

Licensing Act 2003 Frequently Asked Questions



The Premises Licence

When will a premise licence be needed?

A premises licence is required to allow premises to be used for one or more licensable activities, including the sale of alcohol, the provision of regulated entertainment (which includes music and dancing) and the provision of late night refreshment (that is, where hot food and/or hot drink is available provided between 11.00pm and 5.00am).

I already have a licence for my pub. Will I need a premises licence?

Yes. Your existing licence will cease to have effect on the second appointed day, when the new licensing laws come into force and you will need to convert it into a premises licence during the transition period, which will last nine months.

When does the transition period officially start?

The transition period will start on 7 February 2005. Licensing authorities will be required to publish their policies at least one month prior to that date.

How do I convert my licence into a premise licence?

You have to apply to the licensing authority for the area where your pub is based. You will need to send:

- A completed application form
- The original or certified copies of existing licences and certificates
- The consent of the existing licensee, if the person is not the applicant
- Consent from the proposed designated premises supervisor
- A plan of the premises
- The fee

How much is the fee?

The fee is based on the non-domestic rateable value of your premises. Please see the Licensing Authority's Guidance Document No.2 for information regarding licence fees.

How do I know where to apply?

You will need to apply to the licensing authority for the area in which your premises are situated.

I am a pub tenant. Do I need a premises licence?

Only one premises licence is required for each pub. You should speak to your landlord to discuss who is going to apply for the licence.

Do I need to apply for a new premises licence if I move to another pub?

No. The premises licence is attached to the pub and will last indefinitely unless it has been granted for a limited period or is surrendered or revoked.

Can I apply for a licence if the premises are not operating as a pub?

You can apply for a premises licence if the premises have not yet been built, as long as you can provide plans of the proposed venue and an operating schedule. However, once granted, the licence will take effect from a future date specified by the licensing authority.

When can I start to use my premises licence?

Your premises licence will not come into force until the second appointed day at the end of the transition period. However, this date has not yet been announced by Government.

What goes into the operating schedule?

The operating schedule must contain the following information:

- A general description of the nature and the character of the business (e.g. a pub with three bars and a restaurant area)
- Details of the licensable activities to be provided and the times when they will take place
- Details of the times that the premises will be open to the public
- Whether alcohol is to be consumed on/and or off the premises
- The steps that will be taken to promote the licensing objectives
- Details of the designated premises supervisor

Will there be any conditions attached to my new premises licence?

When you convert your existing licence into a premises licence, all existing conditions will be transferred onto the premises licence, unless you apply at the same time for variation of any condition and the application is granted.

What conditions will be attached to premises licences granted after the transitional period?

For new premises obtained after the second appointed day the terms contained in the operating schedule will become conditions on the premises licence.

Can a licensing authority turn down an application for a premises licence?

Provided the application is submitted correctly and no representations are made by one of the responsible authorities, such as the Police, or by a local business or resident, the licensing authority must grant the premises licence, subject to the mandatory conditions imposed by the Government and any conditions arising from the operating schedule. Where as a condition on the licence, a premises licence requires door supervisors to be present at certain times a further condition must be imposed stating that they must be licensed by the Security Industry Authority.

Can a licensing authority impose conditions in the licence?

Apart from the mandatory conditions, the licensing authority can only impose additional conditions where representations have been made by either an interested party or responsible authority and the licensing authority considers that the conditions are necessary to promote one of the licensing objectives.

Can I appeal against the decision?

Yes. You can appeal to the Magistrates Court for the area where the pub is situated. You will need to give notice of the appeal to the Court within 21 days of the licensing authority's decision.

Can I stay open later than the times stated in the operating schedule or provide entertainment for special occasions?

You can use a limited number of temporary event notices to extend your opening hours and provide entertainment provided that the number of people attending the event at any one time will not exceed 499 people. You would need to serve the notice on the licensing authority and the Police a minimum of 10 working days before the event is to take place. Police will have the power to visit your pub to ensure public order and can object to an applicant on crime prevention grounds.

What are the penalties of breaching the conditions of a premises licence?

Failing to comply with a premises licence conditions is a criminal offence which is punishable by a fine of up to £20,000 or/and up to six months imprisonment.

What are the four licensing objectives?

Under the new Act licensing authorities must promote:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

The Personal Licence

Who needs a personal licence?

All designated premises supervisors, this is, the person named on the premises licence as being responsible for the day to day running of the pub. Every sale or supply of alcohol needs to be authorised by a personal licence holder, although not everyone working in a pub needs a licence.

I am already a licensee, do I need a personal licence?

