

4 Personal Licences

- 4.1 This Chapter provides advice about best practice in administering the process for issuing personal licences to sell or supply alcohol. In particular, the Government stresses that the “fit and proper” test associated with the old alcohol licensing regime has been abolished and the tests established by the 2003 Act are the only ones which may now be applied. Moreover, in this context, it must also be stressed that a personal licence is not a qualification that is associated with business competency. The four licensing objectives apply to consideration of applications for personal licences as to all other parts of the Act.

General

- 4.2 In the case of an individual seeking a personal licence under the terms of Part 3 of Schedule 8 to the 2003 Act (transitional provisions) as a “grandfather right”, the qualifications are in summary that:
- the person is the holder of a justices’ licence issued under the provisions of the Licensing Act 1964 at the time of his/her application;
 - the person has provided the justices’ licence or a certified copy of it and a photograph of him/her endorsed to the effect that it is a true likeness;
 - if applicable, the person has provided a statement giving details of any relevant or foreign offence of which they have been convicted;
 - the police have been given a copy of the application within 48 hours of the application being made; and
 - a) the police have not given an objection notice about the grant of a personal licence; or
 - b) the police have given an objection notice because of a conviction for an unspent relevant offence or a foreign offence, but the licensing authority has not considered it necessary to reject the application on crime prevention grounds; and
 - the applicant has paid the appropriate fee to the licensing authority.
- 4.3 In the case of an application for a personal licence under Part 6 of the 2003 Act, the requirements are that the applicant:
- must be aged 18 or over;
 - possesses a licensing qualification accredited by the Secretary of State (or one which is certified as if it is such a qualification or is considered equivalent) or is a person of a description prescribed by the Secretary of State by regulations (NB. Any such secondary legislation may be viewed on the DCMS website);
 - must not have had forfeited a personal licence within five years of his application; and
 - a) the police have not given an objection notice about the grant of a personal licence following notification of any unspent relevant offence or foreign offence; or

- b) the police have given an objection notice because of a conviction for an unspent relevant offence or a foreign offence, but the licensing authority has not considered it necessary to reject the application on crime prevention grounds; and
- the applicant has paid the appropriate fee to the licensing authority.

4.4 Any individual may apply for a personal licence whether or not he is currently employed or has business interests associated with the use of the licence. The issues which arise when the holder of a personal licence becomes associated with particular licensed premises and the personal licence holder is specified as the “designated premises supervisor” for those premises are dealt with in paragraphs 4.18 – 4.23 below. Licensing authorities may not therefore take into account such matters when considering an application for a personal licence.

Criminal record

- 4.5 In the context of applications made under Part 6 of the 2003 Act, the statute does not prescribe how any individual should establish whether or not he has unspent convictions for a relevant offence or foreign offence. In order to substantiate whether or not an applicant has a conviction for an unspent relevant offence, the Secretary of State would expect that all applicants (other than those exercising “grandfather rights” during the period of transition) be required to produce a Criminal Record Bureau certificate to the licensing authority. This applies whether or not the individual has been living for a length of time in a foreign jurisdiction. It does not follow that such individuals will not have recorded offences in this country. All applicants would also be expected to make a clear statement as to whether or not they have been convicted outside England and Wales of a relevant offence or an equivalent foreign offence. This applies to both applicants ordinarily resident in England and Wales as it does to any person from a foreign jurisdiction. Details of relevant offences as set out in the 2003 Act would be expected to be appended to application forms for the information of applicants, together with a clear warning that the making of any false statement is a criminal offence liable to prosecution. Relevant offences are listed in Annex C to this Guidance.
- 4.6 Licensing authorities are required to notify the police when an applicant is found to have an unspent conviction for a relevant offence defined in the 2003 Act or for a foreign offence.
- 4.7 Where an applicant has an unspent conviction for a relevant or foreign offence, and the police object to the application on crime prevention grounds, the applicant is entitled to a hearing before the licensing authority. If the police do not issue an objection notice and the application otherwise meets the requirements of the 2003 Act, the licensing authority must grant it.
- 4.8 The Secretary of State recommends that, where the police have issued an objection notice, refusal of the application should be the normal course unless there are, in the opinion of the licensing authority, exceptional and compelling circumstances which justify granting the application. For example, certain offences can never become spent. However, where an applicant is able to demonstrate that the offence in question took place so long ago and that he or she no longer has any propensity to re-offend, a licensing authority may consider that the individual circumstances of the case are so exceptional and compelling and any risk to the community so diminished that it is right to grant the application.

