

The Licensing Act 2003 (Licensing authority's register) (other information) Regulations 2005

STATUTORY INSTRUMENTS

2005 No. 42

LICENCES AND LICENSING

The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005

<i>Made</i> - - - -	<i>12th January 2005</i>
<i>Laid before Parliament</i>	<i>13th January 2005</i>
<i>Coming into force</i> - -	<i>7th February 2005</i>

The Secretary of State, in exercise of the powers conferred upon her by sections 13(4)(i), 17(3)(b), 17(4)(h), 17(5)(a)(i), 17(5)(a)(ii), 17(5)(b), 17(5)(c), 24(1), 29(6), 30(2), 34(5), 37(3)(a), 47(2)(a), 51(3), 54, 69(4), 71(4)(b), 71(5), 71(6), 78(1), 84(4), 87(3), 91, 167(4), 178(1)(b), 178(4)(a) and 197 of the Licensing Act 2003(a), hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 and shall come into force on 7th February 2005.

Interpretation

2.—(1) In these Regulations, unless the context requires otherwise—

“the Act” means the Licensing Act 2003;

“alternative scale plan” means a plan in a scale other than the standard scale;

“application” means an application made to a relevant licensing authority under Part 3 or Part 4 of the Act as the case may require and a reference to applications shall be construed accordingly;

“club” means a qualifying club within the meaning of section 61 of the Act;

“fire and other safety equipment” includes fire extinguishers, fire doors, fire alarms, marine safety equipment, marine evacuation equipment and other similar equipment;

“legible in all material respects” means that the information contained in the application, notice or representations is available to the recipient to no lesser extent than it would be if given by means of a document in written form;

“notice” means a notice given to a relevant licensing authority under Part 3 or Part 4 of the Act as the case may require and a reference to notices shall be construed accordingly;

“prescribed fee” in relation to an application or notice, shall be the fee for such application or notice calculated in accordance with regulations made by the Secretary of State under Part 3 and Part 4 of the Act or in accordance with an order made by the Secretary of State under Schedule 8 to the Act;

“relevant licensing authority” shall be construed in accordance with section 12, 68 or 171 of, or paragraph 1 or 13 of Schedule 8 to, the Act, as the case requires;

“representations” means representations made to a relevant licensing authority under Part 3, Part 4 or Part 8 of the Act as the case may require made by an interested party or a responsible authority in relation to an application or a review;

“review” means a review under Part 3, 4 or 8 of the Act as the case may require and a reference to reviews shall be construed accordingly;

“second appointed day” in relation to a premises licence, means the day as specified as such for the purposes of Part 1 of Schedule 8 to the Act and, in relation to a club premises certificate means the day as specified as such for the purposes of Part 2 of Schedule 8 to the Act; and

“standard scale” means that 1 millimetre represents 100 millimetres.

(2) For the purposes of these Regulations a reference to—

- (a) a paragraph in a regulation or in a Schedule, a Schedule or a Part is a reference to the paragraph in that regulation or that Schedule, the Schedule or the Part in these Regulations; and
- (b) a section should be construed as a reference to the section of the Act.

PART 1

Introductory

Scope of Regulations

3. These Regulations apply to applications, notices, representations and reviews.

4. A person applying for a premises licence, a provisional statement, a variation of a premises licence, a review of a premises licence or a transfer of a premises licence or giving an interim authority notice shall comply with the appropriate provisions of Parts 2 and 4.

5. A club applying for a club premises certificate or a variation of a club premises certificate or a person applying for a review of a club premises certificate shall comply with the appropriate provisions of Parts 3 and 4.

6. The relevant licensing authority in relation to an application, notice, representations or a review shall comply with the appropriate provisions of Parts 4 and 5.

Responsible authorities

7. For the purposes of sections 13(4) and 69(4), the local weights and measures authority (within the meaning of section 69 of the Weights and Measures Act 1985(a)) for any area in which the premises is situated is a responsible authority.

Person giving interim authority notice

8. For the purposes of section 47(2)(a), a person has a prescribed interest in the premises concerned if he has a legal interest in the premises as freeholder or leaseholder.

(a) 1985 c.72

Rights of freeholder etc. to be notified of licensing matters

9. In a case of a person giving a notice of his property interest in any premises under section 178, that notice shall be in the form and shall contain the information set out in Schedule 1 and shall be accompanied by the prescribed fee.

PART 2

Premises licences

Premises licences

10. An application for a premises licence under section 17 shall be in the form and shall contain the information set out in Schedule 2 and shall be accompanied by the prescribed fee.