Yes. Anyone who wants to authorise the sale or supply of alcohol will need a personal licence. Your existing licence will cease to have effect at the end of the transition period and you will have to convert it into a personal licence.

How do I convert my Justices licence into a personal licence?

You will need to apply to the licensing authority for your area supplying the following documents:

- A completed application form
- Original or certified copy of your justices licence
- A photograph in the prescribed form
- Details (where applicable) of any convictions for any relevant offences which include offences involving serious crimes, serious dishonesty, controlled drugs, certain sexual offences and breach of licensing legislation
- The fee

Where should I send the application?

The application needs to be sent to the licensing authority and a copy must be sent direct to the Chief Officer of the Police for the area where you are applying within 48 hours of submitting the application.

How do I get a personal licence if I haven't held a justices licence before?

You need to apply to the licensing authority for the area where you live and include:

- A completed application form
- A certificate or other proof of having completed an accredited licensing qualification
- A Criminal Record Bureau certificate
- The fee

What counts as an accredited licensing qualification?

The syllabus for personal licence qualifications was published by the Government in July 2004. The accredited licensing qualifications are listed in the Local Authority's Guidance Document No.12.

Can the Police object?

The Police can object to the granting of a licence to an applicant, whether they are existing justices licence holders or new applicants.

What are the Possible objections?

The Police can object if you have been convicted of a relevant or foreign offence and they believe that granting the personal licence would undermine the crime prevention objective.

Can I appeal against the authority's decision?

Yes. If the Police have objected to an application the licensing authority must produce to the applicant and to the Police reasons for its decision. Appeal will be to the Magistrates Court.

How long does a personal licence last for?

Ten years unless it is suspended or revoked.

Do I need to renew my licence after this?

Yes. You will need to apply for renewal to the licensing authority that originally granted your personal licence.

Will I need to get a new personal licence if my circumstances change?

No. But you will need to notify the licensing authority if you happen to change your name or address. You also need to notify the licensing authorities if you are convicted of a relevant offence or a foreign offence after your personal licence has been granted.

What if I lose my licence or something happens to it?

If you lose your licence or it is stolen or damaged you can apply to the local authority for a replacement on a payment of a fee.

Can I have my personal licence taken away?

Yes. Your licence could be suspended or revoked if you are convicted of a relevant offence.

Will I be able to get it back?

Not for at least five years.

Children

Are children allowed into pubs?

No child under 16 will be allowed into a pub unless they are accompanied by an adult.

I currently have a children's certificate, what changes for me?

You will need to submit your children's certificate along with your other licenses for conversion into a premises licence during the transition period. Any conditions or existing statutory restrictions relating to the times and areas when and where children are permitted will be transferred onto your premises licence. You will also need to set out in your operating schedule steps you will take to protect children from harm.

Do I have to allow children into my pub if I don't want them?

No. You can exclude children from your premises if you wish.

Can I allow under 18's to drink alcohol in my pub?

It is an offence to allow under 18's to consume alcohol on the premises except when the children in question are aged between 16 and 17 and are accompanied by an adult and are having a table meal. In those circumstances the only kinds of alcohol that they are allowed to consume, however, is beer, wine or cider.

What are the penalties for selling alcohol to under 18's?

You would be committing a criminal offence and, if successfully prosecuted, could be fined up to £5,000.00.

What happens if I serve someone who looks over 18 but is actually younger?

There is a defence available if you can show that you took all reasonable steps to check the age of the person and that nobody would reasonably have thought the person was under 18.

What should I do if I am unsure of someone's age?

If in doubt you should always insist on seeing some photographic identification, such as a drivers licence or a proof of age card.

Entertainment

I have a public entertainment licence at my pub which allows music and dancing, what will happen to it?

In order to allow music and dancing to take place at your pub when the new licensing act comes into force, you will need to submit the original or certified copy of your PEL with your liquor licence for conversion to a premises licence.

What kind of entertainment should be included in the operating schedule?

Any form of regulated entertainment which is provided for members of the public needs to be specified in the operating schedule. Regulated entertainment includes:

- Live music
- Recorded music
- Dancing
- Plays
- Films
- Indoor sporting events
- Boxing or wrestling
- Any other similar forms of entertainment

I don't currently have a PEL as I limit musicians to two, Can I still do this?

No, this exemption will no longer apply under the new licensing Act. You will need to apply for a variation of your premises licence to include the provision of live music.

What is the penalty for unlicensed entertainment?

The penalty for allowing entertainment that is not authorised by your premises licence is a maximum fine of £20,000 and/or a six-month prison sentence.

Disorder

Can I be prosecuted if I allow disorder to take place in my pub?

