

An Introduction to the Licensing Act 2003

Introduction

During 2005 the new Act will replace the current licensing system completely. Current liquor, public entertainment, theatre, cinema and late night refreshment licences will all disappear to be replaced by a single system.



"I promised I'd just have the one drink."

This will consist of two main types of licence; a premises licence and a personal licence. Local councils will become the Licensing Authorities, and once the new Act comes into force, the courts will no longer administer liquor licensing. The new Act also abolishes fixed licensing hours, allowing flexible opening, subject to the consideration

of the impact this would have locally. It also sets out four principal '**licensing objectives**' which licensees, the Council and other agencies must work together to promote.

These are the:

- **Prevention of crime and disorder**
- **Prevention of public nuisance**
- **Promotion of public safety**
- **Protection of children from harm**

Council Policy

The government requires Licensing Authorities to produce a statement of licensing policy every three years, and this takes effect on the 'first appointed day' (7th February 2005). The Council's policy can be viewed on our website – www.wealden.gov.uk

What does the new law do?

It is a new licensing system that will control

- **sale by retail of alcohol**
- **supply of alcohol by clubs**
- **'regulated entertainment'** which includes; public entertainment, some private (club) entertainment, cinemas, and theatre. Regulated entertainment may include some forms of entertainment



which are not currently licensed e.g. Weddings

- **late night refreshment**

How will this be achieved?

- **Premises Licences** – there will be a single premises licence, which can allow premises to be used to supply alcohol, provide regulated entertainment and late night refreshment.
- **Personal Licences** – will be issued to individuals allowing them to sell and supply alcohol for consumption on and off the premises (which have a premises licence to sell alcohol).
- **Club Premises Certificates** - can be obtained by bona fide members' clubs providing alcohol, and/or regulated entertainment. They do not require a personal licence holder or designated premises supervisor.
- **Designated Premises Supervisor (DPS)** – if the 'licensable activities' at a premises include the **sale of alcohol** you will be required to name a DPS, who must also be a personal licence holder.
- **Temporary Event Notices (TENS)** - can be obtained by persons for events of up to 96 hours for less than 500 people. A premises can hold up to 12 temporary events per year.

Grandfather rights



Licensees who are already named on a current liquor licence will automatically get a personal licence provided they apply during the six months transition period and the police do not raise any objection under the prevention of crime objective. Similarly, existing premises which are currently licensed for the sale of alcohol, public entertainment, theatre, cinema, late night refreshment and qualifying clubs will be able to make a straightforward conversion of their licence to

a premises licence if they do not wish to make any changes. Otherwise they can still apply to convert the licence, but will need to make an application to vary it simultaneously.

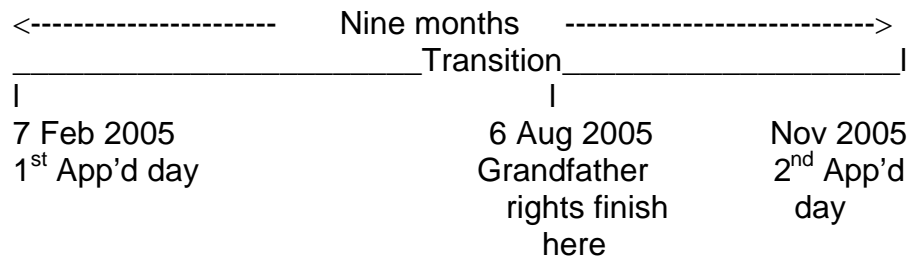
Timing

The **first appointed day** will be the 7th February 2005. From this date the Council will be able to accept applications under the new Act. The **second appointed day** has yet to be announced, but is likely to be in November 2005. From this date the existing justices', public entertainment, theatre,

cinema and late night refreshment licences will cease to have effect, and the newly issued personal, premises and club premises will come into force.

Transition

Holders of existing licences, (and existing justice licence holders who wish to apply for a personal licence), who wish to 'convert' or vary their existing licence, thereby taking advantage of grandfather rights will need to apply within **6 months** of the first appointed day, i.e. by **6th August 2005**.



