

Guidance Notes for the Licensing Act 2003

Important Note

These guidance notes are issued for 'general guidance only' and are a concise summary of the Licensing Act 2003 requirements. Each individual application should be treated on its own individual merits and, in the case of any doubt, further advice should be obtained from the Licensing Authority or the Guidance available on the Licensing Authority or Government Web-Sites detailed in this document. All fees mentioned are those in place at the issue date of the document and are subject to amendment by order of the Government.

INTRODUCTION

The Licensing Act 2003 introduces a number of changes to the law, which will come into effect on the Second Appointed Date (2AD), likely to be November 2005.

The Act brings together six current licensing regimes that cover:

1. Sale and Supply of Alcohol
2. Provision of Public Entertainment
3. Cinematography
4. Theatrical Productions
5. Late Night Refreshment Houses
6. Night Cafes

The Act replaces them with a single system of licensing a premises and individual personal licences for the sale of alcohol. In addition, the Licensing Act 2003 replaces the standard system of permitted hours and allows the licensing of each premises on an individual basis in respect of hours and entertainment.

The new forms of licence introduced under the Act are:

Premises Licence

A Premises Licence will be required to provide any of the licensable activities. The 'premises' can be a fixed building, a temporary structure, or an area of land. A Premises Licence will last for the lifetime of the premises, subject to an annual renewal fee. Alternatively, a Premises Licence can be granted on a short-term basis for occasional events. Premises Licence applications must be made to the Local Authority in which the business is located.

Club Premises Certificate

Similar to a Premises Licence but only available to qualifying clubs.

Personal Licence

Personal Licences will be granted to individuals, licensing them to sell alcohol on premises with a Premises Licence. These last for ten years and must be made to the Local Authority where you ordinarily reside.

THE TRANSITIONAL PERIOD

Any licence issued under the old licensing regime will become invalid from the Second Appointed Date, irrespective of the date on the licence.

During the transitional period,

7th February 2005 to 6th August 2005 inc.

any existing licence must be converted into a new licence to retain the licensable activities currently covered by the existing licences (known as 'Grandfather Rights'). Any

licence not converted during the transitional period will forfeit 'Grandfather Rights' and be treated as a new application.

The new licences come into effect on the Second Appointed Date; any person or premises without a new licence at this date will be unlicensed and must cease operating until a valid licence is obtained.

During the transitional period, in addition to converting an existing licence, an application for variation may also be made to amend the licensable activities or operating hours.

LICENSABLE ACTIVITIES

Under the Act there are now four licensable activities:

1. Sale of Alcohol
2. Supply of Alcohol by or on behalf of a Club
3. Provision of Regulated Entertainment
4. Provision of Late Night Refreshment

Whilst 1. and 2. are self-explanatory, the definitions of 3. and 4. Are as follows:

3. Regulated Entertainment

Must be provided

- a) for the public or members of a club; or in any other case for consideration and with a view to profit, or
- b) in the presence of an audience for the purposes of entertaining that audience

and consists of:

- i) The performance of a play
- ii) An exhibition of a film
- iii) An indoor sporting event (an activity that is predominately physical skill in competition or exhibition ie pool or dart leagues or club competitions)
- iv) Boxing or wrestling
- v) A performance of live music
- vi) Any playing of recorded music (ie discos, karaoke, etc)
- vii) A performance of dance
- viii) Entertainment of a similar description to live music, recorded music or dance, (or a combination of more than one)

Plus

- ix) Facilities for allowing people to take part in making music, dancing or anything similar for the purpose of being entertained (ie dance floors)

Exemptions are:

- i) Films that are advertising, informational, or educational
- ii) Films at museums and art galleries
- iii) Incidental live and recorded music (must be incidental to, and not form part of, the main reason for the public to be present ie a pianist at a restaurant or CD's playing as background music in a pub)
- iv) Live television or radio broadcasts
- v) Religious meetings or services
- vi) Regulated entertainment in places of public worship (ie churches)
- vii) Garden fetes
- viii) Morris dancing
- ix) Vehicles in motion

4. Late Night Refreshment

The supply of hot food or hot drink to the public on or from any premises at any time between 11pm and 5am;

