



The Licensing Act 2003

Are YOU ready for the Licensing Act 2003 ?

Some questions and answers for
Licensees and Licence Holders

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Introduction

For some time most people in the licensing trade have recognised that the existing law is out of date. A lot of the existing licensing rules and regulations don't make sense when applied to the way pubs and clubs are run these days.

For this reason the Government has passed the **Licensing Act 2003** (LA2003) to modernise the licensing law.

7 February 2005 has been set as the First Appointed Day in the transition period by the Department of Culture, Media and Sport. The end of the transition period (Second Appointed Day) will be in November 2005.

What the main changes are

The new law completely changes the way licensing will be dealt with. At present licensing for the sale of alcohol is dealt with by your local magistrates' court, once the Act comes into operation all licensing will be dealt with by local authorities. If the licensed premises is located within Stratford-on-Avon District, Stratford-on-Avon District Council will be the relevant licensing authority.

The types of licences will also change – justices' on and off licences, restaurant licences, residential licences, supper hour certificates, special hours certificates and all the other various forms of licences you may have come across will be abolished.

1. Justices' licences are not the only licences to be affected

Public entertainment licences, cinema licences and theatre licences will be affected whether alcohol sales occur on site or not. Furthermore, premises providing hot food and drink between the hours of 11pm and 5am will be licensed for the first time.

All the current licences will be replaced by two main types of licence; the **premises licence** and the **personal licence**. The premises licence will licence the premises for regulated activities as per the conditions of the licence. The personal licence is only applicable where the supply of alcohol is concerned and will apply to persons authorising the sale or supply of alcohol in conjunction with a premises licence.

2. Confused by the Changes?

The table below summarises the changes:

Licensing Act 1964 & Local Government (Miscellaneous Provisions) Act 1982 (Old Regime)	Converted To:	Licensing Act 2003 (New Regime)
Justices' Licence	⇒	Personal Licence
Alcohol Licence Occasional Licences (depending on conditions) Public Entertainment Licence Theatre Licence Cinema Licence Late Night Refreshment House Licence Night Café Licence (London)	⇒	Premises Licence
Registered Members Club with Certificate	⇒	Qualifying Club with Club Premises Certificate
Occasional Permissions and Occasional Licences (depending on conditions)	⇒	Temporary Event Notices

The new licences will cover:

- the sale of alcohol
- the supply of alcohol by or on behalf of clubs to members
- the provision of regulated entertainment
- the provision of late night refreshment (between the hours of 11pm and 5am)

Regulated entertainment includes the sort of entertainment of an audience for which you would currently need a public entertainments licence. These activities include:

- the performance of a play
- an exhibition of a film
- an indoor sporting event
- a boxing or wrestling entertainment (indoor and outdoor)
- a performance of live music
- any playing of recorded music
- a performance of a dance, or
- entertainment of a similar description to that falling within the performance of live music, the playing of recorded music and the performance of dance.

3. What is a premises licence?

A premises licence is a licence that is granted to authorise the premises to be used for the sale of alcohol and/or the provision of regulated entertainment.

Where activities at the premises include the supply of alcohol by retail, the premises licence must name a person who is responsible for supervision of the premises. This person is known as the "designated premises supervisor" (or DPS). The premises supervisor must be the holder of a personal licence, and would normally be the day-to-day manager of the premises. Under the current law, this person would probably be the main licensee on the justice licence.

When you apply for a new premises licence, or seek to vary your current licence, you will have to provide an "operating schedule". This is a document setting out how you intend to run the premises, for example; whether you intend to sell alcohol; whether you will provide entertainment; the hours during which the premises will be open to the public; the hours you intend to sell alcohol; who will be the premises supervisor etc.