Provisional statements

11. An application for a provisional statement under section 29 shall be in the form and shall contain the information set out in Schedule 3 and shall be accompanied by the prescribed fee.

Variation of premises licences

12. An application to vary a premises licence under section 34 shall be in the form and shall contain the information set out in Schedule 4 and shall be accompanied by the prescribed fee (provided that in a case where the application to vary is made at the same time as an application under paragraph 2 of Schedule 8 to the Act, the application shall be in the form and shall contain the information set out in Part B of Schedule 1 to the Licensing Act 2003 (Transitional provisions) Order 2005(a)).

Variation of premises licences to specify premises supervisor

13. An application to vary a premises licence so as to specify the individual named in the application as the premises supervisor under section 37 shall be in the form and shall contain the information set out in Schedule 5 and shall be accompanied by the prescribed fee (provided that in a case where the application is made at the same time as an application under paragraph 2 of Schedule 8 to the Act, the application shall be in the form and shall contain the information set out in Part B of Schedule 1 to the Licensing Act 2003 (Transitional provisions) Order 2005).

Transfer of premises licences

14. An application to transfer a premises licence under section 42 shall be in the form and shall contain the information set out in Schedule 6 and shall be accompanied by the prescribed fee.

Interim authority notices

15. An interim authority notice given under section 47 shall be in the form and shall contain the information set out in Schedule 7 and shall be accompanied by the prescribed fee.

Review of premises licences

16. An application for a review of a premises licence under section 51 shall be in the form and shall contain the information set out in Schedule 8.

(a) S.I.2005/40

PART 3

Club premises certificates

Qualifying club

17. A club applying for a club premises certificate under section 71 on or before making such an application shall make a declaration to the relevant licensing authority in the form and containing the information set out in Part A of Schedule 9.

Club premises certificates

18. An application for a club premises certificate under section 71 shall be in the form and shall contain the information set out in Part B of Schedule 9 and shall be accompanied by the prescribed fee.

Variation of club premises certificates

19. An application to vary a club premises certificate under section 84 shall be in the form and shall contain the information set out in Schedule 10 and shall be accompanied by the prescribed fee (provided that in a case where the application to vary is made at the same time as an application under paragraph 14 of Schedule 8 to the Act, the application shall be in the form and shall contain the information set out in Part B of Schedule 4 to the Licensing Act 2003 (Transitional provisions) Order 2005).

Review of club premises certificates

20. An application to review a club premises certificate under section 87 shall be in the form and shall contain the information set out in Schedule 8.

PART 4

General

Applications, notices and representations

21.—(1) An application, a notice or representations shall be given in writing.

(2) Notwithstanding the requirement in paragraph (1) and subject to paragraph (3), that requirement shall be satisfied in a case where—

- (a) the text of the application, notice or representations—
 - (i) is transmitted by electronic means;
 - (ii) is capable of being accessed by the recipient;
 - (iii) is legible in all material respects; and
 - (iv) is capable of being read and reproduced in written form and used for subsequent reference;
- (b) the person to whom the application or notice is to be given or the representations are to be made has agreed in advance that an application or a notice may be given or representations may be made by electronic means; and
- (c) forthwith on sending the text of the application, notice or representations by electronic means, the application, notice or representations is given or made, as applicable, to the recipient in writing.

(3) Where the text of the application, notice or representations is or are transmitted by electronic means, the giving of the application or notice or the making of the representation shall be effected at the time the requirements of paragraph 2(a) are satisfied, provided that where any application or notice is required to be accompanied by a fee, plan or other document or information that application or notice

shall not be treated as given until the fee, plan or other document or information has been received by the relevant licensing authority.

Representations

22.—An interested party or a responsible authority making representations to a relevant licensing authority, may make those representations—

- (a) in the case of a review of a premises licence following a closure order, at any time up to and including seven days starting on the day after the day on which the authority received the notice under section 165(4) in relation to the closure order and any extension to it;
- (b) in any other case, at any time during a period of 28 consecutive days starting on the day after the day on which the application to which it relates was given to the authority by the applicant.

Plans

23.—(1) An application for a premises licence under section 17, or a club premises certificate under section 71, shall be accompanied by a plan of the premises to which the application relates and which shall comply with the following paragraphs of this regulation.

(2) Unless the relevant licensing authority has previously agreed in writing with the applicant following a request by the applicant that an alternative scale plan is acceptable to it, in which case the plan shall be drawn in that alternative scale, the plan shall be drawn in standard scale.

