

DCMS publish draft fees

The proposed fee levels for the new licensing regime have been published for public consultation. The fees will cover the administration, inspection and enforcement costs under the 2003 Act. Full details of the proposed fee levels are available on the DCMS website: www.culture.gov.uk/alcohol_and_entertainment. Responses can be e-mailed to feesconsultation@culture.gsi.gov.uk or sent to: The Alcohol and Entertainment Licensing Branch, Tourism Division, 3rd Floor, DCMS, 2-4 Cockspur Street, London SW1Y 5DH. **The consultation closes on 23rd December.**

Main draft fees at a glance

Band*		A	B	C	D	E
Non domestic rateable value		None-£4,300	£4,301-£33,000	£33,001-£87,000	£87,001-£125,000	£125,001 +
Premises Licence & Club Premises Certificate	Conversion (inc variation); new application; variation	£80	£150	£250	£350	£500
	Annual charge	£40	£125	£175	£200	£225
Personal licence		£37		Temporary event notice		£21

*there will be a separate scale for large scale events (6,000+ people)



Caborn's Column

"How much will a licence cost?" I have been asked this question often since becoming Licensing Minister and I know how important it is to businesses and members' clubs, local authorities and others who are trying to plan budgets and resources. I am therefore pleased we have been able to announce proposed fee levels and I welcome the views of all those who will be affected.

Calculating the costs of a new regime can never be an exact science, but our proposals are based on our best estimates of the costs after talking to the Local Government Association. I am confident that they will enable local authorities to

fund their licensing functions and their related functions as responsible authorities under the Act. It is important to remember that fees will not cover existing statutory duties, such as health and safety or environmental health, for which local authorities are already funded. Fees can only cover additional work in these areas resulting from the 2003 Act and cannot, by law, be used to raise revenue, or for the costs associated with the development of the wider night-time economy.

Some local authorities have told me they are worried that the fees won't cover enforcement costs. This is not the case. While the new regime will be significantly less bureaucratic and much more efficient, the total level of income from fees over the next four years will be similar to that from the existing regimes. We believe this will release significant resources which authorities can spend on their enforcement effort. Together with predicted savings in police time spent on administration compared to the old licensing processes, we estimate that over the first three years of full operation, there could be around £80 million available for enforcement that was previously tied up in administration and bureaucracy.

The fee levels do not allow for any routine approaches to inspection and enforcement. Instead, they reflect the approach set out in the Guidance for targeted enforcement, based on local knowledge and intelligence about problem premises. In addition, licensing authorities will have no enforcement costs until after the period of transition. There will therefore be excess revenue during this period that can be devoted to pump priming the new system.

The licensing fees will be significantly less than the current regime for those who wish to put on live music and other forms of regulated entertainment. And all businesses will benefit from the abolition of the time consuming renewal process and associated costs for administration and professional advice.

I believe we have produced fee proposals which are fair and based on a realistic estimate of the costs of the new regime. As a further safeguard, we remain committed to an independent review once the system is in operation and are prepared to adjust fee levels should that prove necessary. ■



Each **Licensing Countdown** will feature 'Frequently asked Questions' In this issue we discuss personal licences and qualifications

Q. *What's the purpose of a personal licence?*

A. It authorises an individual to supply alcohol, or authorise the supply of alcohol, in accordance with a premises licence or temporary event notice.

Q. *Do all the staff in my pub need to hold a personal licence?*

A. No. Other than the designated premises supervisor (DPS), no one is required to hold a personal licence to work in any licensed premises. However, every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Q. *Does there always have to be a personal licence holder / DPS on the premises in order to authorise a sale?*

A. There is nothing in the 2003 Act that requires the DPS to be on the premises at all times when alcohol is being sold. What will be essential is that the DPS is contactable, particularly should problems arise with the premises.

The fact that every supply of alcohol must be authorised by a personal licence holder does not mean that only personal licence holders can make such sales or must be personally present at every transaction. A personal licence holder may, for example, authorise members of staff to make sales of alcohol during the course of an evening. It would be expected that the personal licence holder would be available on the premises, but may be absent at times when transactions take place. However, the personal licence holder will not be able to escape responsibility for the actions of those he authorises to make such sales. Ultimately, it would be for the courts to determine whether the frequency or length of a period of absence meant that the personal licence holder could not, in effect, have authorised the sale.