4. Who can apply for a premises licence?

The new law lists a number of different people and bodies that can apply for the licence. The main person who can apply is "*a person who carries on, or proposes to carry on, a business which involves the use of the premises for licensable activities*". This will normally be the proprietor or one of the current licensees but there is no requirement that the person who applies is an existing licensee or even has day-to-day management of the premises. So the owner of a business with no day-to-day involvement (because he or she currently employs a manager) could apply to hold the premises licence. Similarly in managed premises a pub operating company could hold the premises licences for all its premises.

Recognised bodies, such as clubs and charities can also apply to hold a premises licence. The decision for a club whether they should opt for a premises licence or a club licence should be considered carefully. If the club currently makes profits or fundraises for the club from the proceeds made over the bar, the club should opt for a premises licence and a personal licence, because a new club licence does not permit the sale of alcohol for profit.

5. What is a personal licence?

A personal licence is a licence which is granted to an individual and authorises that person to supply alcohol, or authorise the supply of alcohol in accordance with a premises licence.

An application for a personal licence should be made to the local authority that you reside in. This new licence which lasts for 10 years means that if you move house or move jobs you do not have to move your licence to another local authority, however you do have to notify the local authority who issued your personal licence of your new address if you move. If you are converting an existing licence you should apply to the licensing authority of the district where the premises is situated.

For example:

- i) If you live in Evesham, hold a current justice licence for a pub in Stratford on Avon, you should apply to convert your old licence into a new premises licence and a personal licence to Stratford-on-Avon District Council.
- ii) If you live in Evesham, work in a pub in Stratford-on-Avon as a duty manager, but are not a current licensee, and you would like to apply for a personal licence, you may apply to Wychavon DC for a personal licence.

The personal licence will be valid for a period of 10 years before it has to be renewed.

Premises which supply alcohol must have at least one personal licence holder. Other employees, such as bar staff, are not required to hold a personal licence although there is nothing to prevent them qualifying and getting a personal licence. It may make good management practise to have at least two personal licence holders on staff, particularly if the bar is large. However, if you have concerns about how to manage your licences independent professional legal advice should be sought.

6. Will I have to pass some licensing exams before I can get a personal licence?

DON'T PANIC current licensees don't have to get a qualification. If you don't have any specific licensing qualifications or have only attended a local course, provided you hold an existing justices' licence at the time you apply for your new personal licence, you will be entitled to a personal licence automatically as long as there are no police objections.

If you are not currently a licensee – please read on. A personal licence is a bit like a driving licence. A driving licence authorises you to drive motor vehicles – you only get it when you pass a test to show you have reached a certain standard and show a certain level of knowledge. A personal licence will indicate your suitability to sell alcohol or authorise others to sell alcohol and you will only get it if you have a specified licensing qualification. The Government has published a syllabus for the personal licence qualification which sets out what the course should contain (similar to the content of the BII) this can be viewed on the DCMS webpage.

7. Do I need a personal licence if the premises is licensed?

YES! A personal licence will show that you are a fit and proper person to supply alcohol or authorise the supply of alcohol by others on a premises with a premises licence. The licence will be personal to you and should make it easier for you if you move to a new premises or area – you won't have to prove over and over again to each new police force and licensing committee that you have the right character, training and qualifications to sell or supply alcohol.

8. How do I make an application for a premises licence and personal licence?

You don't need to make an application for a premises or personal licence yet! You must wait until the first appointed day, which is the day local authorities can start to receive applications. This will be well advertised nearer the time

9. I hold a public entertainment licence and a justice licence. Will I have to apply for two licences?

NO! When you apply for your premises licence you will be able to ask that the public entertainment licence is granted as part of the premises licence, in other words you will only need one licence instead of two as under the current law. You will only have to pay one fee even where your licence specifies a number of different licensable activities. Remember, if the sale of alcohol by retail occurs on the premises, a personal licence will also be required.

10. What happens to members' clubs?

Under the existing licensing law, special rules apply to members clubs that are run for the benefit of the members. Under the new law these "registered clubs" will be able to apply for a club premises certificate. As this type of club is run by members committees and do not currently have licensees they are not required under the new law to have a personal licence holder or a premises supervisor but they will be subject to similar operating restrictions as at present e.g. membership rules.