Yes. It will be an offence to knowingly allow disorderly conduct on premises that have a premises licence. The premises licence holder, the designated premises supervisor and any person working at the pub who has the authority to stop such behaviour could also be prosecuted. The penalty will be a fine of up to £1,000.

Do the Police have the power to close my pub down?

The Police have the power to issue a closure order to shut down a pub where there is, or is likely to be, disorder on the premises and it is felt to be in the interest of public safety. The Police can also close down a pub if a public nuisance is caused by noise coming from the premises.

When will I be able to reopen after a closure order?

A closure order last for up to 24 hours although it can be extended by for a further 24 hours at the request of a senior Police Officer. If you open your pub in breach of a closure order you could be fined up to £20,000 and sentenced to up to three months imprisonment.

What will happen to my premises licence if I'm issued with a closure order?

Your premises licence will be subject to an automatic review hearing before the licensing authority.

What happens at a review?

You have to attend a hearing before the licensing authority so that it can consider the representations that have been made. The Licensing authority can then modify any of the conditions of the licence, exclude a licensable activity, request the removal of the designated premises supervisor, suspend the licence for up to three months or revoke the licence totally.

Can my licence be reviewed at any time?

Any local resident or local business can ask the licensing authority to review your premises licence at any time. A responsible authority such as the Police or Fire Authority can also ask for a review of your licence where they believe that problems at the premises are undermining one of the licensing objectives.

Jargon Buster

Closure Order

An order by the Police to close either a particular pub or all of the premises in an area for a period of up to 24 hours where there is, or is likely to be disorder on or near the premises, or where a public nuisance is being caused by noise.

Designated Premises Supervisor

All premises selling alcohol under the premises licence must have a designated premises supervisor (DPS) who must also be a personal licence holder. The DPS will be named on the premises licence and will usually be the person with day-to-day responsibilities for running the business. They will be the first point of contact for the Police and the licensing authority.

First Appointed Day

The first appointed day is the first day in which applications for conversion of existing licences to premises and personal licences can be submitted to the licensing authority. This will be 7 February 2005.

Second Appointed Day

The second appointed day is predicted to be nine months after the first appointed day and is the day on which the new premises and personal licences come into force and the old licensing regime comes to an end. However, this date has not yet been fixed.

Licensable Activities

There are four licensable activities regulated by the new Licensing Act, these are:

- The retail sale of alcohol
- The supply of alcohol by clubs
- The provision of regulated entertainment, which includes music and dancing
- The provision of late night refreshment, that is the sale of hot food and/or hot drink between 11.00pm and 5.00am

Licensing Authority

This is South Lakeland District Council.

Licensing Objectives

In carrying out its duties the licensing authority must, by law, promote the four following licensing objectives:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

Licensing Qualifications

Unless they are seeking to convert an existing justices licence applicants for personal licences will be required to hold a new qualification which has been granted by an accredited organisation.

Mandatory Conditions

Where a premises licence authorises the sale of alcohol, two conditions must be imposed on the licence.

1. No alcohol may be sold when: there is not designated premises supervisor; the DPS does not hold a personal licence; their personal licence is suspended.
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Operating Schedule

An operating schedule is a document that will contain details as to how the business will operate. It must contain the following information:

- The licensable activities to be carried out and the times at which they will take place
- The hours that the premises are to be open to the public
- Details of the designated premises supervisor
- Whether alcohol will be consumed on and/or off the premises
- The proposed steps to promote the licensing objectives, for example, the arrangements for door security to prevent crime and disorder

Personal licence

A personal licence is granted by the licensing authority and enables the holder to authorise the sale of alcohol on licensed premises. A person may only hold one personal licence at a time and the personal licence will last for 10 years unless it is suspended, surrendered or revoked. A designated premises supervisor must hold a personal licence.

Premises Licence

A premises licence is granted by a licensing authority and authorises the holder to use the premises for one or more licensable activities.

Relevant Offences

A person convicted of a relevant offence could be prevented from obtaining or renewing a personal licence. The offences listed in the Act include:

- Those including serious crime
- Those involving serious dishonesty
- Those involving controlled drugs
- Certain sexual offences
- Licensing offences

Temporary Event Notice

Temporary event notices enable premises to be used for one or more licensable activities beyond those stated in the operating schedule. You will need a temporary event notice if, for instance, you wanted to extend your opening hours to host a special event. The event must not last more than 96 hours and no more than 499 people can attend at any one time.

Transition Period

This is the period between the first appointed day and the second appointed day during which licensing authorities will process applications for personal and premises licences. Conversion applications for premises licences must be submitted within the first six months of the transition period.