

Licensing Act 2003 – Updates

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Purpose of the Report

To inform the Licensing Committee of amendments to the Licensing Act 2003 that the Deregulation Act 2015, the Live Music Act 2012 and other legislation has provided.

Recommendations

- (1) That members note the amendments to the Licensing Act 2003 already in force;
- (2) That members note the amendments to the Licensing Act 2003 which have not received a commencement date.

Background

The government is trying to cut ‘red tape’ which it perceives as preventing or putting unnecessary obstacles in the way of businesses and individuals from carrying out activities. In doing so, it has identified areas covered by the licensing service, which should no longer require authorisation; these include amending the Licensing Act 2003.

Report Detail

The Licensing Act 2003 has been amended as follows¹:

Regulated Entertainment

- No authorisation is required for activities between 08.00 and 23.00 on any day, with no limit on audience size for:
 - any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
 - any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
 - any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor;

These exemptions only apply where the entertainment is provided by the above NOT where it takes place at one of these listed premises on behalf of third party i.e. where someone that has hired the premises – see below where this occurs.

¹ The Live Music Act 2012 (“2012 Act”) <http://www.legislation.gov.uk/ukpga/2012/2>; Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013 (“2013 Order”) <http://www.legislation.gov.uk/uksi/2013/1578/contents/made>; The Legislative Reform (Entertainment Licensing) Order 2014 (“2014 Order”) <http://www.legislation.gov.uk/uksi/2014/3253/introduction/made>; and the Deregulation Act 2015 (“2015 Act”).

- No authorisation is required for any entertainment (excluding films and a boxing or wrestling entertainment) if taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.
- The exhibition of a film at community premises is no longer a licensable activity as from 6 April 2015 subject to the timings being between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; (b) ensures that each such screening abides by age classification ratings (c) that the film entertainment is not provided with a view to profit (this includes raising money for charity).
- The performance of dance is no longer a licensable activity for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500; please note that dance that is of an adult nature remains licensable.
- Plays are no longer a licensable activity for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.
- Indoor sporting events are no longer a licensable activity for an event between 08.00 and 23.00 on any day, provided that those present do not exceed 1000.
- Boxing or wrestling entertainment is no longer a licensable activity for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
- Live Music

No authorisation is required for a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises or

For a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises (and is open for that purpose), provided that the audience does not exceed 500; or

For a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace² that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500; or

For a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser obtains prior written consent for the performance from a person who is responsible for the premises; or

For a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
- Recorded Music

² The Live Music Act 2012 provides that if premises are licensed under the 2003 Act, they cannot also be treated as a workplace for the purpose of the 2012 Act.

No authorisation is required for any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500; or

For the playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser obtains prior written consent for the performance from a person who is responsible for the premises; or

For any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser obtains prior written consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.

Premises Licence/Club Premises Certificate conditions

Live Music or Recorded music

Any existing licence conditions (or conditions added on a determination of an application for a premises licence or club premises certificate³) which relate to live music or recorded music remain in place, but are **suspended** between the hours of 08.00 and 23.00 on the same day where the following conditions are met:

at the time of the music entertainment, the premises are open for the purposes of being used for the sale or supply of alcohol for consumption on the premises;

if the music is amplified, it takes place before an audience of no more than 500 people; and

the music takes place between 08.00 and 23.00 on the same day.

Should any of the above not apply; the condition(s) will remain as will those of a general nature; however the licensing authority can upon an application for a review of the licence/certificate and subsequent determination add a condition relating to live and recorded music so that these activities are licensable.