Note: Proprietary clubs differ from members clubs as a propriety club holds a restricted on-licence with the profits going to an owner. A members club does not supply alcohol by retail as the members hold a share of the alcohol and money passing over the bar is a means to maintain equity between members. A profit being made over the bar in a members club is not permitted under the club licence conditions, and if this is current practise a personal and premises licence should be applied for during the transition period.

11. Why do I need a licence at all?

Under the new law it is an offence to sell alcohol or provide regulated entertainment to members of the public without the necessary licences, as it is under current law.

12. Can I convert my existing licences into the new types of licence?

YES! The Licensing Act 2003 makes special provision to allow existing licensees to convert their existing licence(s) and certificates to the new premises and personal licences. If you currently hold a PEL, a theatre licence, a cinema licence or a justice licence or any combination of these licences and certificates such as special hours or children's certificates; you may apply to have all of the licences converted into a single premises licence. If you are a licensee on a justice licence, you will be allowed to apply for a personal licence which will permit you to sell or authorise the sale of alcohol. If you do not want to change the activities for which you are currently licensed, nor do you want to change the hours in which you are currently permitted to hold these activities you can apply for a "simple conversion" of your licences under what is known as your "grandfather rights". In effect you get what you've got now, but no more with very little fuss.

You will have to apply to have your licence converted. Just because you currently hold a licence does not mean that Stratford-on-Avon District Council will issue a new licence automatically. You need to apply and provide all the right documents. Stratford-on-Avon District Council must issue you with a new licence with at least all the permissions that you currently hold subject only to a limited right of the police to object. Where you apply to simply convert your licence, members of the public and others will not be able to object. Don't worry! The process is not too complicated, although you will have to fill in a few forms when the time comes to apply.

For example:

- i) If you hold a restaurant licence your new premises licence will still be for a restaurant and subject to the standard condition that alcohol is only sold or supplied to those taking table meals.
- ii) If you hold a standard on-licence for a pub premises, your new premises licence will be limited to the same opening hours as permitted hours now.

iii) If you have an on-licence with a special hours certificate (nightclub provision) then you will receive a premises licence which allows you the later opening hours.

If you are an existing licensee you will also be able to apply to have a personal licence issued to you without having to prove your suitability or get additional qualifications. This is because the police and magistrates have already considered you a fit person to supply alcohol.

13. If I convert my licence will I get less than I've got now?

NO! That is why this is called "Grandfather Rights". The application is subject to a limited right of the police to object.

14. I have heard a lot about 24 hour opening. Will I be able to open later than I do currently?

The new Licensing Act will get rid of the current permitted hours (and many other restrictions) but 24 hour opening will not be automatic.

The reason for this is that where you want longer opening hours or more permitted activities than you have now, the Government has decided that other people should have a chance to make comments and representations about the changes. For example, if you try to convert from a restaurant to the sale of alcohol without a requirement for meals; or to operate your pub until 1am every night of the week, you will have to advertise your application so that people who may be affected by the changes can make their comments and representations. If objections are received and are considered relevant by the licensing authority, the changes to your licence may not be granted. Don't forget that non-liquor licence holders may wish to vary licences too!

For example:

If a pub is in a residential area and an application is made that it is allowed to open until 1 am or even 24 hours and the pub has a busy beer garden, residents in the area may wish to comment or even object, whilst a pub in a non-residential area with no beer garden may have fewer or no objections to a similar application.

It is worth taking some time to think about the nature of the premises and the neighbourhood in which it is located when applying to for a "simultaneous variation".

15. How do I make a simultaneous variation?

When you apply for your new licence you will have to provide an operating schedule which will detail the types of regulated activities you intend to host at the premises, the hours you will be holding the activities, whether alcohol or hot food or drink will be on sale and other details of how you intend to operate. This key document will be critical for your simultaneous variation application. A copy of the application will have to be sent to the Police and the details advertised so that local residents and businesses are aware of the application.

