



The Licensing Act 2003

Guidance to Applicants about Club Premises Certificates

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IMPORTANT NOTE:

This Guide has been prepared as a brief outline of the important changes to Licensing Law and summarises some detailed legal provisions. It is not however intended as a substitute for your own legal advice.

*Clubs must meet the following conditions in order to be a **'qualifying club'** to apply for a club registration certificate. Please note that this leaflet does not contain information relating to miners' welfare institutes.*

LICENSING ACT 2003

Condition 1

Section 62 (2)

Under the rules of the club, persons are not admitted to membership or to be admitted as candidates for membership without an interval of at least two days between their nomination or application for membership and their admission.

Condition 2

Section 62 (3)

Under the rules of the club persons becoming members without prior nomination or application may not be admitted to the privileges of membership without an interval of at least two days between becoming members and their admission.

Condition 4

Section 62 (5)

The club must have at least 25 members.

Condition 3

Section 62 (4)

The club must be established and conducted in good faith as a club.

Condition 5

Section 62 (6)

Alcohol is not supplied, or intended to be supplied, to members on the premises otherwise than by or behalf of the club.

Additional condition 1

Section 64 (2)

The purchase of alcohol for the club, and the supply of alcohol by the club, are managed by a committee whose members

- > are members of the club
- > are 18 years old or over
- > are elected members of the club

Additional condition 2

Section 64 (3)

No arrangements are, or are intended to be, made for any person to receive at the expense of the club any commission, percentage or similar payment on, or with reference to, purchases of alcohol by the club.

Additional condition 3

Section 64 (4)

No arrangements are, or are intended to be, made for any person directly or indirectly to derive any pecuniary benefit from the supply of alcohol by or on behalf of the club to members or guests, apart from

- any benefit accruing to the club as a whole, or
- any benefit which a person derives indirectly by reason of the supply giving rise or contributing to a general gain from the carrying on of the club.

This information is provided as general guidance only. You are advised to seek your own professional legal advice where appropriate.

February 2005

Guidance to Applicants for Club Premises Certificates

The Licensing Act 2003 provides that premises (including land) where "licensable activities" take place must be licensed. Stratford on Avon District Council is the Licensing Authority for premises within its area.

These notes are only a general guide to process and are not intended as a substitute for your own legal advice.

Licensable activities are:

➤ **The sale by retail of alcohol**

➤ **The supply of alcohol by clubs**

- To be classified as a qualifying club in relation to a qualifying club activity, a number of general conditions must be met. These are:
- 2 day interval between nomination, application or other entry to membership and being able to enjoy privileges of membership;
- established in good faith as a club;
- at least 25 members;
- alcohol not supplied on the premises other than by or on behalf of the club;

and where alcohol is supplied

- the committee purchasing alcohol on behalf of the club must all be members 18 years of age or older, and have been elected to the committee by the membership;
- no person should receive any commission at the expense of the club in respect of the purchase of alcohol by the club;
- no person should receive any pecuniary benefit from the supply of alcohol other than that which is gained by the club as a whole.

➤ **The provision of regulated entertainment or entertainment facilities**

Regulated Entertainment is described in the Act as:

- the performance of a play;
- an exhibition of a film;
- an indoor sporting event;
- boxing or wrestling entertainment;
- a performance of live music;
- any playing of recorded music;
- a performance of dance;
- or entertainment of a similar description to live music, recorded music or dance.

Furthermore, to be "regulated entertainment" the entertainment must take place in the presence of an audience and be provided for the purpose of, or for purposes which include, entertaining that audience. Entertainment facilities are facilities for enabling people to take part in entertainment for the purpose of being entertained, or for purposes which include the purpose, of being entertained. This applies only to:

- making music;
- dancing; and
- entertainment of a similar description to making music or dancing.

An example of "entertainment facilities" would be a dance floor provided for customers to use, whereas "entertainment" might involve a performance of dance provided for an audience.

In order for the provision of entertainment or entertainment facilities to be regulated, two conditions must be satisfied:

The first of these is that the entertainment or entertainment facilities must be provided:

- (a) to any extent for the public or a section of the public or
- (b) exclusively for members (and guests) of a club, which is a qualifying club in relation to the provision of regulated entertainment or
- (c) where (a) and (b) do not apply, for consideration and with a view to profit.

The second condition is that the premises on which the entertainment takes place, or entertainment facilities provided, are made available for the entertainment to take place.

All applicants applying to convert existing club registration certificates must vary their application if the premises are to be used for regulated entertainment as regulated entertainment is NOT one of the activities covered by the existing club registration.

➤ **The provision of late night refreshment**

The provision of late night refreshment means the supply of hot food or hot drink to the public, for consumption on or off the premises, between 11pm and 5am, or the supply of hot food or hot drink to any persons between those hours on or from premises to which the public has access.

Food or drink is "hot" for the purposes of the Act if it is heated on the premises or elsewhere before it is supplied, or if it can be heated on the premises after it is supplied, for the purpose of enabling it to be consumed at above ambient air temperature.

The Act provides for a number of exemptions which will not constitute the provision of late night refreshment. Examples are where the hot food or hot drink is supplied free of charge; or where it is supplied by a registered charity, or, in certain circumstances, where the provision of hot drink is by vending machines.

It may be appropriate for applicants to seek advice about any proposed activities where there may be any doubt about whether they are regulated activities or not.

