

12. Premises Licences

The **Licensing Act 2003** ("the Act") amalgamates six existing licensing regimes covering the sale and supply of alcohol, the provision of **regulated entertainment**, the provision of **late night refreshment** and replaces them with a single system of premises licences. This will bring major benefits for businesses by sweeping away much unnecessary red tape.

Businesses will be able to apply for a single premises licence to cover all the licensable activities they wish to carry on. Hearings on an application will only occur where representations from interested parties or responsible authorities are made, removing unnecessary administrative and legal overheads. New premises licences will not be time limited (unless requested), nor subject to renewal every three years, as is currently the case for liquor licences or have a duration of only a year, as is currently the case for public entertainment licences. The fee charges for the premises licence will be the same no matter what or how many licensable activities will take place on the premises.

The Act abolishes standard drinking hours, increasing the options available for people in how to spend their leisure time, and encouraging the development of a more diverse late night economy. This represents a vast improvement over the old regime where establishments could only sell alcohol late at night if ancillary to other activities, usually music and dancing, and led to a relatively narrow night-time economy, patronised mostly by young people. The Act's reforms should encourage a more diverse evening economy for the whole community.

Ending fixed closing times will also remove the incentive to drink as much as possible before 11pm. It will facilitate a reduction in the density of drinkers on the streets at peak times which we know contributes to crime, disorder and nuisance.

Q&A

1. **Who can apply for a premises licence?**
2. **How do I apply for a premises licence?**
3. **What is an operating schedule?**
4. **Will there be a standard form for an operating schedule or will operators have to draft these documents?**
5. **What scale does a premises licence plan have to be drawn to?**
6. **Will it be possible to complain to the licensing authority if a local pub, club, restaurant etc is applying for a premises licence?**
7. **Will it be possible to request a review of a premises licence for a local pub, club, restaurant etc that is already operating?**
8. **What is meant by 'in the vicinity of the premises'?**
9. **What is the process for making variations to a premises licence?**
10. **What is the process for making variations to a premises licence?**
11. **What is a designated premises supervisor (DPS)?**
12. **Does the designated premises supervisor (DPS) have to be on the premises at all times when alcohol is being sold?**
13. **Can I be a designated premises supervisor (DPS) at more than one premises at the same time?**
14. **Can anyone object to a person who is specified as a designated premises supervisor (DPS)?**
15. **Can there be more than one designated premises supervisor (DPS) at the same premises?**
16. **What happens if the designated premises supervisor (DPS) leaves his employment, notifies the licensing authority, but does not tell the premises licence holder?**
17. **Can I apply for a premises licence during transition if the person I have named as the DPS has not yet obtained their personal licence under the new regime?**

18. Will alcohol wholesalers require a licence to trade?
19. What is a "wholesale" quantity?
20. Will I need a licence if I sell alcohol wholesale to friends from my own house?
21. Will I need door staff if I extend my current licensing hours?
22. Will the relaxation of opening hours on New Year's Eve be carried over to my premises licence under "grandfather rights"?
23. What International Airports, Ports and Hoverports are already designated under existing legislation?

Answers

1. Who can apply for a premises licence?

The principal category of those who can apply for a premises licence is anyone who proposes to carry on a 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, health service bodies and a chief officer of police may also apply for a premises licence.

2. How do I apply for 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 is situated. To make an application you must submit:

- a completed application form;
- an operating schedule;
- a plan of the premises in the prescribed form; and
- if the application requests the authorisation to supply alcohol, a form containing the consent of the proposed designated premises supervisor in the prescribed form.

Regulations made by the Secretary of State set out how applications must be advertised and the periods in which interested parties (local residents and businesses or bodies representing them) and responsible authorities (the police, fire authority, health and safety agency etc) can make representations to the licensing authority about the application. The regulations also prescribe the form and manner of making the application.

Where no relevant representations are made by responsible authorities or interested parties the licensing authority must grant the licence application subject only to the mandatory conditions and such other conditions as are consistent with the operating schedule. If relevant representations are received, the licensing authority must hold a hearing and consider the representations (unless all parties agree that this is unnecessary). This may result in the rejection of the application, the refusal to specify a premises supervisor (if the licensable activities relate to the supply of alcohol), the exclusion of a licensable activity, or the attachment of conditions to the licence in all cases if this is necessary for the promotion of one or more of the **licensing objectives**. For example, a licensing authority could attach a condition preventing the playing of amplified music after 11pm for a pub in a quiet residential area.