Q. *Should a licensee employ more than one personal licence holder?*

A. This is an operational decision for the premises licence holder. Licensees may wish to have more than one personal licence holder in case a new DPS has to be appointed at short notice and to allow greater flexibility in fulfilling the

requirement for every alcohol sale to be made or authorised by a personal licence holder.

The aim of personal licence training is to ensure licence holders are aware of licensing law and the wider social responsibilities attached to the sale of alcohol. Some licensees may therefore consider it appropriate to have more than one personal licence holder in order to promote one or more of the four licensing objectives. It should be stressed, however, that a personal licence is not a qualification that is associated with business competency and other forms of training should be considered alongside the personal licence.

Q. *How do I qualify for a personal licence?*

A. To qualify for a personal licence you must be aged 18 or over; have not forfeited a personal licence within five years prior to making the application; have not been convicted of any relevant or foreign offence; and you must possess an accredited licensing qualification.

Q. *How do I obtain the necessary qualification for a personal licence?*

A. The Secretary of State will accredit licensing qualifications and the bodies who will be able to award these. At the time of writing, courses are in the development stages but none have been submitted for approval by the Secretary of State. Details of accredited qualifications and awarding bodies will

be posted on the DCMS website in due course. The Secretary of State is expected to set common and fair standards for qualifications and awarding bodies by requiring them to be accredited by the Qualifications and Curriculum Authority (QCA) or the Qualifications Curriculum and Assessment Authority for Wales (ACCAC).

Q. *How do I convert my existing justices' licence to a personal licence?*

A. The Act makes transitional provision for holders of justices' licences to apply for a personal licence without needing to possess a licensing qualification. The provisions will apply to applications made between 7th February 2005 and 6th August 2005. This recognises that justices' licence holders have already satisfied the licensing justices that they are 'fit and proper persons' to sell alcohol. Details of the application requirements can be found on the DCMS website.

Q. *Can I apply for a new personal licence during the transitional period?*

A. A person who is not currently a justices' licence holder may apply for a personal licence in accordance with the provisions of Part 6 of the Act. Any personal licence issued takes immediate effect. However, the authorisation given by the licence has no practical effect until the second appointed day when premises licences will have effect and the provisions of the Act will be fully implemented.



Further information about personal licences can be found in Part 6 of the Act, Part 3 of Schedule 8 to the Act and Section 4 of the Guidance.

Time to take notice

In a similar campaign to that which accompanied the Brewster renewals, magistrate courts will soon start issuing notices to everyone applying for "occasional licences" and "occasional permissions" under the present licensing system, to alert them to the changes under the Licensing Act 2003. The new licensing regime will streamline the system of occasional licences and occasional permissions granted in connection with short-term alcohol and public entertainment licensing, into a single "light touch" system for permitted temporary activities. The new provisions will apply to the supply of alcohol, the provision of regulated entertainment and also the provision of late night refreshment.

The effect of these reforms is to minimise the regulatory burden on occasional, small events, which are unlikely to give rise to problems. It will be of particular benefit to community groups and bodies, who organise events that include licensable activities, such as a bar at a school fete. The key feature of permitted temporary activities is that no authorisation as such is required. The system involves giving notification of an event, in the form of a temporary event notice (TEN), at least 10 working days before the start of the temporary event, to the relevant licensing

authority (usually the local authority in which the temporary event is being held) and the police. TENs are subject to certain limitations. These are:

- The maximum number of people attending at any one time (no more than 499).
- The number of times a person (the "premises user") may give a temporary event notice (50 times per year for a personal licence holder and 5 times per year for other people).
- The number of times a temporary event notice may be given in respect of any particular premises (12 times in any calendar year).
- The length of time an event may last for these purposes (96 hours).
- The maximum aggregate duration of the periods covered by temporary event notices at any individual premises (15 days).

In any other circumstances, a premises licence or club premises certificate would be required. So, for example, people wanting to organise week long events, or events for more than 499 people, involving licensable activities, will need a premises licence or club premises certificate. It is anticipated that the draft Regulations concerning temporary event notices will be released for public consultation in March 2005.



For more information about permitted temporary activities and temporary event notices, visit www.culture.gov.uk/alcohol_and_entertainment/licensing_act_2003.