(3) The plan shall 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 sub-paragraph (3)(b), 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) 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) in a case where the premises includes a stage or raised area, the location and height of each stage or area relative to the floor;
- (g) in a case where the premises includes any steps, stairs, elevators or lifts, the location of the steps, stairs, elevators or lifts;
- (h) in the case 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.

(4) The plan may include a legend through which the matters mentioned or referred to in paragraph (3) are sufficiently illustrated by the use of symbols on the plan.

Consents

24.—(1) In the case of an application under section 17 which relates to the supply of alcohol or section 37, the consent of the individual who the applicant wishes to have specified in the licence as the premises supervisor under section 17(3)(c) or 37(3)(a) in the premises licence shall be in the form set out in Part A of Schedule 11.

(2) In the case of an application to transfer a premises licence under section 42 or 43, the consent of the holder of the premises licence under section 43(4) or 44(4) shall be in the form set out in Part B of Schedule 11.

Advertisement of applications

25. In the case of an application for a premises licence under section 17, for a provisional statement under section 29, to vary a premises licence under section 34, for a club premises certificate under section 71 or to vary a club premises certificate under section 84, the person making the application shall advertise the application, in both cases containing the appropriate information set out in regulation 26—

- (a) for a period of no less than 28 consecutive days starting on the day after the day on which the application was given to the relevant licensing authority, by displaying a notice,
 - (i) which is—
 - (aa) of a size equal or larger than A4,
 - (bb) of a pale blue colour,
 - (cc) printed legibly in black ink or typed in black in a font of a size equal to or larger than 16;
 - (ii) in all cases, prominently at or on the premises to which the application relates where it can be conveniently read from the exterior of the premises and in the case of a premises covering an area of more than fifty metres square, a further notice in the same form and subject to the same requirements every fifty metres along the external perimeter of the premises abutting any highway; and
- (b) by publishing a notice—
 - (i) in a local newspaper or, if there is none, in a local newsletter, circular or similar document, circulating in the vicinity of the premises;
 - (ii) on at least one occasion during the period of ten working days starting on the day after the day on which the application was given to the relevant licensing authority.

26.—(1) In the case of an application for a premises licence or a club premises certificate, the notices referred to in regulation 25 shall contain a statement of the relevant licensable activities or relevant qualifying club activities as the case may require which it is proposed will be carried on on or from the premises.

(2) In the case of an application for a provisional statement, the notices referred to in regulation 25—

- (a) shall state that representations are restricted after the issue of a provisional statement; and
- (b) where known, may state the relevant licensable activities which it is proposed will be carried on on or from the premises.

(3) In the case of an application to vary a premises licence or a club premises certificate, the notices referred to in regulation 25 shall briefly describe the proposed variation.

(4) In all cases, the notices referred to in regulation 25 shall state—

- (a) the name of the applicant or club;
- (b) the postal address of the premises or club premises, if any, or if there is no postal address for the premises a description of those premises sufficient to enable the location and extent of the premises or club premises to be identified;
- (c) the postal address and, where applicable, the worldwide web address where the register of the relevant licensing authority is kept and where and when the record of the application may be inspected;
- (d) the date by which an interested party or responsible authority may make representations to the relevant licensing authority;
- (e) that representations shall be made in writing; and
- (f) that it is an offence knowingly or recklessly to make a false statement in connection with an application and the maximum fine for which a person is liable on summary conviction for the offence.

Notice to responsible authority

27. In the case of an application for a premises licence under section 17, a provisional statement under section 29, a variation of a premises licence under section 34, a review under section 51, a club premises certificate under section 71, a review under section 87 or a variation of a club premises certificate under section 84, the person making the application shall give notice of his application to each responsible authority by giving to each authority a copy of the application together with its accompanying documents, if any, on the same day as the day on which the application is given to the relevant licensing authority.

Notice to chief officer of police etc.

28. In the case of —

- (a) an application to vary a premises licence under section 37 (to specify an individual as premises supervisor), the person making the application shall give to—
 - (i) the chief officer of police, and
 - (ii) the designated premises supervisor, if any,a copy of the application together with its accompanying documents, if any, on the same day as the day on which the application is given to the relevant licensing authority;
- (b) an application for the transfer of a premises licence under section 42 or the giving of an interim authority notice under section 47, the person making the application or giving the notice shall give to the chief officer of police a copy of the application or interim authority notice together with its accompanying documents, if any, on the same day as the day on which the application or notice is given to the relevant licensing authority.

