

LICENSING Countdown



Keeping you informed throughout the implementation of the Licensing Act 2003.

MAY 2005

Don't be caught out

Don't miss out – there are several reasons why now is a good time to apply for licences under the new laws.

Applicants have until 6 August to change to new premises and personal licences under "Grandfather rights" – the rights they already have, such as existing opening hours.

Existing licence and certificate holders who haven't applied by this date will need to make a new application if they want to continue licensable activities after the "second appointed day" (the day when the new Act becomes law and the old Act expires, currently expected to be November 2005). Existing licences or certificates will no longer be valid at that point, even if they have previously been renewed until 2007.

Time limits under the Act protect applications to convert "Grandfather rights" if they are not processed within two months, but this does not apply to the variation of existing conditions. This will affect the majority of existing licence holders.

If applicants leave it too late, they may find they are unable to secure their changes before the "second appointed day".

In contrast, those applying now will avoid the rush of applications in the summer and minimise the risk of not being able to take immediate advantage of the new laws. They may also find that, as the flood of early applications predicted by some has not materialised, licensing authorities are able to devote more time to help guide them through the application process.

Businesses that do not have a licence which can be converted, such as late night takeaways outside London, will also need to apply in good time for the "second appointed day".

DCMS is monitoring the implementation of the Act during this transition period and has produced a feedback form to let authorities report on progress.

In addition, a high level group has been established to monitor implementation of the new law and coordinate action across



all stakeholders if problems occur. It includes representatives from local and central government, industry and the police.

The benefits are clear. Why risk your business? Fill out your form today.

Licensing authorities are keen to help applicants:

■ Sharon Davies, Licensing Officer in **Blackpool** said: "We've done a lot of work publicising the changes and are taking a common sense approach to applications. Out of 118 premises applications we've only had to return one that was filled out incorrectly, so applicants shouldn't be afraid to apply now."

■ **Canterbury** City Council Licensing Manager, Jim Ratchford, said: "The

council is here to help, and although we can't actually fill the forms in for people, we will give whatever advice we can.

However, firstly, we would urge current licence holders to apply for their personal licences. It's easy, and we should be able to process them quickly."

■ As well as holding licensing surgeries, **St Albans** City Council is asking the Magistrates Court to write to existing licence holders, explaining that their licences will expire on the second appointed day and how to convert to the new system.

■ In **Swindon**, the Local Authority is providing open advice sessions for the voluntary and registered clubs sectors and appointments to help individual applicants fill out forms. They are also helping to reduce costs for applicants by providing them with pale blue paper for notices on premises.

■ **Wakefield** Local Authority is making the process easier by enclosing sheets of address stickers for the relevant responsible authorities, with its guidance for applicants.

Application forms are available from licensing authorities or from the DCMS website in PDF and Word formats, and can be downloaded and filled in electronically: www.culture.gov.uk/alcohol_and_entertainment/LicensingAct2003App



Frequently asked Questions

In this issue we discuss application forms, advertising and hearings

Q. *What changes can licensing authorities make to the forms?*

A. The forms and their contents can only be amended by the Secretary of State. Licensing authorities cannot alter the content, ordering of the questions or layout. They can, however, alter the font used on the forms, for example following a request for larger print. Forms do not need to be on a particular colour of paper (as they do for notices on the premises).

Q. *Do I have to use my licensing authority's application forms?*

A. No. You can use any forms that comply with the requirements set out in the legislation, including those available from the DCMS website, or from any licensing authority.

Q. *Can licensing authorities alter the forms to allow electronic signatures?*

A. Yes. If licensing authorities want to receive electronic forms they can amend the forms found on the DCMS website so they can accommodate electronic signatures. However, licensing authorities and applicants must be aware that an application is not made until the accompanying fee, plan or other documentation has been received by the licensing authority.

Q. *If I'm varying my licence to extend my hours, do I need to state my existing hours in the newspaper advertisement?*



A. Not necessarily. You need to briefly describe the proposed changes. If you want to extend your hours, the advertisement should indicate what hours you wish to extend and by how much.