Personal Licences

- A personal licence will be valid for ten years. Holders will be able to supply or authorise the supply of alcohol in premises, which hold a premises licence.

- A personal licence is not required for other licensable activities such as public entertainment and late night refreshment.
- Application is made to the Licensing Authority in the area in which you live.
- Licensees who hold a justices licence will automatically be granted a Personal Licence provided they apply within 6 months of the appointed day and there are no objections from the police on crime prevention grounds.
- New applicants will have to obtain an approved licensing qualification and undertake a criminal record check.

Premises Licence

Once granted, the licence is valid for the life of the premises, and does not need to be renewed.

- The applicant(s) must be over 18 and does not need to be a personal licence holder. It is normally the owner of the business, or the body responsible for the building.



- You will need to appoint a DPS who will normally be the person responsible for the day to day running of the premises. For example the manager, tenant, freeholder, or leaseholder. They must be a personal licence holder.
- Businesses and other premises will be able to apply for a **simple conversion** or a **simultaneous** variation of their existing licence. For example, a premises can apply to alter its opening hours or to include other licensable activities, which aren't currently covered. However, should this attract relevant objections, the application will be put before the licensing sub-committee for consideration.



- You will need to consider whether you normally apply for more than 12 extensions per year. If you normally apply for less than 12, you could apply for Temporary Event Notices (TENS) instead. Otherwise, you will need to apply for a variation.

- New applications and applications to vary a licence significantly will need to include an **operating schedule**. (See page 6).

Club Premises Certificates

- 'Qualifying clubs' will make an application for a **Club Premises Certificate**.



- A club is a qualifying club where 2 days elapse before membership becomes available, there are at least 25 members, and alcohol is only supplied to members on the premises for the benefit of the club, and the club is established in good faith. Registered clubs would normally be qualifying clubs.

- There is no requirement for a personal licence holder or DPS.
- A club will be able to supply alcohol to its members, and sell alcohol to guests.
- You will need to consider whether you hold more than 12 events per year, which are open to the public, and at which alcohol is sold or regulated entertainment is provided. Up to 12 Temporary Event Notices can be used for this but for more than 12 you would need to apply for a premises licence and have a personal licence holder/DPS.

- You will need to supply with the application other documents and information which are listed at the end of this document under ‘ What preparations can I be making?’

Restaurants and Late Night Refreshments



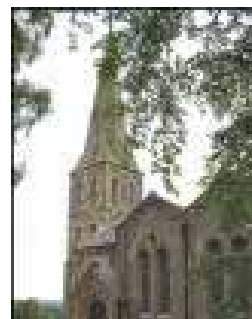
Premises including restaurants, cafes, garages and takeaways who supply hot food or hot drinks between 11pm and 5am will need to apply for late night refreshment under their premises licence (hotels, recognised clubs and employers supplying to members and/or guests are exempt from this requirement). It does not matter whether the food is consumed on or off the premises.

In practice, a takeaway premises that opens after 11pm will need to apply for a premises licence that includes late night refreshment. A restaurant or nightclub that currently holds a justices licence and that serves hot food or drink after 11pm will need to convert their justices licence to a premises licence and apply for a simultaneous variation to include late night refreshment.

Village, Church and Community Halls

- If you already hold a public entertainment, theatre or cinema licence, you can apply for a simple conversion of the licence to a Premises Licence, which will then include these ‘licensable activities’.
- For events at which alcohol is sold, you will have to consider whether you wish to restrict these events to a maximum of 12 per year, in which case you can apply for Temporary Event Notices (TENS). If you think it is likely that you will want to sell alcohol on more than 12 occasions, then you will need to apply for a simultaneous variation to include the supply of alcohol. A personal licence holder and DPS will also then be required.
- It is likely that these premises will be exempt from fees for a premises licence for regulated entertainment, but not for supplying alcohol.

Churches



Churches are exempt from holding a premises licence where they provide any entertainment or an entertainment facility.

Schools

The new Act will apply to schools but they are likely to be exempt from paying a fee for regulated entertainment and a fee will only be payable if the supply of alcohol is included on a premises licence, or for a temporary event notice.