3. What is an operating schedule?

The operating schedule is a document which the applicant sets out various details on how the premises is proposed to operate when carrying on licensable activities. It 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 that the premises are to be open to the public;
- the duration of the licence (if it is to have a fixed term);
- details of who is to be the designated premises supervisor if the licensable activities include the supply of alcohol;
- where alcohol is to be supplied, whether the supplies are proposed to be for consumption on and/or off premises; and
- a statement of the steps the applicant proposes to take to promote the **licensing objectives** (for example, the arrangements for door security to prevent crime and disorder).

The significance of the operating schedule is that if the application for the premises licence is granted, it will be incorporated into the licence itself and will set out the permitted activities and the limitations on them.

4. Will there be a standard form for an operating schedule or will operators have to draft these documents?

Regulations made by the Secretary of State set out the prescribed operating schedule. However, as each premises and use of premises for licensable activities will present their own different features, the examples can only offer helpful illustrations to would-be applicants.

5. What scale does a premises licence plan have to be drawn to?

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 to it, the plan should be drawn in standard scale, where 1 millimetre represents 100 millimetres. **Regulations made by the Secretary of State** set out what the plans need to show.

6. Will it be possible to complain to the licensing authority if a local pub, club, restaurant etc is applying for a premises licence?

Yes. See the section on **making representations** about licences or applications.

7. Will it be possible to request a review of a premises licence for a local pub, club, restaurant etc that is already operating?

Yes. Again, see the section on **making representations** about licences or applications.

8. What is meant by 'in the vicinity of the premises'?

Ultimately this will be decided by the courts but the licensing authority will have to consider whether a resident or a business would be directly affected by the carrying on of licensable activities on the premises.

9. What is the process for making variations to a premises licence?

A premises licence holder may apply to the **licensing authority** to vary the licence. Variations could include the opening times of the premises, or even changes to the physical shape of the premises covered by the licence. More probably, it will relate to the licensable activities of the licence or conditions attached to the licence.

Provided the application to vary is not to extend the period for which the licence has effect or to vary substantially the premises to which it relates, the licensing authority must make the variation (unless there are relevant representations from interested parties such as local residents or responsible authorities such as the police). When representations are made, the licensing authority must hold a hearing to consider them (unless all parties agree that this is unnecessary) and, having regard to the representations, take such steps as it considers necessary for the promotion of the **licensing objectives**, such as modifying the conditions of the licence or rejecting whole or part of the application. A fee will be charged for any application to vary a premises licence.

10. What is a designated premises supervisor (DPS)?

A designated premises supervisor (DPS) is the person identified as such for a particular premises who is named on the premises licence. Any premises where alcohol is supplied under a premises licence must have a DPS. They will be named in the operating schedule for any premises with a premises licence. The DPS will not necessarily be the premises licence holder, although this may sometimes be the case. It is expected that they will be the point of contact for the premises at all times for licensing authorities, or the police or fire services if problems occur at the premises.

Any application for a premises licence must also include a form of consent given by the individual whom the applicant wishes to have specified in the premises licence as the DPS.

11. Does the designated premises supervisor (DPS) have to be on the premises at all times when alcohol is being sold?

No, in some cases this will not physically be possible. However, it will be expected that the DPS will spend a significant amount of time on the premises. What will be essential is that the DPS is contactable, particularly should problems arise with the premises.

12. Can I be a designated premises supervisor (DPS) at more than one premises at the same time?

Yes. The only requirement for being a DPS is that the individual concerned must be the holder of a personal licence. This ensures that where the activities concern the supply of alcohol there is a person associated with the premises who has an understanding of the social issues and potential problems associated with the sale of alcohol.

13. Can anyone object to a person who is specified as a designated premises supervisor (DPS)?

The chief officer of police only will be able to make representations about the specification of any DPS if he feels, in the exceptional circumstances of the case, that the crime prevention objective could be undermined by that specification. This could include fears that the DPS would not be able to fulfil the responsibilities in respect of the crime prevention objective for more than one premises at the same time. Where the chief officer of police makes representations about the DPS, the **licensing authority** must hold a hearing to consider them (unless all parties agree that this is unnecessary). As a result of the consideration of the representations, the licensing authority will refuse to specify the DPS if it considers it necessary for the promotion of the crime prevention objective to do so.

