

HAMBLETON

DISTRICT COUNCIL

A GUIDE

TO THE

LICENSING ACT

AUGUST 2005

SUMMARY OF THE LICENSING ACT

(a) Licensing Objectives and Statement of Licensing Policy:

The Licensing Objectives set out in the Act are:-

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance;
- (d) the protection of children from harm.

In dealing with Licence applications, the District Council must have regard to the Licensing Objectives and its Licensing Policy, which is based on guidance from the Secretary of State.

The District Council is required to adopt and publish a Statement of its Licensing Policy at least every three years.

(b) Premises Licence:

The Licensing Act requires a Licence for premises to be used for one or more licensable activities.

Licensable activities are defined as:-

- (a) the sale of alcohol on or off the premises;
- (b) provision of regulated entertainment;
- (c) provision of late night refreshment.

The Act allows a person or a company to apply for any number of Premises Licences. The effect of this would be for all premises licensed to be held by the person or company. The person or company would then be responsible for matching a Premises Licence with a Personal Licence Holder and also for designating Premises Supervisors within the premises. (see below)

When submitting the application an applicant will have to include an Operating Schedule (see later), a plan of the premises and if the proposal is to sell alcohol, a form of consent from the person who is intended to be the Premises Supervisor. A fee is payable and notice is to be given to certain authorities, interested persons/others.

If there are no representations or comments then the application must be granted, although the application will be granted subject to conditions consistent with the Operating Schedule and the Licensing Policy. Objections/representations to the application will be heard before the Council's Licensing Committee but they have to be relevant and not frivolous.

If an application is made for a variation of a licence and there are no representations, the application must be granted and if there are representations, it will be heard before the Licensing Committee.

(c) Regulated Entertainment:

Regulated entertainment includes the performance of a play (including rehearsal) exhibition of a film, indoor sporting event, outdoor boxing and wrestling, the playing of music, the performance of dancing and entertainment of a similar kind in front of an audience. Religious services, live broadcast TV and film for public education, museums or art galleries, together with moving vehicles on a public highway, incidental recorded music and activities incidental to drinking are exempt.

(d) Operating Schedule:

The Operating Schedule is a document which includes a statement of the following matters:-

- (a) the relevant licensable activities;
- (b) the times during which it is proposed the relevant licensable activities are to take place;
- (c) any other times during which it is proposed that the premises are to be opened to the public;
- (d) where the Applicant wishes the licence to have effect for a limited period, that period;
- (e) where the licensable activities include the sale of alcohol, prescribed information in respect of the individual whom the Applicant wishes to have specified in the Premises Licence as the Designated 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, off the premises, or both;
- (g) the steps which it is proposed to take to promote the Licensing Objectives.

(e) Duration of Premises Licences:

Generally, once issued a Premises Licence could last indefinitely. There will be no need to renew the licence annually or three-yearly as at present.

A Premises Licence lapses if the holder of the licence:-

- (a) dies;
- (b) becomes mentally incapable;
- (c) becomes insolvent;
- (d) is dissolved;

Certain bodies and members of the public may ask for a review of the licence at any time, but the requests must not be frivolous or repetitious.

(f) Other Relevant Matters with Regard to Premises Licences:

There is provision to vary a Premises Licence in order to alter the hours, the licensed area, to allow different licensable activities (e.g., to allow public entertainment) or to change the individual named as the Premises Supervisor.

(g) Personal Licences:

A Personal Licence is granted by the Licensing Authority. A Personal Licence authorises an individual to supply alcohol in accordance with a Premises Licence. A Personal Licence is valid for 10 years and there are provisions with regard to the revocation, suspension and surrender of a Personal Licence.

(h) An Application for Personal Licence:

The Council must grant a Personal Licence application if the following criteria are satisfied:-

- (1) the Applicant is aged 18 or over;
- (2) the Applicant possesses a licensing qualification or is a person of a prescribed description;
- (3) no Personal Licence held by him has been forfeited in a period of 5 years ending with the day that the application was made;
- (4) he has not been convicted of any relevant offence or any foreign offence.