In practice, schools who already hold a public entertainment or theatre licence will be able to apply for a simple conversion to a premises licence. Schools will be able to supply alcohol by applying for 'temporary event notices' (TENs) for up to 12 occasions per year (see below)

Temporary Event Notices

- Can be used up to 12 times a year at one premise to give notice of extended hours or to include licensable activities, which are not included on the current premises or club premises licence.
- Enable one off events at venues, which do not hold a premises licence.
- Cover events of less than 500 people for a maximum period of 96 hours

- 24 hours must elapse between events and can only be used for a maximum of 15 days in one year at the same premises
- A minimum of 10 working days notice is required, but the Council would like to have a period of 28 days notice to process applications

Operating Schedule

All premises licence applications which are either new, or for a major variation will need to be accompanied by an operating schedule. The applicant will have to give specific details on the following:

- The licensable activities that are being applied for and the times that these will take place.
- Any other times that the premises will be open to the public.
- If the application is for a limited period.
- Whether alcohol will be supplied for consumption on or off the premises
- If alcohol is to be supplied, information about the DPS
- The steps which will be taken to promote the four licensing objectives (see top of document)

Who can make representations relating to a licence application?

Under the Act various 'responsible bodies' and 'interested parties' can make a representation or request a review of a premises or club premises licence. This includes the following groups and individuals:

- Local residents/residents associations
- Local businesses/business groups
- Police
- Fire Service
- Planning officials
- Health and Safety and Environmental Health officials
- Bodies representing the protection of children
- Any other licensing authority, which covers any part of the premises.

What preparations can I be making?

- You can start to consider what licences and any variations you will be applying for.
- Attend the Council's information days in January 2005.



- Start to gather all your paperwork.

You will need the following:

1. Certified copy of current justices licence and any other permissions, public entertainment, theatre or cinema licence. (Need one for personal application and one for premises application).
2. Club premises will also need to supply a club operating schedule, a copy of the club rules and evidence that it is a 'qualifying club' (see Club Premises Licences).
3. Two copies of the plan of the premises. This must be to scale 1:100 and show walls, boundaries, exits and escape routes, locations of licensable activities, locations for consumption of alcohol, fixed structures and furniture, stages or raised areas, locations and types of fire safety equipment, locations of kitchens. (We would also request that toilets, entrances, steps and stairs are shown).
4. Obtain passport photographs for personal licence applications.

Please note that the information in this leaflet is not legal advice. Legislation may change over time and the advice given is based on the information available at the time of print. It is not necessarily comprehensive and will be subject to revision in the event of further government guidance. This advice is not intended to be a definitive guide to, nor substitute for, the relevant law.

Other useful contacts and addresses

Licensing Section

Licensing & Pollution Control
Wealden District Council
Council Offices
Vicarage Lane
Hailsham
East Sussex BN27 2AX

Website: www.wealden.gov.uk
Email: licensingandpollution@wealden.gov.uk
Tel 01323 443550

East Sussex Fire & Rescue Service

Community Protection Directorate
Fire Safety Officer
Bell Farm Road
Uckfield
East Sussex
TN22 13A

Email: cpd@esfrs.org
Tel: 01825 745904
Fax: 01825 745909

Police

All Parishes except Ninfield and Hooe contact:

Mr A Lofthouse
Licensing Officer
Crowborough Police Station
Crowborough Hill
Crowborough
East Sussex
TN6 2DA

Email: allan.lofthouse@sussex.pnn.police.uk
Tel: 01293 592826
Fax: 01293 583890

Parishes of Ninfield & Hooe contact:

Ms C Wolfe
Hastings Police Station
Bohemia Road
Hastings
East Sussex
TN34 1JJ

Email: cathy.wolfe@sussex.pnn.police.uk
Tel: 01424 456052

Useful Websites

British Institute of Innkeepers
(www.bii.org)

Department of Culture, Media and Sport
(www.culture.gov.uk/alcohol_and_entertainment/default/htm)

Pubwatch
(www.pubwatch.org)

Safer Clubbing
(www.drugs.gov.uk)