16. I want the extra hours and/or want to remove other restrictions on my existing licence, what will I have to do?

If you want to extend your opening hours and/or remove other restrictions you may currently have on your existing licence you should make a simultaneous variation. The easiest way to do this will be to convert your existing licence to a premises licence and submit an operating schedule of your proposed operations to vary that licence to give you the extra hours and remove any other restrictions. This can be done on one form and should not require two separate applications and therefore only one set of fees.

If you simply convert an existing licence there isn't a need for a hearing before the Licensing Committee. Whereas, if you want to change your licence conditions or hours by making a variation application there may be a need for a full hearing at which objectors may attend and there are also more procedural requirements – such as a requirement to advertise the application. It will usually be quicker to convert an existing licence but there are some disadvantages to not also applying for variation from the outset.

17. I apply for a lot of extensions to cover special occasions such as weddings and parties. Will I get these extra hours if I convert my licence without varying the current hours?

NO! The extra hours will not automatically be added to your licence. Under the new legislation there is no direct equivalent to the current procedures for extensions. Instead, the new law allows a personal licence holder to hold up to 12 temporary events per year at one premises or club premises (up to 50 if different premises are used) for which a premises licence is in force. These temporary events can be used to sell alcohol for a period beyond the normal hours during which alcohol may be sold at the premises under its new premises licence conditions.

Clearly 12 extensions or temporary events per year will not be enough if you currently get lots of extensions, for example, for wedding parties every Saturday. In such a case you will need to apply for a simultaneous variation of your licence requesting the required extra hours included in your opening hours to cover the special occasions. This may be very important for community centres and village halls whose committees may operate currently with lots of occasional permissions but do not hold justice licences for regular sales of alcohol. This type of premises may have a variable nature of operations so it is almost certain that a simultaneous variation will be required.

18. When do I have to apply for my new Licensing Act 2003 licences?

NOT YET! At present you don't need to do anything in respect of a premises/personal licence (but you do need to renew your justices' licence if necessary). Application forms will be available after the 7 February 2005 when the local authority should be able to receive applications.

19. How long will my new licences last?

Personal licences last for 10 years. Premises licences last until they are revoked or for any period specified in the licence. Premises licences are not restricted to a 3 year period as justices' licences are at present.

20. What happens if I do nothing when the new law comes into force?

It is your responsibility to make all the necessary applications. If you do nothing then eventually you and your premises will become unlicensed and you will be unable to sell alcohol or host regulated entertainment. You will risk prosecution on top of the loss of your grandfather right to apply for conversion of your existing licence.

21. What else does the new Act cover?

The new Act covers all aspects of licensing law. For example it completely updates the law on children and alcohol and gives the police new powers to close disorderly premises.

22. What will Stratford-on-Avon District Council do to help me through this process?

Where possible, Stratford-on-Avon District Council will provide guidance and general advice and try to be as helpful as possible, however it is YOUR responsibility to make all the required applications and get your paperwork in order. Remember that all licensed premises in Stratford-on-Avon District will need to apply within the transition period so the relevant departments may be busy. We will endeavour to respond to your reasonable enquiries. If you belong to a trade association, they should be providing you with support and advice. For specific advice to your premises, in addition to the information provided by Stratford-on-Avon District Council and trade associations, you may need to seek your own expert advice regarding the implications of the Licensing Act 2003.

23. What's it going to cost?

The fee structure is being set by central government and not by Stratford-on-Avon District Council and is yet to be determined. We expect the fees to fall within the following bands:

- £100 - £500 application fee for the grant of a premises licence
- £100 - £500 application fee for the grant of a club premises certificate
- £40 - £225 annual fee
- Some other fees are detailed elsewhere in this leaflet

24. What is the fee for?

The fee is to fully recover the administration, inspection and enforcement costs of licensing authorities, which will arise out of carrying out their licensing functions under the Act.

