



LICENSING ACT 2003

Guidance to Applicants about Premises Licences

Important Note: This guide has been prepared as a brief outline of the important changes to Licensing Law and summarises some detailed legal provisions. It is not however intended as a substitute for your own legal advice.

February 2005

Guidance to Applicants for Premises Licences

The Licensing Act 2003 provides that premises (including land) where "licensable activities" take place must be licensed. Rugby Borough Council is the Licensing Authority for premises within its area.

These notes are only a general guide to process and are not intended as a substitute for your own legal advice.

Licensable activities are -

- **The sale by retail of alcohol;**
- **The supply of alcohol by clubs;**

To be classified as a qualifying club in relation to a qualifying club activity, a number of general conditions must be met. These are:

- 2 day interval between nomination, application or other entry to membership and being able to enjoy privileges of membership;
- established in good faith as a club;
- at least 25 members;
- alcohol not supplied on the premises other than by or on behalf of the club;

and where alcohol is supplied

- the committee purchasing alcohol on behalf of the club must all be members 18 years of age or older, and have been elected to the committee by the membership;
 - no person should receive any commission at the expense of the club in respect of the purchase of alcohol by the club;
 - no person should receive any pecuniary benefit from the supply of alcohol other than that which is gained by the club as a whole.
- **The provision of regulated entertainment or entertainment facilities;**
- Regulated Entertainment is described in the Act as:
- 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.

An example of "entertainment facilities" would be 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 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 condition is that the premises on which the entertainment takes place, or entertainment facilities provided, are made available for the entertainment to take place.

➤ **The provision of late night refreshment.**

The provision of late night refreshment means the supply of hot food or hot drink to the public, for consumption on or off the premises, between 11pm and 5am, or the supply of hot food or hot drink to any persons between those hours on or from premises to which the public has access.

Food or drink is "hot" for the purposes of the Act if it is heated on the premises or elsewhere before it is supplied, or if it can be heated on the premises after it is supplied, for the purpose of enabling it to be consumed at above ambient air temperature.

The Act provides for a number of exemptions which will not constitute the provision of late night refreshment. Examples are where the hot food or hot drink is supplied free of charge; or where it is supplied by a registered charity, or, in certain circumstances, where the provision of hot drink is by vending machines.

It may be appropriate for applicants to seek advice about any proposed activities where there may be any doubt about whether they are regulated activities or not.

To obtain a Premises Licence:

A.(i) If you already HAVE a current permission / current permissions:

Permissions include: Justices' Licence ("On" licence, "off" licence or both; Restaurant Licence; Residential Licence; Supper Hours Certificate; Special Hours or Children's Certificates; Extended Hours Certificate); Public Entertainment Licence; Cinema Licence, Theatre Licence, Late Night Refreshment House Licence

You can apply to "convert" your existing permission(s) to a Premises Licence.

You do not need to advertise your application.

The Police may make representations in some cases. The Authority may then hold a hearing to determine the outcome of your application.

Under the conversion process, Premises Licences will be issued with the same conditions as the permissions from which they are converted if there are no representations.

A.(ii) If you already HAVE a current permission / current permissions, AND WANT TO MAKE CHANGES:

In addition to "conversion" to a Premises Licence (as above) you can apply at the same time for a "variation" of the new Premises Licence.

You must advertise your application in the local press and display the appropriate notice at your premises. You must also send complete copies of your application to all the "Responsible Authorities" listed below:

- Police
- Fire Authority
- Environmental Health (Noise)
- Environmental Health (Health and Safety) **or** HSE
- Planning
- Social Services (Children's Issues)
- Trading Standards (Weights and Measures Authority)

Contact details are available on a separate information sheet.

Premises Licences will be issued in accordance with the "variation" terms applied for, unless representations are received about the application, when a hearing may be held.

NB Conversion applications must be submitted between 7th February and 6th August, 2005.

B. If you DO NOT already have a current permission (or have one, but failed to apply by 6th August 2005)

You should apply for a new Premises Licence.

You must advertise your application and display the appropriate notice at your premises. You must also send complete copies of your application to all

Responsible Authorities as listed above. Licences will be issued in accordance with the terms applied for, unless representations are received about the application, when a hearing may be held.

Completing the application.

Applicants for Premises Licences (conversion, variation or new) that include the supply of alcohol will need to provide details of the person who has consented to be the Designated Premises Supervisor, and include the consent form completed by that person.

The applicant must address the promotion of the four licensing objectives in the Operating Schedule accompanying the application. The applicant is advised to refer to the Guide to Operating Schedules which includes details of issues that the Responsible Authorities wish to see addressed. This should ensure that the full scope of the proposed activities has been addressed in the Operating Schedule and minimise the number of issues that require negotiation after submission of the application.

Each application should be accompanied by a plan of the premises drawn to the scale of 1:100 unless the licensing authority has previously confirmed in writing to the applicant that an alternative scale plan is acceptable. The plan should show:

- (a) 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;
- (b) the location of points of access to and egress from the premises;
- (c) if different from (b) above, the location of escape routes from the premises;
- (d) in a case where the premises is to be used for more than one licensable activity, the area within the premises used for each activity
- (e) in the case of conversion applications (and conversion with variation) where an existing licensable activity relates to the supply of alcohol, the area(s) used for consumption of alcohol should also be indicated on the plan;
- (e) fixed structures (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;
- (f) where the premises includes a stage or raised area, the location and height of each stage or area relative to the floor;
- (g) where the premises includes any steps, stairs, elevators or lifts, the location of the steps, stairs, elevators or lifts;
- (h) where the premises includes any room or rooms containing public conveniences, the location of the room or rooms;
- (i) the location and type of any fire safety and any other safety equipment including, if applicable, marine safety equipment; and
- (j) the location of a kitchen, if any, on the premises.

