

Regulated Entertainment

Q&A

What is regulated entertainment under the Licensing Act 2003?

How do I obtain a licence to provide entertainment?

What is an operating schedule?

How much will a premises licence cost?

Will I be subjected to a raft of unnecessary and expensive conditions on my premises licence?

Are there any exemptions from the requirement of a premises licence when providing entertainment?

Will church halls, chapel halls, or similar buildings also be exempt from the requirement for a licence?

Will a village hall require a licence for regulated entertainment?

Will a licence be required to stage entertainment in a scout/guide hall?

What's the difference? Why is a licence needed for a private performance if profit is intended but not otherwise – surely the effect on the licensing objectives is the same?

Why is the "two in a bar" rule being abolished?

What about small-scale music events?

Will a licence be required if customers of a pub suddenly start singing?

Will I require a licence to show broadcast TV in my pub?

Will jukeboxes be licensable? What about Disc Jockeys?

Will pub games require a licence?

Will entertainment in a school require a licence?

Will music tuition, either in private or in schools, require a licence?

Will I need a licence to demonstrate musical instruments in my store?

Will rehearsals need a licence?

Will a charity event providing entertainment require a licence?

What if I make a small profit by mistake at a private event?

Will a circus require a licence to provide entertainment?

Will Punch and Judy shows require a licence?

I am holding an outdoor event providing regulated entertainment. Would I require a licence and how would I apply for one?

Will carol singers require a licence?

Will Re-enactment Societies require a licence?

Will a licence be required for entertainment in private homes and gardens?

What if I book a band for a wedding?

What are the consequences of not obtaining a licence to cover regulated entertainment?

Further information

What is regulated entertainment under the Licensing Act 2003?

The provision of regulated entertainment covers the provision of entertainment or of entertainment facilities. The descriptions of entertainment in the Licensing Act are:

- the performance of a play;
- an exhibition of a film;
- an indoor sporting event;
- boxing or wrestling entertainment;
- a performance of live music;

- any playing of recorded music;
- a performance of dance;
- or entertainment of a similar description to live music, recorded music or dance.

Furthermore, to be "regulated entertainment" the entertainment must take place in the presence of an audience and be provided for the purpose of, or for purposes which include, entertaining that audience.

Entertainment facilities are facilities for enabling people to take part in entertainment for the purpose of being entertained or for purposes, which include the purpose, of being entertained. This applies only to:

- making music;
- dancing; and
- entertainment of a similar description to making music or dancing.

"Entertainment facilities" are, for example, a dance floor provided for customers to use, whereas "entertainment" might involve a performance of dance provided for an audience.

In order for the provision of entertainment or entertainment facilities to be regulated, two conditions must be satisfied.

- The first of these is that the entertainment or entertainment facilities must be provided:
 - (a) to any extent for the public or a section of the public or
 - (b) exclusively for members and their guests of a club which is a qualifying club in relation to the provision of regulated entertainment or
 - (c) where (a) and (b) do not apply, for consideration and with a view to profit.
- The second is that the premises on which the entertainment takes place, or entertainment facilities provided, are made available for the entertainment to take place.

How do I obtain a licence to provide entertainment?

Unless temporary entertainment is being provided (see information on [permitted temporary activities](#)) or the entertainment or location is exempt under the Licensing Act, it will be necessary to apply for a premises licence or club premises certificate from the relevant licensing authority.

In order to apply for a [premises licence](#), or [club premises certificate](#) an application must be completed and be accompanied by, an operating schedule, a plan of the premises and, if the application is for a premises licence which includes authorisation for the supply of alcohol, a form of consent given by the individual whom the applicant wishes to have specified in the premises licence as the premises supervisor.

The applicant will be required to advertise his application and notify it to specified, expert bodies. There will also be a **fee**.

Regulations made by the Secretary of State prescribe the correct forms and procedures and time limits in relation to these requirements.