Notification of review

29. In the case of an application for a review of a premises licence under section 51 or a review of a club premises certificate under section 87, the person making the application shall give notice of his application to each responsible authority and to the holder of the premises licence or the club in whose name the club premises certificate is held and to which the application relates by giving to the authority, the holder or the club a copy of the application for review together with its accompanying documents, if any, on the same day as the day on which the application for review is given to the licensing authority.

PART 5

Licensing authorities – miscellaneous

Validity of premises licences and club premises certificates

30. A relevant licensing authority may not grant a premises licence or club premises certificate to have effect before the second appointed day.

Frivolous, vexatious or repetitious representations

31. Where the relevant licensing authority notifies the person who made the representations that the representations are frivolous, vexatious or a repetition as the case requires, that notification shall be given in writing to the person who made the representations and as soon as is reasonably practicable and in any event before the determination of the application to which the representations relate.

Notification that any ground for review is frivolous, vexatious or a repetition

32. Where the relevant licensing authority rejects a ground for a review under section 51(4)(b) or section 87(4)(b) it shall give notification in writing as soon as is reasonably practicable to the person making the application for a review.

Form of premises licence and summary

33. A premises licence shall—

- (a) include an identifier for the relevant licensing authority;
- (b) include a number that is unique to the licence; and
- (c) be in the form and shall contain the information set out in Part A of Schedule 12.

34. A summary of a premises licence shall—

- (a) include the identifier for the relevant licensing authority;
- (b) include the licence number referred to in regulation 33; and
- (c) be in the form and shall contain the information set out in Part B of Schedule 12, printed on paper of a size equal to or larger than A4.

Form of club premises certificate and summary

35. A club premises certificate shall—

- (a) include an identifier for the relevant licensing authority;
- (b) include a number that is unique to the certificate; and
- (c) be in the form and shall contain the information set out in Part A of Schedule 13.

36. A summary of a club premises certificate summary shall—

- (a) include the identifier for the relevant licensing authority;
- (b) include the certificate number referred to in regulation 35; and
- (c) be in the form and shall contain the information set out in Part B of Schedule 13, printed on paper of a size equal to or larger than A4.

Review of premises licence following closure order

37. In the case of a review of a premises licence under section 167 (review of premises licence following a closure order), within the period of one working day starting on the day after the day on which the relevant licensing authority received the notice under section 165(4) from the magistrates' court, the relevant licensing authority shall give to the holder of the premises licence and each responsible authority notice in writing of—

- (a) the review;
- (b) the dates between which interested parties and responsible authorities may make representations relating to the review to the relevant licensing authority;
- (c) the closure order and any extension of it; and
- (d) any order made in relation to it under section 165(2).

Advertisement of review by licensing authority

38.—(1) Subject to the provisions of this regulation and regulation 39, the relevant licensing authority shall advertise an application for the review of a premises licence under section 51(3), of a club premises certificate under section 87(3) or of a premises licence following a closure order under section 167—

- (a) by displaying prominently a notice—
 - (i) which is—
 - (aa) of a size equal or larger than A4;
 - (bb) of a pale blue colour; and
 - (cc) printed legibly in black ink or typed in black in a font of a size equal to or larger than 16;

- (ii) at, on or near the site of the premises to which the application relates where it can conveniently be read from the exterior of the premises by the public and in the case of a premises covering an area of more than fifty metres square, one further notice in the same form and subject to the same requirements shall be displayed every 50 metres along the external perimeter of the premises abutting any highway; and
 - (iii) at the offices, or the main offices, of the licensing authority in a central and conspicuous place; and
 - (b) in a case where the relevant licensing authority maintains a website for the purpose of advertisement of applications given to it, by publication of a notice on that website;
- (2) the requirements set out in paragraph (1) shall be fulfilled—
- (i) in the case of a review of a premises licence following a closure order under section 167, for a period of no less than seven consecutive days starting on the day after the day on which the relevant licensing authority received the notice under section 165(4); and
 - (ii) in all other cases, for a period of no less than 28 consecutive days starting on the day after the day on which the application was given to the relevant licensing authority.

39. All notices referred to in regulation 38 shall state—

- (a) the address of the premises about which an application for a review has been made,
- (b) the dates between which interested parties and responsible authorities may make representations to the relevant licensing authority,
- (c) the grounds of the application for review,
- (d) the postal address and, where relevant, the worldwide web address where the register of the relevant licensing authority is kept and where and when the grounds for the review may be inspected; and
- (e) that it is an offence knowingly or recklessly to make a false statement in connection with an application and the maximum fine for which a person is liable on summary conviction for the offence.