- 4.9 If an application is refused, the applicant will be entitled to appeal against the decision. Similarly, if the application is granted despite a police objection notice, the chief officer of police is entitled to appeal against the licensing authority's determination. Licensing authorities are therefore expected to record in full the reasons for any decision that they make.

Licensing qualifications

- 4.10 Details of licensing qualifications currently accredited by the Secretary of State will be notified to licensing authorities and the details may be viewed on the DCMS website.
- 4.11 From time to time, licensing authorities may also be concerned that documents and certificates produced as evidence of the possession of a licensing qualification may be forged or improperly amended. Contact points for issuing authorities regarding the possible forgery of qualifications are also given on the DCMS website. It also provides information about the core content of licensing qualification courses.
- 4.12 The Secretary of State intends to prescribe persons admitted to the Hon Company of the Vintners of the City of London as persons who will not need to possess the licensing qualification. Proof of admission to the Company will therefore be required by licensing authorities receiving such applications. In addition, holders of licences issued by the Board of the Green Cloth and by the University of Cambridge will be prescribed to enable such persons to apply for a personal licence before the second appointed day.
- 4.13 For the purposes of transition, Schedule 8 to the 2003 Act provides that existing holders of justices' licences do not need to hold a licensing qualification before being granted a personal licence. This is because the licensing justices, following a hearing, have already declared the individual concerned to be a "fit and proper" person to sell alcohol. Licensing authorities are not empowered to require such an individual to obtain a licensing qualification before applying for a personal licence during the transitional period. It may well be, of course, that some licensing justices may have required licensees to hold certain licensing qualifications as part of deciding that they are "fit and proper" to hold a licence.

Relevant licensing authority

- 4.14 Personal licences are valid for ten years unless surrendered or suspended or revoked or declared forfeit by the courts. Once granted, the licensing authority which issued the licence remains the "relevant licensing authority" for it and its holder, even though the individual may move out of the area or take employment elsewhere. The personal licence itself will give details of the issuing licensing authority.

Changes in name or address

- 4.15 The holder of the licence is required by the 2003 Act to notify the licensing authority of any changes of name or address. These changes should be recorded by the licensing authority. The holder is also under a duty to notify any convictions for relevant offences to the licensing

authority and the courts are similarly required to inform the licensing authority of such convictions, whether or not they have ordered the suspension or forfeiture of the licence. The holder must also notify the licensing authority of any conviction for a foreign offence. These measures ensure that a single record will be held of the holder's history in terms of licensing matters. Licensing authorities should maintain easily accessible records and maintain a service enabling the police in any area and other licensing authorities to be promptly advised of any details they require about the holder of the personal licence concerned which relate to the discharge of their licensing functions. The 2003 Act authorises the provision and receipt of such personal information to such agencies for the purposes of the Act.

Central database

- 4.16 The licensing authorities, supported by the Government, are considering the development of a central database which will, among other things, include details of all personal licence holders. Future developments relating to the creation of a central database will be reported on the DCMS website.

Renewal

- 4.17 Renewal of the **personal** licence every ten years provides an opportunity to ensure that the arrangements ensuring that all convictions for relevant and foreign offences have been properly notified to the relevant licensing authority have worked and nothing has been missed, and that all such convictions have been properly endorsed upon the licence. It also provides an opportunity to ensure that the photograph of the holder on the personal licence is updated to aid identification.

Designated premises supervisors

- 4.18 The sale and supply of alcohol, because of its impact on the wider community and on crime and anti-social behaviour, carries with it greater responsibility than that associated with the provision of regulated entertainment and late night refreshment. This is why a personal licence is required by individuals who may be engaged in making and authorising such sales and supplies. Not every person retailing alcohol at premises licensed for that purpose needs to hold a personal licence, but every sale or supply of alcohol must be at least authorised by such a licence holder. Any premises at which alcohol is sold or supplied may employ one or more personal licence holders. For example, there may be one owner or senior manager possessing a personal licence and several junior managers similarly qualified. The main purpose of the "designated premises supervisor" as defined in the 2003 Act is to ensure that there is always one specified individual, among these personal licence holders, who can be readily identified for the premises where a premises licence is in force. That person will normally have been given day to day responsibility for running the premises by the premises licence holder.
- 4.19 By specifying the premises supervisor in the premises licence, it will usually be clear who is in day to day charge of the premises. The Government considers it to be essential that police

officers, fire officers or officers of the licensing authority can identify immediately the designated premises supervisor as a person in a position of authority at any premises selling or supplying alcohol. They can do that because a copy of the licence must be held at the premises and a summary displayed. The premises licence will specify the name of the designated premises supervisor who is also a personal licence holder. This should ensure that any problems can be dealt with swiftly by engaging with this key individual. It is stressed that only one designated premises supervisor may be specified in a single premises licence.