What is an operating schedule?

An operating schedule is a document which is in prescribed form and includes a statement of the following matters:

- (a) the relevant licensable activities;
- (b) the times during which it is proposed that the relevant licensable activities are to take place;
- (c) any other times during which it is proposed that the premises are to be open to the public;
- (d) where the applicant wishes the licence to have effect for a limited period, that period;
- (e) where the relevant licensable activities include the supply of alcohol prescribed information in respect of the individual whom the applicant wishes to have specified in the premises licence as the premises supervisor;
- (f) where the relevant licensable activities include the supply of alcohol, whether the supplies are proposed to be for consumption on the premises or off the premises, or both;
- (g) the steps which it is proposed to take to promote the licensing objectives; and
- (h) such other matters as may be prescribed.

For clubs applying for a club premises certificate a similar document, known as a club operating schedule is prepared.

How much will a premises licence cost?

The proposed **fees** for applying for a premises licence is between £100 and £635 with an annual charge of between £70 and £350 to cover any subsequent inspections and enforcement.

Will I be subjected to a raft of unnecessary and expensive conditions on my premises licence?

Where no relevant representations are made by any responsible authority or interested party, the **licensing authority** must grant the licence subject only to conditions that are consistent with the operating schedule which accompanied the application and any mandatory conditions in the Licensing Act itself.

The licensing authority may not impose any non-mandatory conditions, unless its discretion has been engaged. Following the making of relevant representations, the licensing authority must consider these at a hearing (unless all the relevant parties agree that a hearing is unnecessary). It may then only impose such conditions as are necessary to promote the **licensing objectives**.

In doing so it must have regard to the [Guidance to Licensing Authorities and Police](#) issued by the Secretary of State on 7 July 2004 under section 182 of the Licensing Act, and its own licensing policy statement. The Guidance makes it clear that any conditions attached to licences should be tailored to the particular premises and that only those necessary for promoting the licensing objectives would be lawful.

The Guidance stresses that conditions should not duplicate the requirements of existing health and safety law or noise nuisance legislation, or any other legislation.

Are there any exemptions from the requirement of a premises licence when providing entertainment?

Yes. But note that if alcohol is to be supplied, or late night refreshment provided, a licence will be required for those activities. The main exemptions for the provision of entertainment and entertainment facilities from the requirement for a licence under the Licensing Act are as follows:

- **for the purposes of or purposes incidental to religious services or meetings or at places of public religious worship;**
- **morris dancing** or any dancing of a similar nature, or a performance of unamplified live music as an integral part of such dancing;
- **incidental music** – the performance of live music or the playing of recorded music if it is incidental to some other activity which is not itself regulated entertainment;
- **garden fetes** – or functions or events of a similar nature if not being promoted or held for purposes of private gain;
- **film exhibitions for the purposes of advertisement, information, education, etc.** – if the sole or main purpose of the exhibition of a film is (a) to demonstrate any product; (b) advertise any goods or services, or (c) provide information, education or instruction.
- **film exhibitions: museums and art galleries** – where an entertainment consisting of the exhibition of a film, is, or forms part of, an exhibit put on show for any purposes of a museum or art gallery;
- **use of television or radio receivers** – where entertainment consists of the simultaneous reception and playing of a programme included in a programme service within the meaning of the Broadcasting Act 1990 (however, showing pre-recorded entertainment would require a licence);
- **vehicles in motion** – i.e. where the provision of entertainment or entertainment facilities take place (a) on premises consisting of or forming part of a vehicle, and (b) at a time when the vehicle is not permanently or temporarily parked.

Will church halls, chapel halls, or similar buildings also be exempt from the requirement for a licence?

The use of church halls, chapel halls or other premises of a similar nature will require a licence for the provision of regulated entertainment (unless they come within one of the exemptions listed above) but there will be an exemption from having to pay the fee associated with that provision. If, however, the licence also authorises the use of

the premises for the supply of alcohol or the provision of **late night refreshment**, a fee will be required for those activities.