PROPOSED TIMETABLE FOR REFORM

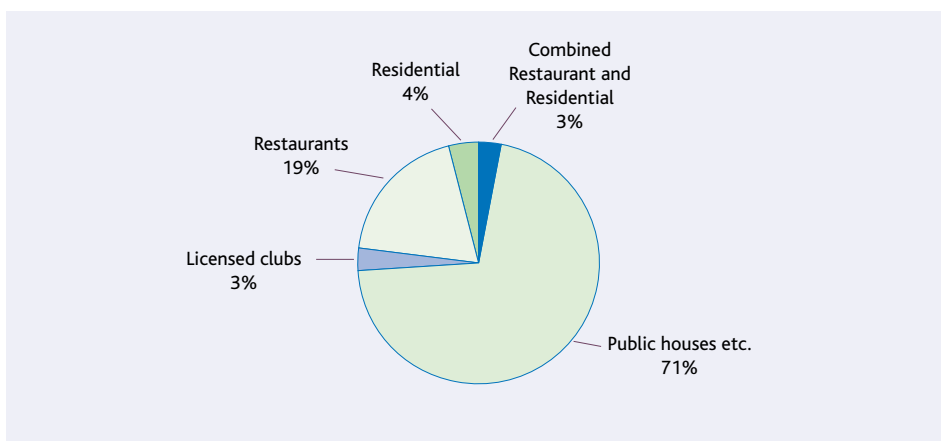
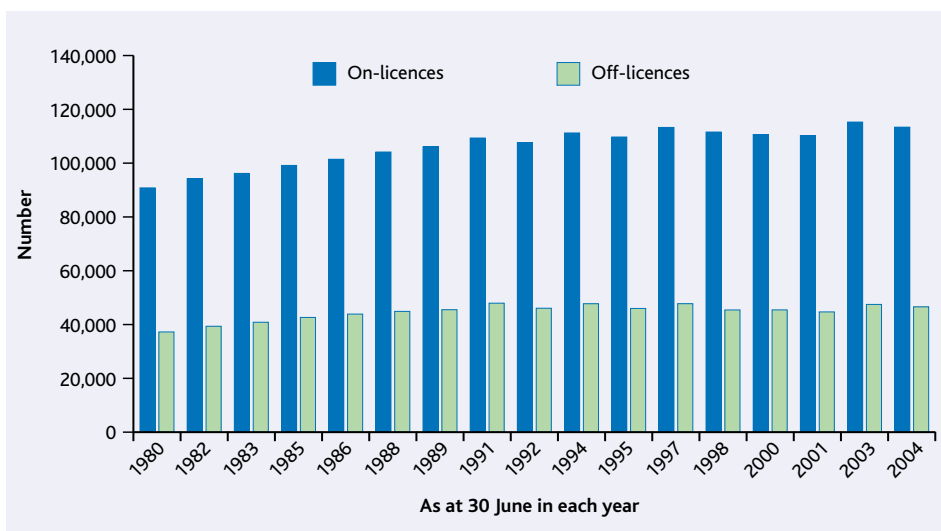
10th July 2003	7th July 2004	15th September 2004	4th November 2004	10th November 2004	23rd December 2004	7th January 2005	7th
The Licensing Act 2003 receives Royal Assent.	DCMS issue Guidance under section 182 of the Act. Licensing Authorities begin preparing and consulting on policy statements.	DCMS begins consultation on draft regulations (except for fees).	DCMS begins consultation on fees.	Consultation on draft regulations (except for fees) ends.	Consultation on fees ends.	Start of 'three year period'. Licensing Authorities must have published their licensing policy statement by this date.	First
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Alcohol licensing today

On 27 October DCMS published the most comprehensive statistical data relating to the state of alcohol licensing in England and Wales. The bulletin forms part of the latest triennial reporting cycle and includes the number of licensed premises, special hours certificates, occasional permissions, children's certificates and revoked licences in the twelve months up to the end of June 2004. Statistics are compiled from magistrates' courts existing licensing registers and provide a valuable snapshot of alcohol licensing, which may be compared with previous years.