Q. *Does it need to go in the public notices section of the newspaper?*

A. There is no requirement in the legislation for the advertisement to be placed in any particular section of the newspaper.

Q. *What happens at a hearing?*

A. Hearings will normally take the form of a discussion and will be led by the relevant licensing authority. Members of the licensing authority may ask any question of any person appearing at the hearing. Each party will be given an equal amount of time to: i) address the authority, ii) to question any other party if given permission by the authority to do so, and iii) to clarify points in an application, notice or representation.

Q. *Can I question another party during a hearing?*

A. Cross-examination of another party during a hearing is not permitted, unless the licensing authority considers that cross-examination is required for it to consider the representations, application or notice.

Q. *Can supplementary evidence be produced at a hearing?*

A. A licensing authority can consider supportive evidence produced by a party at the hearing, if all parties agree.

Q. *Do accounts of hearings need to be recorded verbatim?*

A. No, a record in a 'permanent and intelligible form' of the hearing should be kept but it doesn't need to be a word-for-word transcript.

Police get their Act together



Police forces across England and Wales are currently preparing to take on the new responsibilities granted to them under the Licensing Act 2003.

In Essex, the police have teamed up with 14 Local Authorities in the county to establish a 'Joint Licensing Officers Forum'. The group have agreed a licensing protocol and are developing a similar approach to enforcement.

In particular they are developing internal policies, updating IT systems that hold information about licensing, and ensuring there is adequate support for police officers. Thirteen extra staff have been employed to manage applications, and training for all existing staff will take place later this year.

Sergeant Nigel Dermott, licensing project manager at Essex Police said: "The support of Chief Officers has been first class and this means the level of service to licensees will help ensure Essex is a safer place to live. I am confident that provided we communicate with the trade our objectives will be met and transition should pass with little effect noticed by the community at all."

In line with the licensing objectives, Essex Police are now working with their partners on a 'Safer Bars Award' scheme. This five-star accreditation of the industry will develop best practice and raise the status of door staff.

Securing public safety

Fire and rescue authorities have a dual role under the new Licensing Act. They can comment on, or object to the granting or review of a premises licence, club premises certificate or provisional statement.

Their inspectors can also carry out inspection and enforcement roles. This helps promote public safety and ensures adequate measures are taken to minimise the fire risks associated with all licensable activities.

Each applicant should detail how they intend to promote the four licensing objectives, including public safety, in their application. Applicants should assess the fire risks to their premises, and consider the measures necessary to avoid and control them. Where a fire risk assessment already exists, it should be reviewed to ensure it takes account of any proposed variations that may be applied for. Any conditions incorporated into a licence or certificate become enforceable under law.

Fire and safety authorities will use information on the application together

with their knowledge of the premises to assess fire safety provisions. If they believe the public safety objective is not being met, they can approach the licensing authority, who may then attach conditions to the licence.

Further information about promoting public safety is available in Annex E of the Secretary of State's Guidance to licensing authorities.

Fire safety advice can be obtained from your local Fire Authority.

For contact details visit: www.fire-uk.org/UK_Fire_Services.htm. Fire risk assessment information can be obtained from: "Fire Safety: An Employers Guide" (ISBN 0 11 341229 0) or at: www.archive.officialdocuments.co.uk/document/fire/index.htm



Preventing pub crime



Alcohol related crime and disorder is not only high on the Government's agenda. Landlords who want to promote a sensible drinking environment are doing a great deal to tackle such problems through the work of local pubwatch schemes.

Pubwatch is a voluntary crime prevention scheme organised by the licensed trade. It aims to provide a voice for licensees and create a safe environment for pub customers and employees. Members agree acceptable standards of customer behaviour, and establish common policies to deal with the minority who ignore them. They use local knowledge and work with the police to target problems at their source.