25. These figures are more than I pay for my current licence – why is this?

The Government believes that licensing fees must be set at a level to recover fully the licensing authorities' costs of administration, inspection and enforcement. Unless an applicant requests otherwise, a premises licence will be valid until it is surrendered or forfeited, it lapses or it is revoked, so there will not be the annual application for the grant of an authorisation for regulated entertainment, which is currently the case with public entertainment licences, or the 3 yearly renewal which is currently the case with justice's licences. Overall, it is estimated that industry will save almost £2 billion over the first 10 years as a result of the reforms contained in the Act, largely through savings in legal costs and the applications for the many additional permissions and renewals which are required under current law.

26. Will it cost more for a premises licence to be authorised for the provision of regulated entertainment or late night refreshment?

NO! The fee for a premises licence or club premises certificate is the same regardless of whether you apply at the same time for it to authorise one, two or all of the licensable activities.

27. How much will a personal licence cost?

Again, the fees are still to be determined but we anticipate in the region of £37. Personal licences will be valid for 10 years but may be renewed and a renewal fee will then be payable.

28. What about the fees for giving temporary event notices?

Temporary event notices (TENs) replace the current system of occasional permissions and licences. TENs will cost around £20 per event.

29. Will a fee be payable if I make an application for a premises licence on behalf of a village or community hall or a school?

You will still require a premises licence for such premises if they are used to carry on licensable activities. However, there is to be an exemption from the requirement to pay the fee for the licence in respect of the provision of regulated entertainment. In the case of schools, the exemption applies only if the entertainment is provided by the school. If the use of the school or community centre is intent on having the sale of alcohol and/or supply of late night refreshment as a condition on the premises licence or a temporary event notice then the fees become payable.

30. Is there any scope to increase the limits on "Temporary Event Notices"?

The Secretary of State has powers under the Act to increase or decrease by order, limits placed on Temporary Event Notices (TENs). The limits may therefore be amended if, in the light of experience, it proves that there needs to be an adjustment.

31. When will the law be brought into force?

The commencement of all these changes has already fallen behind the original schedule. Applications for the new licences should be made from 7/2/05. There will then be a period of 6 months while all the new licences are issued before the law comes fully into force in November 2005.

32. Is there anything I can do now to prepare?

YES! As part of any new application you will be required to submit your original licence(s) and certificates. You should make sure you still have them so they are ready for your application. Nearer the time you may also need passport size photos for your personal licence. Also an up-to-date plan of the property is required (see 33).

If you have lost your licence you can apply to the magistrates' court for a replacement, however there is an administration fee.

You may also want to spend some time thinking about how you would like your business to operate. If you intend to vary your licence and submit an operating schedule, you should start to plan what days and hours you want to hold the licensable activities, how these will relate to the licensing objectives and the impact to the locality of the premises. If your premises retail alcohol you will have to decide who should be the designated premises supervisor, this may be the manager or one of the current licensees and they will have to make sure they apply for a personal licence when the time comes. Some level of contingency regarding what will happen if something goes wrong should be considered particularly if the premises is very large or complex, as how you set up your licence structure may affect your ability to operate if your licence is reviewed.

33. What type of plan is required?

Application for premises licences or club premises certificates would have to be accompanied by a plan of the premises to which the application relates. The plan must:

- be drawn to the scale of 1 centimetre representing 100 centimetres, unless the licensing authority has previously confirmed in writing to the applicant that an alternative scale plan is acceptable to the licensing authority.
- show the location of the extent of the boundary of the building, if relevant, and any external and internal walls which comprise the premises or in which the premises is comprised.