Provision of forms, notices and applications

40. The relevant licensing authority—

- (a) must provide on request the forms listed in the Schedules printed on paper; or
- (b) in a case where the relevant licensing authority maintains a website, it may provide electronic copies of the forms listed in the Schedules on such a website.

Validity of forms, notices and application

41. A relevant licensing authority shall not reject any application or notice by reason only of the fact that it is given on a form provided otherwise than from the relevant licensing authority but which complies with the requirements of these Regulations.

Acknowledgement of notification of an interest

42. The relevant licensing authority shall as soon as reasonably practicable on receipt of a notification to it under section 178 acknowledge its receipt by returning a copy of the notification to the notifier duly endorsed.

Date 12th January 2005

Richard Caborn
Minister of State
Department for Culture, Media and Sport

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Licensing Act 2003 (c.17) (the Act) provides for the licensing of premises for the sale by retail of alcohol, the supply of alcohol by or on behalf of a club to, or to the order of a member of the club, the provision of regulated entertainment and the provision of late night refreshment. These Regulations set out the detailed requirements relating to applications, notices and representations given or made under Parts 3 and 4 of the Act and reviews made under those Parts and Part 8 of the Act.

In particular, these Regulations, provide that weights and measures authorities are responsible authorities (regulation 7). Also, that persons with a prescribed interest in a premises include those with a legal interest as freeholder or leaseholder (regulation 8) and Schedule 1 sets out the form of the notice to be given by a person to notify a relevant licensing authority or his, her or its interest in a licensed premises (regulation 9).

Regulations 10 to 16 and Schedules 2 to 8 set out the form of applications and notices for the grant of a premises licence, the issue of a provisional statement, an application for variation of a premises licence, an application to vary a premises licence to specify the premises supervisor, an application to transfer a premises licence, the giving of an interim authority notice and an application for the review of a premises licence.

Regulations 17 to 20 and Schedules 9 and 10 set out the form of applications and declarations given by qualifying clubs. These include the form of the club declaration in which a club shows that it is a qualifying club, an application for a club premises certificate, and an application to vary a club premises certificate. Schedule 8 also sets out the form for an application to review a club premises certificate.

The Regulations provide that applications, notices and representations must be given or made in writing but includes a discretion for this requirement to be fulfilled by electronic means (regulation 21).

Regulation 22 sets out the time limits during which representations must be made. Regulation 23 sets out the detailed requirements for plans of premises and club premises to be submitted with applications.

Regulation 24 and Schedule 11 set out the form of consents to be given by the premises supervisor of a premises and the holder of the premises licence in certain circumstances.

Regulations 25, 26, 38 and 39 set out the requirements for the advertisement of applications and reviews by applicants and by relevant licensing authorities.

Regulation 27 requires that persons or clubs applying for a premises licence, club premises certificate, provisional statement, variation of a premises licence or club premises certificate, review of a premises licence or club premises certificate give notice of the application by giving each responsible authority a copy of the application together with its accompanying documents on the same day as the day on which that application is given to the relevant licensing authority. Further, regulations 28 and 29 set out the requirements for giving of notices to the chief officer of police, the premises supervisor, the responsible authorities, the holder of the premises licence and the club holding the club premises certificate in a number of circumstances where this is required by the Act.

Regulations 33 to 36 provide for the form of a premises licence and club premises certificate and regulation 30 states that they may not be granted to have effect until the second appointed day.

Regulations 31 and 32 provide that the notification from a licensing authority that any representations or a ground for review is frivolous, vexatious or repetitious must be given in writing and as soon as reasonably practicable.

Regulation 37 sets out the requirements for the notice given by the relevant licensing authority to the holder of the premises licence and responsible authorities in respect of the review of a premises licence following a closure order under Part 8 of the Act.

Regulations 40 and 41 provide that the relevant licensing authority must provide the forms listed in the Schedules to these Regulations on request and that a licensing authority cannot reject any application or notice by reason only that it is given on a form provided from another source other than that relevant

licensing authority. Finally, regulation 42 requires the relevant licensing authority to acknowledge a notice received by it under section 178 of the Act.

A Regulatory Impact Assessment in relation to these Regulations has been placed in the libraries of both Houses of Parliament and copies may be obtained from the Alcohol and Entertainment Licensing Branch of the Department of Culture, Media and Sport, 3rd Floor, 2-4 Cockspur Street, London SW1Y 5DH or view on the Department's website, www.culture.gov.uk.