Other Amendments

- The requirement to renew personal licences was repealed 1 April 2015; these are now of an indefinite duration. No updated criminal record check is required or requirement to supply a current photograph.
- The offence of selling of liqueur confectionery to children under16 was abolished on 26 May 2015.
- The maximum number of Temporary Event Notice that can be submitted for each premise per calendar year has increased from 12 to 15 and will apply as from 1 January 2016; this provision came into force on 26 May 2015.
- The requirement to report loss or theft to the police of the following was abolished on 26 May 2015:
 - premises licence or summary

³ In relation to relevant licensed premises – (one which is authorised to sell or supply alcohol for consumption on the premises)

- club premises certificate or summary
- temporary event notice
- theft, loss, etc. of personal licence

No Commencement Order has yet been made for the following:

- The power for local authorities to exempt late night refreshment supplies in designated areas, set descriptions of premises and times as below:
 - The supply of hot food or hot drink is an exempt supply for the purposes if it takes place—
 - (a) on or from premises which are wholly situated in an area designated by the relevant licensing authority;
 - (b) on or from premises which are of a description designated by the relevant licensing authority; or
 - (c) during a period (beginning no earlier than 11.00 p.m. and ending no later than 5.00 a.m.) designated by the relevant licensing authority
- The ability for community groups and small business accommodation providers who sell limited amounts of alcohol to apply for a Community and Ancillary Sellers Notice. Please see table in appendix

The draft legislation has not yet been finalised for CAN's but the options given in the consultation document were as follows:

Community Groups

- No restriction on the frequency they provide alcohol
- Ability to sell more than 5 units of alcohol per person
- A Community Group may be defined as “any group which has local membership and operates on a not for profit basis” or there will be a defined list which will include groups such as charities, voluntary groups, faith groups and community interest companies which operate on a not for profit basis

Ancillary Sellers

- No restriction on the frequency they provide alcohol
- Ability to sell more than 5 units of alcohol per person per 24 hour period
- Ability to provide up to 20 bed spaces
- The providers of self-catering holiday homes, camping and caravanning sites and youth hostels may be included as an ancillary seller.

The government has indicated that the fee for a CAN should be between £20 and £50 and are expecting that monitoring and checking compliance to be included in this fee. It is further expected that the Police and the Environmental Protection service will be able to object to a CAN at the outset on one or more of the licensing objectives with the licensing service given discretion to reject a CAN. Where problems arise after it has taken effect, both the Police and Environmental Protection Service can seek revocation through a process with no hearing or appeal; once revoked the User or their associate will not be able to give a further notice for a period of 12 months.

Legal Implications

None

Financial Implications

It is expected that there will be a fall in income due to deregulation; however it is not expected to be significant as most revenue from this area would be derived temporary event notices (where the events still require the sale of alcohol, which is still required to be authorised in all cases⁴ at present) and from premises licence fees where the licence only consists of regulated entertainment.

Implications for Corporate Priorities

A fall in income is likely to have an effect on theme 5 - Deliver well managed cost effective services valued by our customers.

Carbon Emissions & Climate Change Implications

None

Equality and Diversity Implications

None

Background Papers: *Deregulation Act 2015*
Home Office consultation The Community and Ancillary Sellers Notice 11 November to 9 December 2014
The Live Music Act 2012
Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013
The Legislative Reform (Entertainment Licensing) Order 2014 ("2014 Order")

⁴ Not already subject to an exemption or not falling within the definition of alcohol or within the definition of "sale by retail"[of alcohol]

APPENDIX

For All CAN Users	<ul style="list-style-type: none"> • The can will be authorised for 36 months • Alcohol may be sold between 7am and 11pm Notice will be given to the Licensing Authority • The prescribed fee will be paid • Police, Environmental Health Authority and Licensing Authority can object if a CAN will undermine the licensing objectives. Where problems arise, the Police and Environmental Health Authority can object, with the result that the CAN may be revoked. • Police and Licensing Authority officers will have rights of entry to investigate where users are in breach of the CAN conditions • No right to a hearing or appeal if a CAN is revoked
Ancillary Sellers	<ul style="list-style-type: none"> • Sale of alcohol must be ancillary to provision of goods or services by the business • Sale of alcohol of a single named premises • Alcohol for consumption on the named premises
Community Groups	<ul style="list-style-type: none"> • Sale of alcohol must be made by on behalf of a community group that does not trade for profit. • Sale of alcohol must be ancillary to an organised community event. • Sales of alcohol may be made up from up to three named premises. • Sales of alcohol of consumption at organised events for up to 300 people.