Will a village hall require a licence for regulated entertainment?

Currently, a licence is required for the provision of public entertainment at such premises and this remains the position in respect of the provision of regulated entertainment under the Licensing Act. However, as with church halls, there will be an exemption from the payment of fees in relation to the provision of regulated entertainment at village halls, parish or community halls or other premises of a similar nature. If, however, the licence also authorises the use of the premises for the supply of alcohol or the provision of **late night refreshment**, a fee will be required for those activities.

Will a licence be required to stage entertainment in a scout/guide hall?

If regulated entertainment is provided for the public in a scout hall or similar premises, or if a charge is made to a private audience with a view to profit, including for a charity, then the provision of regulated entertainment at such premises would require a premises licence or **temporary event notice**. If the public is not invited and a charge is made to a private audience (like family and friends) just to cover costs – and not to make a profit - then this will not be the provision of regulated entertainment and a licence will not be required. Similarly, if anyone invited to a private performance was not charged for attending the event but was free to make a voluntary donation to a charity at their own choice, no licence will be necessary. However, if the performance is to any extent open to the public (whether the public are charged or not) a licence will be required.

What's the difference? Why is a licence needed for a private performance if profit is intended but not otherwise – surely the effect on the licensing objectives is the same?

The difference is that the profit motive can lead people to take chances or cut corners about things like public safety or the protection of children in order to maximise the profit involved. Licensing forces people to take a step back and think properly about the safety and well being of performers, the audience and the interests of the local community.

Why is the "two in a bar" rule being abolished?

The 'two in a bar' rule is being discontinued. This is a disapplication under current licensing law of the need for a public entertainment licence in certain situations, such as two performers singing or playing music, at a premises where a justices' licence is in force.

The Government believes that the rule encourages public houses to put on only one or two entertainers all night, or face the full cost of a public entertainment licence, and is extremely limiting. It has acted as a disincentive to a more diverse music provision. The Licensing Act aims to remove the disincentive and provide for all

kinds of live music to be on equal footing whether one, two, five or ten performers are involved.

What about small-scale music events?

The venue will need an authorisation for the staging of these events.

However, section 177 of the Licensing Act provides that where:

- a premises licence or club premises certificate authorises the supply of alcohol for consumption on the premises and the provision of "music entertainment" (dance or live amplified or unamplified music);
- the relevant premises are used primarily for the consumption of alcohol on the premises; and
- the premises have a capacity limit of 200,

then any licensing authority imposed conditions relating to the provision of the music entertainment will be suspended. This is subject to the exception of where the conditions were imposed as being necessary for public safety or the prevention of crime and disorder.

In addition, where:

- a premises licence or club premises certificate authorises the provision of music entertainment, which consists of the performance of unamplified, live music; and
- the premises have a capacity limit of 200.

then during the hours of 8am and midnight if the premises are being used for the provision of that music entertainment but, no other regulated entertainment, any licensing authority imposed conditions on the licence which relate to the provision of the music entertainment will be suspended.

These suspensions can be removed in relation to any condition of a premises licence or club premises certificate following a review of the licence or certificate when further conditions may also be added to the licence or certificate.

These provisions will apply to any premises so long as the criteria set out in section 177 of the Act are fulfilled.

Will a licence be required if customers of a pub suddenly start singing?

No. Any spontaneous singing, for example of "Happy Birthday", will not be licensable.

Will I require a licence to show broadcast TV in my pub?

Live broadcast entertainment is exempt from the licensing regime. However, if you wish to show recorded entertainment on your TV (using, for example, video or DVD) an authorisation will be required.

Will jukeboxes be licensable? What about Disc Jockeys?