It is in every licensee's interest to ensure the public can drink safely, and the Licensing Act offers a fresh opportunity for

licensees to look at the way they run their business. Pubs that want to open later will have to show how they intend to prevent crime and disorder and public nuisance. Malcolm Eidman, Secretary of National Pubwatch would like to see more bars, pubs and clubs signed up to their local scheme. He said:

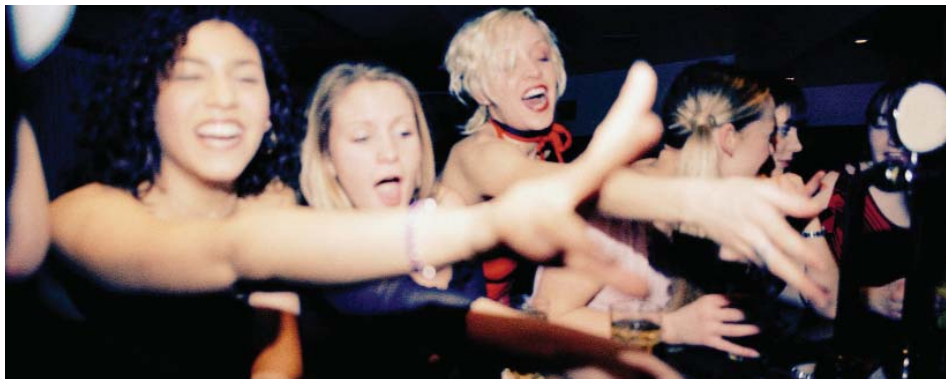
"The changes arising from the 2003 Act mean it is important to work with Local Authorities. Although this happened before, more and more Local Authorities are now seeking to support and encourage such schemes. Brewers Greene King Pub Company are taking this on board by requiring all their pubs to be members of a pubwatch scheme by the end of the year."

Bernie Miles, Chair of the award winning Monmouth Pubwatch, is confident that pubwatch complements licensing reform:

"Our pubwatch has grown in strength, and has earned the respect of the local community. New licensees want to get involved too, which is great, as you need to have agreement from everyone to make it work."

Most areas in England and Wales have a local pubwatch scheme, and if your area hasn't, it's easy to set one up. Pubwatch has produced a best practice guide for anyone wanting to establish a scheme.

For details visit:
www.nationalpubwatch.org.uk



Diary of events

7 - 8 June

The Bar Show at Earls Court, London
(www.barshow.co.uk)

21 - 23 June

'Delivering the Vision' Trading Standards conference at the Metropole hotel, Brighton (www.tsi.org.uk)

5 - 8 July

Local Government Association Annual Conference at the Harrogate International Centre (www.lga.gov.uk)

KEY DATES TO REMEMBER

6 August 2005

Last date on which applicants / clubs can exercise their right to apply to convert existing licences to premises licences and club premises certificates

November 2005

Second appointed day. End of old licensing laws. New premises licences and club premises certificates given effect.



Facing the music

The Welsh Music Foundation (WMF) recently hosted a series of free seminars to help Wales's vibrant live music scene make the most of licensing reform. The seminars in Bangor and Cardiff brought together venue managers, promoters and festival organisers, local government representatives and the police.

Guest speakers included Feargal Sharkey, Chair of the Live Music Forum, who spoke about the forum's efforts to promote live music, encourage take-up of reforms, and their ongoing research into the Act's impact on live music. A DCMS presentation focused on the wider aims, including the more varied night-time economy that reform will bring. Licensing officers from Pembrokeshire, Conwy and Denbighshire explained how the new laws were being implemented locally.

Other speakers included Paul Gray from the Musicians' Union and Sue Sheath from the Security Industry Authority. Sergeant

Mike Hill from South Wales Police highlighted the Act's prevention of crime and disorder objective. He believes that premises in Cardiff offering a range of licensable activities, such as live music, would be less likely to attract objections from the police.

Andy Williams, Music Development Officer at WMF said: "The implications of the Act are far-reaching and it is essential that accurate information is available to licensees, promoters and anyone else involved with live music in Wales."

WMF works with small and medium-sized enterprises, providing free advice and business support for any music-related business in Wales. WMF is also keen to work with local authorities to promote live music provision. Core-funded by the Welsh Development Agency, its staff and board come from a music industry background and include some of Wales's most successful music industry personnel.



For information about WMF, visit: www.welshmusicfoundation.com

Live Music – your step-by-step guide



Live music can be good for business and give you the edge over your competitors. It can attract more customers, create atmosphere and ultimately increase profits.