These details are important in making it clear which premises or parts of premises have been licensed if the application is granted; and will enable Responsible Authorities and Interested Parties to better consider the adequacy of any operating schedule.

Operating Schedules (To be read in conjunction with Operating Schedule guide)

The Operating Schedule is set out in the form prescribed by regulations, and provides for applicants to include:

- (a) a general description of the premises
- (b) the licensable activities to take place there
- (c) how the operating schedule will ensure that the activities at the premises will take account of the neighbourhood in which the premises are situated
- (d) the times during which licensable activities are to take place
- (e) where the times for different activities are variable, where appropriate
- (f) the duration of the licence required, if it is to be limited.

The following are examples of the types of issues applicants should consider in their operating schedules, where appropriate for the range of activities proposed in the application:

- (a) Procedures for assessing risks of crime and disorder, nuisance and/or to public safety, and plans for minimising such risks arising from promotions, events and special operations such as drinks promotions or happy hours.
- (b) Metal detection and search facilities
- (c) Measures to prevent the use or supply of illegal drugs
- (d) Employment of licensed door supervisors and other appropriately trained staff
- (d) The designated premises supervisor, licensee, or a manager who is a personal licence holder to be present and in charge of the premises at all times when the public are present
- (e) A queue management policy
- (f) An intervention protocol to describe how potential issues of public safety will be addressed and under what circumstances the Police will be called to the venue.
- (g) Dispersal arrangements

The separate 'Guide to Operating Schedules' contains more detailed information about the types of measures responsible authorities will be looking for in determining whether to make representations about an application.

Guidance on Specific Activities/Premises

HOT FOOD SUPPLY

Mobile vans trading during the hours 11.00pm to 05.00am will require a Premises Licence for each location in addition to any street trading consents needed. This will also cover Petrol Stations/Garages and service areas where food is re-heated on the premises.

INDOOR SPORTS EVENTS

There is some confusion over what constitutes an indoor sporting event. For the purposes of the Licensing Act 2003, the authority is of the view that to qualify as a licensable activity the event would need to be advertised with a view to attracting an audience to view the event.

In order to promote the licensing objectives, these events can require special provisions that exceed those required at other venues. The exact provisions will depend upon the nature of the event but the following (and similar) aspects should be addressed when appropriate.

- (a) Attendant medical practitioner present at contact sports.
- (b) Safe ring construction.
- (c) Minimum clearance between audience and ring.
- (d) Lifeguard attendants at water sports

VILLAGE AND COMMUNITY HALLS

Applicants from village halls and community centres are encouraged to contact the Authority in advance to obtain advice and guidance appropriate to the nature and scale of the events proposed. This will ensure that they are managed so as not to undermine any of the licensing objectives and that possible action under other legislation is not likely.

If used regularly for any licensable activities these premises may require a Premises Licence.

If those activities include the sale of alcohol, then at least one person must obtain a Personal Licence and one of those Personal Licence Holders must be designated as the Premises Supervisor on the Premises Licence application.

However, where a hall is only infrequently (or unlikely to be) used for the sale of alcohol, it may be worth considering relying on the use of Temporary Event Notices for any sales of alcohol as no Personal Licence Holder will then be required.

The application for a Premises Licence will need to specify the licensable activities proposed and include an operating schedule, which addresses the four licensing objectives.

The conditions attached to a Premises Licence for most of the licensable activities carried on at such premises are likely to concern the objectives of public safety and prevention of nuisance, so applicants are advised to ensure they deal with these issues.

When such premises are let to others for regulated activities, the letting conditions should impose the appropriate conditions of the Premises Licence on the hirers.

A separate information sheet for these types of premises is also available.

OPEN-AIR VENUES

Outdoor events where licensable activities take place can be held in various venues each year. The characteristics of these events are that they are either one-off events or regular annual gatherings that differ substantially, in scale, siting and content.

Unless these are small-scale events, held under a Temporary Event Notice, a Premises Licence of limited duration will be required and should be applied for well in advance.

Applicants should approach the Authority at least six months before the proposed date of the event in order to discuss the arrangements. Even small-scale events may require road closures, which normally take more than three months to arrange. The organisation of larger-scale events will benefit from notice of up to a year or more. If the Authority is involved in the event planning from an early stage it will be able to offer advice and assistance towards the preparation of an appropriate operating schedule and event management plan.

Event organisers should consider the guidance about planning such events that is given in the following documents :

- (a) The Event Safety Guide - A guide to health, safety and welfare at music and similar events (HSE 1999)("The Purple Book") ISBN 07176 24536

- (b) Managing Crowds Safely (HSE 2000) ISBN 07176 1834 X
- (c) 5 Steps to Risk Assessment: Case Studies (HSE 1998) ISBN 07176 15804
- (d) The Guide to Safety at Sports Grounds (The Stationery Office, 1997) ("The Green Guide") ISBN 011 3000952
- (e) Safety Guidance for Street Arts, Carnival Processions and Large Scale Performances published by the Independent Street Arts Network, copies of which may be obtained through www.streetartsnetwork.org/pages/publications

Both regulated entertainment and supply of alcohol are features of outdoor events and therefore organisers will need to show that they will have sufficient control over these activities to meet the licensing objectives.

The Authority expects that public safety at all events will be given proper consideration and that nuisance, disorder and anti-social behaviour are prevented, as inadequate planning for the event is likely to lead to representations from one or more responsible authorities or interested parties that the limited duration premises licence should be refused.