- a) for consumption on or off the premises
- b) when supplied, the food or drink has been heated to a temperature which is above ambient air temperature, or
- c) after being supplied, it is heated to above ambient air temperature on the premises

Exemptions:

- i) Vending machines
- ii) Free of charge refreshment
- iii) Registered charities

Note that

- i) the consumption of alcohol is not licensable
- ii) private functions are now licensable under the provision of 3 (a) above

PREMISES LICENCE

When applying to convert your existing licences to a new Premises Licence, you need to use the form

“Application for an existing licence to be converted to a premises licence under the Licensing act 2003 and application to vary the premises licence simultaneously”

from North Hertfordshire District Council or from the government website

www.culture.gov.uk/alcohol_and_entertainment

Part A of the form is for a straight forward conversion where you are happy with your existing hours and licensable activities and do not wish to change them. On the form you must tick the boxes of the activities that you are currently licensed for. You must also state, where specified, the existing hours applicable to you licence. In the section covering the four licensing objectives, you must detail any conditions currently contained within your existing licence. If you are not licensed for the sale of alcohol, you will not need to name a Designated Premises Supervisor; if you are licensed for alcohol, you must name a Designated Premises Supervisor, who must be a Personal Licence holder and who must have signed the Form of Consent given by the Person whom the Applicant wishes to be the Premises Supervisor, available as above.

Part B of the form is only for applications also containing a variation. In this case, you must tick the boxes of the activities that you wish to apply to add to your licence and complete the appropriate boxes as guided. Under the section covering the four licensing objectives, you must offer licence conditions that you feel will satisfy the objectives and the Responsible Authorities who will receive you application, in order that the additional activities / hours can be granted. Guidance is available on the North Hertfordshire District Council web-site

www.north-herts.gov.uk

where you can obtain our Statement of Licensing Policy and Guidance to the Licensing Act 2003 as downloadable PDF files.

If the existing licence is in an individual(s) name but you wish to have the new licence in the name of the appropriate committee, apply in the name of the committee and enclose the Form of Consent given by the person who holds the Existing Licence.

CLUB PREMISES CERTIFICATE

Are the same as Premises Licences but only apply to qualifying clubs who hold a current Club Registration Certificate from the Magistrates. A Designated Premises Supervisor is not required for the supply of alcohol under a Club Premises Certificate.

The definition of a qualifying club is:

- a) where the privileges of membership only become available after a period of two days elapsing after application to join
- b) where there are at least 25 members, and
- c) where alcohol is only supplied to members and members guests on the premises for the benefit of the club

The required form is

“Application for an existing club certificate to be converted to a club premises certificate under the Licensing Act 2003 and application to vary the club premises certificate simultaneously”

PERSONAL LICENCE

The application form required for an existing justices licence holder is

“Application for a personal licence under s117 of the 2003 Act made by the holder of a justices’ licence during the transitional period”

The form is self-explanatory and must also be accompanied by the Disclosure of Convictions and Declaration form.

FEES

Premises Licence / Club Premises Certificate

Are based on the non-domestic rateable value of the premises, as shown in the table below. If the premises is not licensed for the sale of alcohol, then the premises is exempt from fees.

Rateable Value	Application Fee (inc 1 st year fee)	Annual Renewal Charge	Variation Fee in Transitional Period
Band A £0 - £4,300	£100	£70	£20
Band B £4,301 - £33,000	£190	£180	£60
Band C £33,001 - £87,000	£315	£295	£80
Band D £87,001 - £125,000	£450	£320	£100
Band E £125,000+	£635	£350	£120

Personal Licence

A fee of £ 37.00 Is payable for a 10-year licence.

