

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).

How do I obtain 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
- 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.

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?

Only on notification from the Council that it has been granted.

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?

All mandatory conditions will apply to the premises licence, and those conditions that have been agreed and attached to the operating schedule.

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.

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. 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 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. The police and the Councils environmental health department can object to an applicant if they feel the licensing objectives may be undermined.

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

My plans relating to my premises are not the required scale of 1:100 will the Licensing Authority accept them?

Unless the Licensing Authority agrees in writing with the applicant you will be required to provide plans at the standard scale. Larger plans however may be accepted but please speak to the Licensing Authority for advise.

Do I need a premises licence for minor raffles and tombolo's involving prizes of alcohol?

Section 175 of the Act generally treats such activity as not being a licensable activity if:-

- a) the lottery is promoted as incidental or exempted entertainment.

- b) after deduction of all relevant expenses, the whole proceeds of the entertainment are applied for purposes other than private gain.

Do I need a licence if I give a gift of alcohol to a customer?

Any activity in respect of the sale of alcohol needs to be licensed. As such a gift which forms an inducement, promotion or indirect charge is likely to be a licensable activity. However complimentary gifts given without any intended or expected reward would not be licensable.

I presently have a club registration certificate and hold private events several times a year when my function room is hired by the general public. Can I continue with this activity?

Members can book the function room for themselves and their guests, there must be some direct/substantial connection between the member in question and the persons attending the function (e.g. wedding reception, wedding anniversary, Childs 21st or 18th e.g.). Licensing Act 2003 has widened the definition of regulated entertainment and any direct profit made by the club by hiring a function room would be classed as regulated entertainment. In order to allow private functions to the general public you will therefore need either to apply for a grant for a premises licence or use the facility of TEN's.

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 want to sell alcohol, do I need a personal licence?

Yes. Anyone who wants to authorise the sale 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 get a personal licence

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
- Two photographs in the prescribed form
- 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.

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.

I am not applying for a premises licence. Can I still apply for a personal licence?

Yes, anyone who wants to authorise the sale or supply of alcohol will need a personal licence. This will last for a 10 year period upon grant and will allow you to authorise the sale or supply of alcohol anywhere in England and Wales.

Children

Are children allowed into pubs?

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

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

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

Any form of regulated entertainment which is provided 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

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.

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 require to hold a new qualification which has been granted by an accredited organisation.

Mandatory Conditions

Where a premises licence authorise the sale of alcohol, the following mandatory conditions will be attached to your licence or certificate.

Alcohol

- 1 No supply of alcohol may be made under the premises licence -
 - a) At a time when there is no designated premises supervisor in respect of the premises licence,
or
 - b) At a time when the designated premises supervisor does not hold a personal licence, or his 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.

- 3 Children on Licensed Premises
Section 145-154 Licensing Act covers the requirements in respect of children being allowed on licensed premises.

- 4 Door Supervision
Any individual employed on the premises to carry out a security activity must be licensed by the Security Industry Authority.

- 5 Exhibition of films

Where the film classification body is specified in the licence, unless (2) applies, admission of children must be restricted in accordance with any recommendations made by that body

Where -

- a) The film classification body is not specified in the licence,
or
- b) The relevant licensing authority has notified the holder of the licence that this condition is applied to the film in question,

Admission of children must be restricted in accordance with any recommendation made by that licensing authority.

- 6 The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises

In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children

- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to –
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorized to sell or supply alcohol), or

- (ii) drink as much alcohol as possible (whether within a time limit or otherwise),
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act)
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less.
 - (d) Provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on –
 - (i) the outcome of a race, competition or other event or process, or
 - (ii) the likelihood of anything occurring or not occurring
 - (e) Selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
- 7 The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability)
- 8 The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available
- 9 The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol
- The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request before being served alcohol, identification bearing their photograph date of birth and a holographic mark.
- 10 The responsible person shall ensure that –
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures -
 - (i) beer or cider ½ pint
 - (ii) gin, rum, vodka or whisky 25ml or 35ml, and
 - (iii) still wine in a glass 125ml and
 - (b) customers are made aware of the availability of these measures

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 enable 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 premise 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 of 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 168 hours and no more than 499 people can attend at any one time.