- show the location of any exits from the premises.
- show the location of any escape routes from the premises.
- show the locations in the premises where the licensable activity is to take place and, if more than one licensable activity is to take place, where each licensable activity is to take place.
- where the supply or sale of alcohol for consumption on the premises is to take place, show the location where the consumption of alcohol is to take place.
- show fixed structures which are impediments to movement.
- show the location and height of any stage or raised area, if any.
- show the location and type of any fire safety and any other safety equipment including marine safety equipment, if any.
- show the location of any kitchens on the premises, if any.

These details are important in making it clear which premises or parts of premises have been licensed if the application is granted; and to enable responsible authorities and interested parties to better consider the adequacy of any operating schedule.

34. If I want to apply for a variation what should I do first?

It is important that you discuss the proposals with any relevant consultees (see list), in particular the police and environmental health (noise). This should be done as the first point of the application to check if any additional measures are needed to the way you operate now.

35. How do I apply for a variation?

A complete set of application forms (including plan) needs to be deposited with the relevant consultees at the same time as the application is made.

36. Who are the relevant consultees?

Police, Fire, Environmental Health, Health Safety, Planning, Social Services and possibly the Crime and Disorder Strategy Partnership. Therefore you will require an additional 7 copies of your application and plan.

37. What else?

An advert in the local press within 5 days of the date of the application, and a poster of the notice, prominently displayed on the premises for the 20 day consultation period of the application.

38. What happens if my application is incomplete, copies not sent or poster not displayed?

Your application will be viewed as not being duly made and will be returned for the process to start again.

39. Can't you just wait and start the process when all items have been dealt with like you would now for a public entertainment licence?

NO! There are strict time limits imposed that mean an application has to be determined within 2 months or it is automatically refused. It is in your best interests to return the application to start again, or the application will be refused as not being duly made.

40. Where can I find out more?

A number of articles are now appearing in the trade press. The Government Department responsible for the changes is the Department for Culture, Media and Sport (DCMS) and more information can be found on their website at **www.culture.gov.uk/alcohol_and_entertainment**.

41. What Next?

Stratford-on-Avon District Council will write to inform you of the first appointed day after which you can apply for your new licences. We will let you know what forms you need to use, the fees and any other information that is required as part of your application. We will also give you more detail about the application process including where to send your applications. Our aim will be to ensure the whole process of getting your new licences is as painless as possible.

AN EXAMPLE APPLICATION:

Mr. A Smith and Mrs. B. Wright run the Swan Public House. They currently jointly hold the existing justices' on-licence for the premises but Mrs. Wright is the owner and manager. The pub is in a residential area, and at least initially there is no intention to open outside the current permitted hours, i.e. no later than 11 o'clock at night. They do not currently apply for extensions.

The application is therefore for conversion of the existing licences (simple grandfather rights). Mrs. Wright and Mr. Smith both apply for personal licences. Mrs. Wright also applies for the premises licence and designates herself as the premises supervisor. Under the rules for conversion of the licences the applications are all granted without the need for a hearing before the Licensing Committee but subject to any existing restrictions. There is no need to submit an operating schedule or advertise the application because the pub will be run in the same way as now.

42. Contact details for more information

Further information can be obtained from the Department of Culture, Media and Sport:

www.culture.gov.uk/alcohol_and_entertainment/licensing_act_2003

Public Protection Team
Stratford-on-Avon District Council
Elizabeth House
Church Street
Stratford-upon-Avon
CV37 6HX
Telephone: 01789 260823

Information about and for Licensed Door Supervisors

Security Industry Authority
PO Box 9
Newcastle-Upon-Tyne
NE82 6YX
Help line: 08702 430 100
Fax: 08702 430 125
Website: **www.the-sia.org.uk**
Email: **info@the-sia.org.uk**

Sources includes, DCMS website, the Licensing Act 2003 and relevant Draft Guidance

Important Note:

This guide has been prepared as a brief outline of the important changes to Licensing Law and summarises some detailed legal provisions. At this time many of the practical details of how the new system will work are not known. This guidance is therefore not intended as a substitute for your own legal advice.

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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