An application for the grant of a Personal Licence is usually made to the Local Authority where the Applicant is ordinarily resident.

(i) Licensing Qualification:

This is defined as a qualification which is accredited at the time of its award and awarded by a body accredited at that time.

(j) Designated Premises Supervisor:

The Designated Premises Supervisor will be specified in the Licence and will have day-to-day supervision of the premises.

(k) Club Premises Certificates:

Club Premises Certificates will provide authorisation for qualifying clubs to use club premises for qualifying club activities. They are:-

- the supply of alcohol by or on behalf of a club to a member for consumption on the premises;
- the sale by retail of alcohol by or on behalf of a club to a guest or a member for consumption on the premises;
- the provision of regulated entertainment by or on behalf of a club for its members and guests.

As with Premises Licences, the right to make representations on the application for a Club Premises Certificate is given to a range of persons and bodies.

There is no requirement for a Personal Licence or a Designated Premises Supervisor to supply alcohol on premises with a Club Premises Certificate.

(l) Transitional Arrangements:

There are transitional arrangements which allow current or proposed licence holders to obtain licences under the new system before the old licensing system ends. More details are included in the Council's "Guidance for Potential Applicants."

(m) Permitted Temporary Activities:

The Licensing Act 2003 establishes new arrangements for the carrying on of licensable activities at occasional, temporary events. These arrangements replace existing systems of "occasional permissions" and "occasional licences." They will apply in relation to events with less than a specified number of people attending. The new arrangements are based on a notification to the Licensing Authority of details of the event and an acknowledgement by that Authority of the notification. To reflect the temporary nature of the events, these arrangements will not place organisers under the same obligations as will apply in relation to those who regularly wish to undertake licensable activities on or from premises. Please note that the Temporary Event Notice provisions apply in respect of events which take place on or after 24 November 2005.

An individual, known as the premises user, who proposes to carry on a licensable activity for a temporary period of not more than 96 hours may submit a Notice to the Licensing Authority of the proposal for the event. Such Notice is defined as a Temporary Event Notice. Applications will not be able to be made until a date which is yet to be specified by the Government. A form of Notice has yet to be prescribed by the Government. The premises user must:-

- be at least 18 years old;
- state the licensable activities that are to be carried out;
- give details of the total length of the event – which must not exceed 96 hours;
- detail the times during the event that the licensable activities are to be carried out (for example, where an individual wishes to organise an event that covers 36 hours and where the bar will be open for two evenings within that time);
- state the maximum number of people to be allowed onto the premises at any one time – which must be less than 500;
- indicate whether any alcohol sales are to be made for consumption on or off the premises (or both).

The Temporary Event Notice must be given to the Council at least 10 working days before the event. The Police must consider the Notice and decide whether to give notice of objection. If they object the Council must hold a hearing before its Licensing Committee and decide whether to issue a counter-notice based on the Police objection.

The Council can also issue a counter-notice on receipt of a Temporary Event Notice where:-

- the premises user is a Personal Licence Holder who has already given fifty Temporary Event Notices within the same calendar year as the specified event period; or
- when the premises user does not hold a Personal Licence, but has already given five Temporary Event Notices in that year; or
- where twelve Temporary Event Notices have been given in respect of the same premises in that year.

The effect of giving such a counter-notice is that the proposed event is not a permitted temporary activity and is not authorised to proceed.

(n) Opening Hours:

Current opening hours will remain until the Second Appointed Day. From that date, opening hours will be determined by each Premises Licence or Club Premises Certificate.

(o) Offences:

The Act also gives details of offences that can be committed, e.g., carrying on licensable activities without a licence, failure to produce a Premises Licence so that it can be amended, failure to notify of change of name or address. A person guilty of offences could be liable to 6 months imprisonment or a £20,000 fine.

Other offences which are included in the Act include:-

- under age offences;
- Closure Orders;
- traditional offences;
- permitted disorderly conduct offences.