Key data from 2003/2004 report:

- The total number of on-licensed premises at 30 June 2004 was 113,000, about 5,700 (5 per cent) more than twelve years ago but down by about 1,900 (2 per cent) since 2003. There is a gradual ongoing upwards trend despite some small fluctuations.
- The number of off-licensed premises at 30 June 2004 was 46,600. This number has fluctuated slightly over recent years with no clear trend.
- There were just over 5,000 new applications for on-licences and about 2,950 new applications for off-licences in the year to June 2004. In both cases over 19 out of every 20 applications were granted.
- Some 350 licences were revoked in the year to June 2004, of which 270 were on-licences.



- At 30 June 2004 there were 12,200 Special Hours certificates in force. During the previous twelve months nearly 1,900 new certificates were granted.
- 55,000 occasional permissions were granted to 25,000 organisations.

Following the implementation of the Licensing Act 2003, licensing authorities will be required to keep a register of information, set out in section 8 of and Schedule 3 to the 2003 Act as well as

Regulations, which will include a record of each premises licence, club premises certificate and personal licence issued by it, and each temporary event notice it receives. This data will provide vital statistical information on the effect of the Licensing Act.

To view the report in full, visit the DCMS website: www.culture.gov.uk/global/research.

Data are next scheduled for release in Autumn 2007.

February 2005	March 2005	November 2005
Appointed Day. Licensing authorities begin processing applications.	Consultation on draft regulations on permitted temporary activities.	Second Appointed Day. End of old licensing laws. New premises licences and club premises certificates given effect.

Licensing update

During the first week of November the British Institute of Innkeeping (BII) and the British Beer and Pub Association will publish a licensing 'fact sheet' about licensing authorities' draft statements of licensing policy. This is the first of two fact sheets designed to help guide licensees through the licensing process. It emphasizes the importance of responding to licensing authorities' consultations on draft policies and gives advice to licensees about how to respond and what they

should be looking out for. The fact sheet will be made available on the BII website: www.bii.org, and in hard copy on request: 01276 684 449.

The second fact sheet will focus on the Regulations and will be published later this year. The BII will also be producing a 2nd edition of 'How to get the most out of the Licensing Act – a licensee's guide'. In the meantime, the 1st edition of the guide is available to download from their website.

SIA – Creating a safer night time environment



Under the terms of the Private Security Industry Act 2001, certain people working in the private security industry in England and Wales, which includes all door supervisors at pubs and clubs, need to be licensed by the Security Industry Authority (SIA). There are some exceptions to this requirement, such as those relating to premises staging plays (e.g. theatres), exhibiting films or clubs with a club premises certificate. The introduction of SIA licensing for door supervisors is currently being phased in on a regional basis, and will be fully implemented by 11 April 2005.

Home Office Ministers stated in Parliament during the passage of the 2001 Act that SIA licensing does not apply to people who perform security duties that are incidental to their main employment. This

includes licensees and bar managers who respond to a sudden or unexpected occurrence in their premises. Stewards and other persons whose role it is not to carry out a security activity but to provide directions or to collect tickets from those visiting premises, do not need to be registered with the SIA.

There are considerable overlapping objectives for the SIA, local authorities, the police and licensees, to promote public safety under the new regime. As town and city centres become increasingly popular, police services are becoming more tightly focussed to create a safer night-time environment. Under SIA licensing it is anticipated that professionally trained door supervisors will provide a higher profile of security and safety. Licensees risk committing an offence if they use unlicensed door

supervisors if required to do so by their licence under the Licensing Act 2003.

The SIA also work collaboratively with licensing officers, with excellent results. For example, the SIA recently met the Cornwall Licensing Officers Group and were able to provide information, answer questions and listen to local concerns and suggestions. Where local authorities have worked in partnership with the SIA about local concerns, the tourist industry, or problems faced by individuals in getting licensed, the uptake of licensing has been increased dramatically.

For further information on the Private Security Industry Act 2001, and how it affects you, visit the SIA website: www.the-sia.org.uk or e-mail: info@the-sia.org.uk; or phone: 08702 430 100

EHPs prepare for reform

Environmental Health departments have a dual role under the Licensing Act 2003. When an application is made for the grant, variation or review of a premises licence or club premises certificate, a copy must be sent to the relevant Environmental Health department, who, as part of the application process, are able to make representations as "responsible authorities". In addition to this, whilst a licence or certificate is in force, Environmental Health Practitioners (EHPs) are also empowered by the Act to carry out inspection and enforcement roles, as "authorised persons".