To obtain a Club Premises Certificate:

A.(i) If you already HAVE a current Club Registration Certificate:

- You can apply to "convert" your existing certificate to a Club Premises Certificate.
- You do not need to advertise your application.
- The Police may make representations in some cases. The Authority may then hold a hearing to determine the outcome of your application.
- Under the conversion process, Club Premises Certificates will be issued with the same conditions as the Club Registration Certificates from which they are converted if there are no representations.
- You do not need to apply for a Personal Licence or to specify a Designated Premises Supervisor as a club is deemed to be supplying alcohol not selling.

A.(ii) If you already HAVE a current Club Registration Certificate AND WANT TO MAKE CHANGES:

- In addition to "conversion" to a Club Premises Certificate (as above) you can apply at the same time for a "variation" of the new Certificate.

- You must advertise your application in the local press and display the appropriate notice at your premises. You must also send complete copies of your application to all the “Responsible Authorities” listed below:
 - Police
 - Fire Authority
 - Environmental Health (Noise)
 - Environmental Health (Health and Safety) or HSE
 - Planning
 - Social Services (Children's Issues)
 - Trading Standards (Weights and Measures Authority)

Contact details are available on a separate information sheet.

Club Premises Certificates will be issued in accordance with the “variation” terms applied for, unless representations are received about the application, when a hearing may be held.

Note: Conversion applications must be submitted between 7th February and 6th August 2005.

B. If you DO NOT already have a current Club Registration Certificate (or have one, but failed to apply by 6th August 2005)

- You should apply for a new Club Premises Certificate.
- You must advertise your application and display the appropriate notice at your premises. You must also send complete copies of your application to all Responsible Authorities as listed above. Licences will be issued in accordance with the terms applied for, unless representations are received about the application, when a hearing may be held.

Completing the application

Applicants for Club Premises Certificate (conversion, variation or new) must address the promotion of the four licensing objectives in the Operating Schedule that forms part of the application. The applicant is advised to refer to the Guide to Operating Schedules which includes details of issues that the Responsible Authorities wish to see addressed. This should ensure that the full scope of the proposed activities has been addressed in the Operating Schedule and minimise the number of issues that require negotiation after submission of the application.

Each application should be accompanied by a plan of the premises drawn to the scale of 1:100 unless the licensing authority has previously confirmed in writing to the applicant that an alternative scale plan is acceptable. The plan should 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 (b) above, 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) in the case of conversion applications (and conversion with variation) where an existing licensable activity relates to the supply of alcohol, the area(s) used for consumption of alcohol should also be indicated on the plan;
- (f) 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;
- (g) where the premises includes a stage or raised area, the location and height of each stage or area relative to the floor;
- (h) where the premises includes any steps, stairs, elevators or lifts, the location of the steps, stairs, elevators or lifts;
- (i) where the premises includes any room or rooms containing public conveniences, the location of the room or rooms;
- (j) the location and type of any fire safety and any other safety equipment including, if applicable, marine safety equipment; and
- (k) the location of a kitchen, if any, on the premises.

These details are important in making it clear which premises or parts of premises have been licensed if the application is granted; and will enable Responsible Authorities and Interested Parties to better consider the adequacy of any operating schedule.

Operating Schedules

The Operating Schedule is set out in the form prescribed by regulations, and provides for applicants to include:

- (a) a general description of the premises
- (b) the licensable activities to take place there
- (c) how the operating schedule will ensure that the activities at the premises will take account of the neighbourhood in which the premises are situated
- (d) the times during which licensable activities are to take place
- (e) where the times for different activities are variable, where appropriate
- (f) the duration of the licence required, if it is to be limited.

The following are examples of the types of issues applicants should consider in their operating schedules, where appropriate for the range of activities proposed in the application:

- 1 Procedures for assessing risks of crime and disorder, nuisance and/or to public safety, and plans for minimising such risks arising from promotions, events and special operations such as drinks promotions or happy hours.
- 2 Metal detection and search facilities
- 3 Measures to prevent the use or supply of illegal drugs
- 4 Employment of licensed door supervisors and other appropriately trained staff
- 5 The designated premises supervisor, licensee, or a manager who is a personal licence holder to be present and in charge or the premises at all times when the public are present (only applicable for a premises licence)
- 6 A queue management policy
- 7 An intervention protocol to describe how potential issues of public safety will be addressed and under what circumstances the Police will be called to the venue.

Dispersal arrangements

The separate '**Guide to Operating Schedules**' contains more detailed information about the types of measures responsible authorities will be looking for in determining whether to make representations about an application.

Guidance on Specific Activities

INDOOR SPORTS EVENTS

There is some confusion over what constitutes an **indoor sporting event**. For the purposes of the Licensing Act 2003, the authority is of the view that to qualify as a licensable activity the event would need to be advertised with a view to attracting an audience to view the event.

In order to promote the licensing objectives, these events can require special provisions that exceed those required at other venues. The exact provisions will depend upon the nature of the event but the following (and similar) aspects should be addressed when appropriate.

- (a) Attendant medical practitioner present at contact sports.
- (b) Safe ring construction.
- (c) Minimum clearance between audience and ring.

LIFEGUARD ATTENDANTS AT WATER SPORTS

The Authority expects that public safety at all events will be given proper consideration and that nuisance, disorder and anti-social behaviour are prevented, as inadequate planning for the event is likely to lead to representations from one or more responsible authorities or interested parties resulting in a hearing to re-consider the licence.

If you find the text in this document difficult to read, we can supply it in a format better suited to your needs.



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