SUBMITTING APPLICATIONS

Personal Licence

In addition to the application form you also require:

- a) two passport photographs, one certified as a true likeness of the applicant on the reverse of the photograph by a person off standing within the community
- b) fee of £37.00
- c) disclosure of convictions and declaration form

- d) the original justices' licence or a copy certified by the magistrates court or a solicitor as a true copy

The original application should be sent to North Hertfordshire District Council and a copy of the application to:

The Licensing Manager
Hitchin Police Station, College Road, Hitchin. Herts, SG5 1JX

Premises Licence / Club Premises Certificate

In addition to the application form you also require:

- a) appropriate fee
- b) a plan of the premises (as described later in these notes)
- c) form of consent of Designated Premises Supervisor, if required
- d) form of consent of existing licence holder, if required
- e) the original justices' licence or a copy certified by the magistrates court or a solicitor as a true copy
- f) any other original licences (ie PEL, Theatres Licence, etc) or a copy certified by a solicitor as a true copy
- g) a set of club rules (Club Premises Certificate only)

If a conversion,
the original application should be sent to North Hertfordshire District Council and a copy of the application to:

The Licensing Manager
Hitchin Police Station, College Road, Hitchin. Herts, SG5 1JX

If a variation,
the original application should be sent to North Hertfordshire District Council and a copy of the application to:

Gill Ackroyd, The Licensing Manager
Hitchin Police Station, College Road, Hitchin. Herts, SG5 1JX

Peter Boast, Community Fire Safety Divisional HQ,
Longfield, Hitchin Road, Stevenage, SG1 4AE

Alice Nugent, Operations and Development Manager
Community Information Trading Standards
45 Grosvenor Road, St. Albans, Herts, AL1 3AW

Alan Sills, Principle EHO (Food, Health & Safety)
NHDC, Council Offices, Gernon Road, Letchworth, Herts, SG6 3JF

Andy Godman, Principle EHO (Environmental Protection)
NHDC, Council Offices, Gernon Road, Letchworth, Herts, SG6 3JF

Alan Breckon, Principle Planning Officer (Planning Control & Conservation)
NHDC, Council Offices, Gernon Road, Letchworth, Herts, SG6 3JF

Judy Downes, (Child Protection Co-ordinator)
Hertfordshire County Council, Room 17, County Hall, Hertford, SG13 8DF

In addition, a variation should be advertised:

- a) by means of a poster every 50 metres along the perimeter of the premises abutting the public highway for a period of 28 consecutive days, commencing the day after the application is served
- b) by means of a newspaper advertisement within 10 days of the application being served.

Copies of the appropriate notice and newspaper advertisement are available from NHDC on request, along with further guidance relating to the advertising requirements.

PREMISES PLANS

All applications for a Premises Licence / Club Premises Certificate should be accompanied by a set of plans as specified by the Act as follows:

The plan shall be drawn in the scale of **1:100** and show

- the extent of the boundary of the building, if relevant, and any external and internal walls of the building and, if different, the perimeter of the premises;
- the location of points of access to and egress from the premises and the location of escape routes from the premises;
- in a case where the premises is used for more than one existing licensable activity, the area within the premises used for each activity;
- in a case where an existing licensable activity relates to the supply of alcohol, the location or locations on the premises which is or are used for the consumption of alcohol;
- fixed structure (including furniture) or similar objects temporarily in a fixed location (but not furniture) which may impact on the ability of individuals on the premises to use exits or escape routes without impediment;
- in the case where a premises includes a stage or raised area, the location and height of each stage or area relative to the floor;
- in a case where the premises includes any steps, stairs, elevators or lifts, the location of the same;
- in the case where a premises includes any room or rooms containing public conveniences, the location of the same;
- the location and type of any fire safety and any other safety equipment
- the location of a kitchen, if any, on the premises

TEMPORARY EVENT NOTICES

The current system of 'occasional licences' and 'occasional permissions' for short-term alcohol and public entertainment licensing will be abolished on the Second Appointed Date. They will be replaced by a system of Permitted Temporary Activities licensed by Temporary Event Notices (TEN's).

The main process under this new system will be the sending of notifications in duplicate to the Licensing Authority and to the local Police, with a minimum of ten working days notice. Only the Police can object to TEN's.

In order to qualify as a TEN, the event must be:

- a) for a maximum period of 96 hours
- b) for a maximum of 499 people

In addition, TEN's are limited to:

- a) twelve per premises in each calendar year
- b) five TEN's per individual (who does not hold a Personal Licence) in each calendar year. Family / relatives have a maximum of five TEN's between them, not individually.

Each TEN currently costs £21.00