The playing of recorded music that is incidental to other activities that are not themselves the provision of regulated entertainment will be exempt. A jukebox in a pub will not necessarily have to be authorised unless, for instance, a dance floor is also provided or it is not incidental. A Disc Jockey playing to a public audience would amount to regulated entertainment and would therefore need to be authorised by the premises licence, club premises certificate or temporary event notice as the case may be. For the meaning of regulated entertainment see paragraphs 1 and 2 to Schedule 1 of the 2003 Act.

Will pub games require a licence?

Games commonly played in pubs like pool or darts would not necessarily need to be authorised under the licence as they are not generally played for the entertainment of spectators. However if, for example, a darts exhibition match or championship were staged for spectators, that would be regulated entertainment.

For **qualifying clubs**, if either the public are admitted or the entertainment is provided for members and their guests in relation to the provision of regulated entertainment, an authorisation would be required. An authorisation would similarly be required in respect of the provision of regulated entertainment for a private audience if a charge is made and with a view to profit.

Will entertainment in a school require a licence?

Schools and sixth form colleges will require a licence to stage regulated entertainment to which the public is invited or where a fee is charged and with a view to profit. However, they will be exempt from the fees associated with the authorisation of regulated entertainment where the entertainment is provided by and at the school or college and for the purposes of the school or college. If the public was not invited and a charge made to a private audience (like family and friends) just to cover costs – and not to make a profit - then a licence would not be required. A school could also consider using **temporary event notices** on up to 12 occasions each year subject to an overall limit of 15 days in a calendar year, but numbers would have to be restricted to 499 and comply with the other requirements in Part 5 of the Licensing Act would need to be met.

Will music tuition, either in private or in schools, require a licence?

No. Music tuition will not require a licence as the music (and the premises) is not being provided for the entertainment of an audience, but for the purpose of educating those present.

Will I need a licence to demonstrate musical instruments in my store?

No – this is another myth. If a customer or sales assistant wishes to demonstrate or try out an instrument in a shop then no licence would be required. If a store holds an event at which musicians play instruments, for the purpose of entertaining customers, then a licence will be required.

Will rehearsals need a licence?

No, unless the rehearsal is provided for the entertainment of the public, or the members and their guests of a qualifying club in relation to the provision of regulated entertainment or for consideration and with a view to profit.

Will a charity event providing entertainment require a licence?

If regulated entertainment is being provided at a charitable event to which the public is invited, a premises licence or temporary event notice would be required. Private events, where the invited guests are charged and, either with a view to private profit or to raise funds for charity, are licensable as such a charge could, for example, lead to greater risks being taken with regard to safety issues. For example, the number of people invited, seating arrangements and access to exits in an emergency.

However, entertainment provided at a private charitable event where the public is not invited (other than where the entertainment is provided exclusively for the members and their guests of a qualifying club) and where no charge is made (other than solely to cover costs) or requirement for the guests to give any money to charity would not be licensable.

What if I make a small profit by mistake at a private event?

"With a view to profit" means that you intend or have intended to make a profit. If you make a charge simply to cover costs and accidentally make a small profit owing to miscalculation, you need not worry. What matters is your intention at the outset.

Will a circus require a licence to provide entertainment?

If a circus or pleasure fair provides regulated entertainment as defined in the Licensing Act (or there are to be supplies of alcohol or provision of late night refreshment) an authorisation (e.g. a premises licence or a temporary event notice) will be required to cover the licensable activity.

Will Punch and Judy shows require a licence?

The Licensing Act has not significantly changed the definition of "play" used in the Theatres Act 1968. Punch and Judy shows are currently licensable under the 1968 Act and will therefore continue to be licensable under the Licensing Act when

performed publicly, for members and their guests of a qualifying club in relation to the provision of regulated entertainment or to a private audience for consideration and with a view to profit by the organiser.

However, if a children's party was staged for friends and the Punch and Judy entertainment was provided by the host (the child's parents) for their guests for free (as it would be normally at a party), then no licence would be required. Anyone wishing to stage a Punch and Judy show for the general public must ensure that the site is covered by a **premises licence** or **temporary event notice**.

