a TEN?

For the purpose of a TEN, a temporary event is a relatively small-scale event attracting fewer than 500 people.

12.82 The event must last no more than 168 hours and can be held either outdoors or indoors.

12.83 Any premises can only be used for 12 temporary events per year, up to a total maximum of 21 days.

12.84 You must be over 18 in order to hold a temporary event.

12.85 If you have a personal licence, you can give 50 TENs (made up of standard and late TENs) a year; if you don't have a personal licence you can only give 5 (made up of standard and late TENs).

12.86 If you have a personal licence, you can give 10 late TENs a year; if you don't have a personal licence you can only give 2 late TENs.

12.87 There must be at least 24 hours between temporary events organised by the same person or an associate in relation to the same premises.

12.88 Once the police or environmental health receive your TEN, they have 3 working days to make any objections to it on the grounds of any of the four licensing objectives: prevention of crime and disorder, prevention of public nuisance, public safety, protection of children from harm.

12.89 If they object, the council will organise a hearing to consider the evidence and may decide that your event cannot proceed. If there is an objection to a late TEN the event will not be allowed to proceed. Otherwise the event can go ahead as planned.

12.90 Mandatory licensing conditions introduced by the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010

The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 introduced conditions that apply to all relevant premises in England and Wales. They apply to all licensed premises and those with a club premises certificate in England and Wales. In particular, if your premises sells or supplies alcohol, you must ensure that an age verification policy applies at the premises. The other conditions apply in respect of premises licensed for the sale or supply of alcohol on the premises, and are:

- a ban on irresponsible promotions
- a ban on dispensing alcohol directly into customers' mouths
- mandatory provision of free tap water
- the mandatory provision of smaller measures (see below for further details)

F MANAGEMENT ISSUES

F8 Licensing Act 2003

November 2014

12.91 Age verification policy

If your premises (your pub, bar or club, for example) sells or supplies alcohol, you must hold an age verification policy.

12.92 As a minimum, the premises must have a policy that requires people who appear to be under the age of 18 to be asked, before being served alcohol, to produce identification showing their:

- photograph;
- date of birth;
- a holographic mark.

Examples of acceptable ID include:

- photo card driving licences;
- passports or proof of age cards bearing the PASS hologram;
- other forms of ID which meet the criteria laid out above are also acceptable. Staff who work in these venues must be made aware of the existence and content of the age verification policy.

12.93 Smaller measures

If you're responsible for serving alcohol, you now must make sure that the following drinks (if sold in your premises), are available in the following measures:

- beer or cider - half pint;
- gin, rum, vodka or whisky - 25ml or 35ml;
- still wine in a glass - 125ml;

All customers must be made aware of the availability of these measures.

12.94 Changes to alcohol licensing forms

On 31 October 2012, 2 new forms were published relating to the provisions of early morning restriction orders. Six forms and one notice were updated on 1 October 2012:

- club premises application;
- club premises variation;
- minor variation application;
- premises licence application;
- provisional statement application;
- licence variation application;
- temporary event notice;
- alcohol and late night refreshment licensing statistics have also been released.