14. Can there be more than one designated premises supervisor (DPS) at the same premises?

The Act specifies that there may only be one DPS for any premises.

15. What happens if the designated premises supervisor (DPS) leaves his employment, notifies the licensing authority, but does not tell the premises licence holder?

The DPS must inform the relevant **licensing authority** if he or she wishes to be removed as DPS. Within 48 hours of the notice being given to the licensing authority, the individual must also give the premises licence holder a copy of the notice sent to the licensing authority. The DPS must also send a notice directing the licence holder to send to the relevant licensing authority the premises licence or if that is not practicable, a statement of the reasons for the failure to provide the licence within 14 days of receiving the notice.

If the holder fails to comply with the direction he will commit an offence.

16. Can I apply for a premises licence during transition if the person I have named as the DPS has not yet obtained their personal licence under the new regime?

Yes. You do not have to hold a personal licence when you are named as DPS during transition. However, if the person named as DPS does not have a personal licence by the second appointed day you will be in breach of the conditions of the premises licence and you will not be able to sell alcohol.

17. Will alcohol wholesalers require a licence to trade?

Yes in some cases. For the first time, wholesalers will require a premises licence to sell alcohol in wholesale quantities to members of the public. No sales of any kind may be made to children. Sales made to other traders for the purposes of their trade will not be a licensable activity. Similarly, sales made to holders of premises licences, club premises certificates or personal licences will not be a licensable activity if the sale is for the purposes authorised by the premises licence or for the purposes of the **qualifying club**. Also exempt will be when alcohol is sold wholesale to premises users operating under a temporary event notice. In all cases, it is advisable to check with the licensing authority for the area if the sale is a licensable activity and to avoid any potential problems.

18. What is a "wholesale" quantity?

The Act does not provide a definition of "wholesale" quantity, which is to be contrasted with the provisions in the Licensing Act 1964, where the definition of "sale by retail" impliedly provides a definition. This is because the Act does not make special provision for the wholesale of alcohol to the public – all sales by retail are caught.

19. Will I need a licence if I sell alcohol wholesale to friends from my own house?

All sales of alcohol to members of the public, even in wholesale quantities, from any premises will require an authorisation. Any premises from which alcohol is supplied or sold will require either a premises licence, a club premises certificate or a temporary event notice. There will need to be a designated premises supervisor for the premises if the authorisation is in the form of a premises licence.

For a small-scale operation selling alcohol in bulk to friends, the applicant would still need an authorisation for the premises from which the alcohol is supplied or sold. In all cases it will be advisable to consult the licensing authority for the area to check whether the activities will be licensable to avoid any repercussions.

20. Will I need door staff if I extend my current licensing hours?

Not necessarily. You may take the view that this is needed in order to promote one or more of the **licensing objectives** and include it in your operating schedule. However, if you decide not to do so and relevant representations are made to the effect that door staff should be on the premises, such a condition will only be imposed, following a hearing before the licensing authority, if it is necessary for the promotion of the licensing objectives. Each case will differ, and it will be up to the licensing authority to decide on the conditions such as the times that door staff must be in place following the consideration of relevant representations.

The Act requires that when the presence of door staff is made a condition on any premises licence, they must be licensed by the **Security Industry Authority** (SIA).

The SIA have produced the following notice on **door supervisor licensing national rollout**.

21. Will the relaxation of opening hours on New Year's Eve be carried over to my premises licence under "grandfather rights"?

Yes. If you are applying to convert your current justices' on-licence to a premises licence under "grandfather rights" during transition you will automatically get the extended opening hours for New Year's Eve following the making of the Regulatory Reform (Special Occasion Licensing) Order 2002.

22. What International Airports, Ports and Hoverports are already designated under existing legislation?

Designated international airports, ports and hoverports.

Ports, airports or hoverports where section 86A or 87 of the Licensing Act 1964 (c.26) is in operation.

Ports:

Folkestone
Ramsgate

Airports:

Birmingham
Bournemouth (Hurn)
Bristol
Cardiff-Wales
East Midland
Exeter
Humberside
Leeds/Bradford
Liverpool
London City
London-Gatwick
London-Heathrow
London-Stansted
Luton
Manchester International
Newcastle
Norwich
Southampton

Southend
Teesside
Sheffield City

Hoverports:
Pegwell Bay
Dover

Further information

Part 3 of the Licensing Act 2003