Last year's MORI research showed that small venues in England and Wales, whose main business wasn't live music, had staged an estimated 1.7 million live music events in the previous year.

However, MORI's survey showed that there are many potential venues that have not thought about putting on live music. Changing the licensing process will make it more straight forward for those who want to.

The Musicians' Union (MU) is making this step even easier, by producing the 'Live Music Kit' – a step-by-step guide for venues thinking about putting on live music for the first time, thanks to the new law. The Live Music Kit contains information about:

- how to apply for live music
- how to source local professional acts
- how to contract musicians
- how to match an act to a venue
- promotional tips
- payment of artists

- PRS / PPL requirements
- health and safety issues
- public liability insurance details
- temporary event notices

If licensees convert their existing licences before 6th August, they can add live music at the same time, at no extra cost.

However, if they decide to change their licences later, they will have to pay a variation fee. MU General Secretary, John Smith said "I urge existing licensees to include entertainment in their application, so they can keep costs down".

Postcards have been sent to over 35,000 licensees in England and Wales advising them that the live music kit is available. Applicants and other interested parties can download an online version of the kit from the MU website: www.musiciansunion.org.uk

A greater say for local people

The new law gives local people a greater say than ever before in the licensing decisions that affect them. They can either voice their concerns directly to their licensing authority (usually the Local Authority) or ask others, such as solicitors or local councillors, to do so on their behalf.

Licencees have until 6th August to convert their existing licence to one that will be valid under the new system. Many licencees will also take the opportunity to apply to extend their opening hours, or to offer new services to their customers, such as live music.

What residents and businesses should be looking out for

- Every three years, licensing authorities will publish a "licensing policy statement", which sets out how they will run the licensing regime in their area. They are required to consult local people before they publish it.
- Applicants have to display a pale blue notice at their premises for 28 days if they want to vary their existing licence or certificate, or apply for a new one.
- Licensing authorities will keep a register with a record of all the licensing applications they receive. Anyone can check information on the register during office hours.
- Applicants have to place a notice in a local newspaper or circular if they want to vary their licence(s) or certificates, or when they apply for a new licence or certificate.

If local residents or businesses have concerns about a licence application they usually have 28 days to make an objection in writing to the relevant licensing authority. This will commonly be through a letter, although some authorities may also accept emails. Licensing authorities do not have to consider comments if they think they are 'repetitious' 'vexatious' or 'frivolous'. Objections should address the likely effect on the prevention of crime

and disorder, public safety, the prevention of public nuisance or the protection of children from harm.

Once a licensing authority has considered comments, and following any hearing, it can:

- either grant or vary what the licensee has applied for;
- refuse the application;
- refuse to specify the person who will be responsible for running the premises;
- exclude an activity from the licence;
- grant or vary the licence, subject to conditions.

Where residents or businesses have objected and their views have been considered, they are still entitled to appeal against licensing authority decisions about the application. If problems arise once a licence is granted, local residents and businesses, and "responsible authorities", such as the police, can ask the licensing authority to review it. Following a review, the licensing authority can change conditions attached to the licence, remove the person who is responsible for managing the venue, suspend the licence for up to three months, or cancel it altogether.

Permitted temporary activities

Under the Act, organisers of small, ad-hoc events, such as school fêtes, may not require a premises licence. Instead, they can give a temporary event notice (TEN), which gives people greater flexibility to put on small events without the red tape. Given that such events are unlikely to cause problems, local residents and businesses cannot object to TENs. However, as a safety net, the police and environmental health officers retain certain powers to close the event down if problems occur. There are also restrictions on TENs. For more information visit the DCMS website.

For further information about making representations and seeking reviews, contact your local licensing authority or visit: www.culture.gov.uk/alcohol_and_entertainment/licensing_act_2003/making_representations

The Civic Trust and Institute of Alcohol Studies have also produced a residents' and neighbours' guide, which is available at: www.ias.org.uk



Next issue – June 2005. For more information about the Licensing Act 2003 and how it will affect you, visit our website at www.culture.gov.uk. If you have any comments or suggestions for articles email: licensing.newsletter@culture.gsi.gov.uk

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