We will be encouraging local authorities to consider seeking premises licences from their licensing authority for public spaces within the community in their own name. This could include village greens, market squares and seaside promenades, for example, on which many cultural and traditional events take place. No additional licence would then need to be obtained by puppeteers or anyone else carrying out licensable activities covered by such a licence, although the consent of the local authority holding the licence would usually be required and permission given to use the land.

I am holding an outdoor event providing regulated entertainment. Would I require a licence and how would I apply for one?

As stated above, local authorities will be encouraged to obtain premises licences to cover public spaces, such as village greens or indeed a number of streets, on which many performances take place. No additional licence would then need to be obtained by anyone else carrying out licensable activities on such premises covered by such a licence, although the consent of the local authority holding the licence would be required and permission given to use the land. But if there is no pre-existing licence, unless your event falls into an exempt category, a **premises licence** or **club premises certificate** or **temporary event notice** is required to authorise the provision of regulated entertainment.

Will carol singers require a licence?

Carol singers going from door to door, or just deciding to sing in a particular place, or even turning up unannounced in a pub and singing, would not require a licence, just as drinkers in a public house who suddenly decided to start singing carols would not be licensable. However, if a business in a shopping mall, for example, arranges for a group of singers to sing carols this will be the same as their arranging any performance of live music and a **premises licence** or **temporary event notice** would be required.

Will Re-enactment Societies require a licence?

This would depend on the precise nature of the specific activity being carried out. If the re-enactments are dramatic pieces in which what is done by the persons performing (whether by way of speech, singing or action) involves them playing a role in the presence of an audience for the purposes of entertaining that audience then they would come within the definition of a "play" under the Licensing Act.

If they are then performed for the public or for a charge and with a view to profit, or for the members and their guests of a qualifying club, a licence would be required unless an exemption applied.

If the re-enactment was staged purely for the enjoyment of those taking part and not for the purpose of entertaining an audience, no licence would be required. It is the same for masquerades and other forms of role playing (depending on the nature of the masquerade, there may also be a performance of a dance). The existence or otherwise of a script will not affect whether what is done falls within the definition of a "play" under the Act.

Will a licence be required for entertainment in private homes and gardens?

Any performances of live music that take place in private homes and gardens for private parties and weddings will not be licensable unless the host takes the unusual step of charging his guests to attend and with a view to making a profit.

The Act does nothing to affect what people are entitled to do in their own homes unless the public is admitted or guests charged and with a view to profit rather than to simply cover costs.

What if I book a band for a wedding?

Please see above. A licence would only be required for a private wedding party if the host took the unusual step of charging his guests to attend and with a view to making a profit.

What are the consequences of not obtaining a licence to cover regulated entertainment?

A person guilty of the offence of carrying on, attempting to carry on or knowingly allowing to be carried on an unauthorised licensable activity is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £20,000 or to both. The maximum penalty is high because such an action could involve putting public safety at serious risk. However, a person does not commit such an offence if his only involvement in the provision of the entertainment was that he:

- performed live music or plays recorded music;
- performed a dance;
- provided entertainment of a similar description to those above;
- performed in a play;
- participated in boxing or wrestling entertainment; and
- participates as a sportsman in an indoor sporting event.

There is also the defence of "due diligence" as provided by section 139 of the Licensing Act, against this offence which a person charged with it may invoke if the act "was due to a mistake, or to reliance on information given to him, or to an act or omission by another person, or to some other cause beyond his control, and he took

all reasonable precautions and exercised all due diligence to avoid committing an offence".

Further information

The **Licensing Act 2003**, in particular Schedule 1, can be read on the HMSO web site, as can the **explanatory notes**.

The **Guidance to Licensing Authorities and Police** was issued by the Secretary of State on 7 July 2004.

7.2.05