The Act does not replace or override existing environmental health provision, nor does it restrict or limit the use of existing EHP powers of inspection or enforcement,

for example, in respect of statutory nuisance under the Environmental Protection Act 1990. Instead, the Act provides an additional layer of scrutiny whereby EHPs' expertise can be brought in to consider the implications on the grant or review of an authorisation.

Where current EHP powers do not adequately cover specific activities that arise at licensed premises, supplementary conditions can be attached to the licence. However, such conditions must be necessary for the promotion of the licensing objectives and cannot be used to enforce other statutory responsibilities.

To ensure a smooth transition, it is vital that EHPs understand the requirements of

the new regime and the likely implications for their role. The Chartered Institute of Environmental Health (CIEH) have organised a series of one day seminars to prepare EHPs for the implementation of the Act. The first seminar took place on 21st September and the two remaining seminars take place on Wednesday 10th November in Birmingham and Thursday 18th November in Leeds.

A joint leaflet, setting out the implications of the Licensing Act 2003 with regard to health and safety at work has been produced by LACORS and the CIEH. Details are available on the CIEH website: www.cieh.org.

Forum engage in consultation

Feargal Sharkey, Chair of the Live Music Forum, has written to every local authority chief executive and arts officer in England and Wales, to draw attention to the importance of live music. The letter, supported by LACORS and the LGA, urges authorities to take advantage of the 'unique opportunity' provided by the 2003 Act and to adopt the recommendations in the Guidance to encourage and promote live music when drafting their licensing policy statements.

The letter recognises that many local authorities have responded in a 'positive and impressive manner' and appeals to those authorities still considering their draft licensing policy statements, not to close the door on live music, and to incorporate flexibility in to their policies.

"Live music does play an extraordinarily significant role in all of our lives, culturally and economically. It would indeed be a remarkable achievement if over the next few years, through all of us working together, we were able to push that figure of 1.7 million live music events closer to 2 million. For audiences, musicians and local economies alike, that could only be a good thing."

The recent MORI live music survey showed that there have been an estimated 1.7 million live music events throughout England and Wales, and 47% of the establishments interviewed have provided at least one live music event within the last 12 months.

A full copy of Feargal's letter can be found at the DCMS website: www.culture.gov.uk/creative_industries/music/default.htm.



Diary of events

4 November

Richard Caborn speaking at The Publican Conference at the Queen Elizabeth Conference Centre [www.thepublican.com]

8 November

Post Alcohol Misuse Enforcement Campaign Conference, at the Hilton, Park Lane
[michelle.agostino@homeoffice.gsi.gov.uk]

10 November

Chartered Institute of Environmental Health seminar: 'Last Orders: Preparing EHPs for the implementation of the Licensing Act 2003' in Birmingham [k.eliot@chgl.com]

13 November

Launch of the Live Music Kit at Music Live, NEC Birmingham
[www.musiclive.co.uk]

16/17 November

Federation of Licensed Victuallers Associations AGM at the Hotel St Nicholas, Scarborough [www.flva.co.uk].

17 November

Richard Caborn speaking at the Responsible Drinks Retailing Awards Luncheon at the Carlton Towers Hotel.
[www.responsible drinksretailing.co.uk]

18 November

Chartered Institute of Environmental Health seminar: 'Last Orders: Preparing EHPs for the implementation of the Licensing Act 2003', in Leeds. [k.eliot@chgl.com]

23 November

Andrew McIntosh speaking at the Business in Sport and Leisure Annual Conference at the Royal Lancaster Hotel, Hyde park. [www.bisl.org]

23 November

Civic Trust Conference: All Night Long – What's the future for England's Evening Economy, at Regent's College
[www.civictrust.org.uk]

28 November – 2 December

Institute of Licensing Annual Conference at the Grand Hotel, Blackpool [www.regonline.com to book / Jeffrey.leib@watford.gov.uk for info].

8th December

Health and Safety Executive / Local Authority Enforcement Liaison Committee (HELA) conference 2004 'The New Partnership' at the Queen Elizabeth Conference Centre [www.hse.gov.uk/lau/hela]

Next Issue December 2004. 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. To subscribe to receive future issues of Licensing Countdown via e-mail, visit www.culture.gov.uk/alcohol_and_entertainment/licensing_newsletter

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