- 4.20 In addition, the police are able to object to the designation of a new premises supervisor where, **in exceptional circumstances**, they believe that the appointment would undermine the crime prevention objective. Police objection is permitted where, for example, a particular designated premises supervisor is first appointed or transfers into particular premises and the presence of that individual in combination with particular premises gives rise to exceptional concerns. For example, this could occur where a personal licence holder has been allowed by the courts to retain his licence despite convictions for selling alcohol to minors (a relevant offence) and he then transfers into premises with some degree of notoriety for underage drinking.
- 4.21 Where the police do object, the licensing authority must arrange for a hearing at which the issue can be considered and both parties can put their arguments. The 2003 Act provides that the applicant may apply for the individual to take up his post as designated premises supervisor immediately and therefore, in such cases, the issue would be whether the individual should be removed from this post. The licensing authority considering the matter **must** confine their consideration to the issue of crime and disorder. They should give comprehensive reasons for their decision and either party would be entitled to appeal if their argument is rejected.
- 4.22 The portability of personal licences from one premises to another is an important concept within the 2003 Act. The Secretary of State expects that objections by the police on the specification of the designated premises supervisor would arise in only genuinely exceptional circumstances. An objection made routinely in individual circumstances that could not be regarded as exceptional would not be in accordance with the 2003 Act. If a licensing authority believes that the police are routinely objecting on un-exceptional grounds, they should raise the matter with the chief officer of police as a matter of urgency. The 2003 Act provides for the suspension and forfeiture of personal licences by the courts following convictions for relevant offences, including breaches of licensing law. The police can at any stage after the appointment of a designated premises supervisor seek a review of a premises licence on any grounds relating to the licensing objectives if anxieties arise about the performance of such a supervisor. The portability of personal licences is also important to industry because of the frequency with which some businesses move managers from premises to premises. It is therefore not expected that licensing authorities or the police should seek to use the power of intervention as a routine mechanism for hindering the portability of a licence or use hearings of this kind as a fishing expedition to test out the individual's background and character. The Secretary of State therefore expects that such hearings should be rare and genuinely exceptional.
- 4.23 Where a designated premises supervisor is to be newly specified, the normal course is for the premises licence holder – perhaps a supermarket chain or a pub operating company – to apply to the licensing authority (including an application for immediate effect) accompanied by a form of consent by the individual concerned to show that he consents to taking on this

responsible role; and to notify the police of the application. The whole premises licence does not have to be provided for amendment. The 2003 Act provides that a part of the licence may be submitted with the application. Ideally, this will require submission of a schedule to the main licence giving personal details of key individuals. This should be amended by the licensing authority and returned following receipt. In circumstances where the police do object to the specification see paragraph 4.21 above.

Convictions and liaison with the courts

4.24 Where a personal licence holder is convicted by a court for a relevant offence, the court is under a duty to notify the relevant licensing authority of the conviction and of any decision to order that the personal licence be suspended or declared forfeit. The sentence of the court has immediate effect despite the fact that an appeal may be lodged against conviction or sentence (although the court may suspend the forfeiture or suspension of the licence pending the outcome of any appeal). On receipt of such a notification, the licensing authority should contact the holder and request his licence so that the necessary action can be taken. The holder must then produce his licence to the authority within 14 days. It is expected that the chief officer of police for the area in which the holder resides would be advised if he or she does not respond promptly. On receipt of the licence, the details of the conviction should be recorded in the authority's records and endorsed on the licence, as should any period of suspension if so ordered. The licence should then be returned to the holder. If the licence is declared forfeit, it should be retained by the licensing authority.

Relevant offences

4.25 Relevant offences are set out in Schedule 4 to the 2003 Act and the Schedule is reproduced at Annex C.