

The 2003 Licensing Law

What it means for you

By Carmine Procaccini

Let's say you want to run a jazz club, which stays open until 2am, with a bar selling beer spirits and hot and cold snacks.

Until last year you would have needed three separate licences to cover these activities – supplying alcohol, providing 'regulated entertainment' such as live or recorded music, and offering 'late-night refreshment'.

The 2003 Licensing Law does away with all this documentation. When you apply for permission to supply alcohol, you can apply simultaneously for your Premises Licence to cover both the music and the late-night drinks and snacks.

Another major change is that your application will now go through your local authority, instead of the Magistrates Court as before.

The Act has been in force since November 2005, although existing premises owners needed to have applied for a conversion licence by last August.

Most of the publicity surrounding the Act was fixed on the fear of 24-hour drinking, but, says LZW licensing law specialist Carmine Procaccini, this was misleading. "A lot of people thought that liberalising the licensing rules meant that drinking would get out of control. But the new Licensing Law was never about that. The old regulations used to be cumbersome and the paperwork was extremely time-consuming for pub and club owners. Now the system is much simpler, without compromising issues such as public safety."

You might need a personal licence too. The 2003 law brings with it another welcome change. As well as a premises licence, an individual must apply for a Personal Licence to supply, or authorise the supply of, alcohol. This means that if you are a pub owner, for example, you can operate from more than one pub, instead of being tied by licences to the premises where you work.

"You won't need a personal licence, though, if you aren't selling alcohol," comments Carmine. "If you run a late-night café, say, you will only need a premises licence, to cover for late-night refreshment."

An individual may hold only one personal licence at any one time.

Club Premises Certificates

What if you are bar manager at a rugby club or a workingmen's club, for example? In this case you won't need a personal licence or a premises licence. But you will need to apply for a Club Premises Certificate, which is issued subject to certain conditions. For example, no individual may profit from the supply of alcohol to club members or guests, unless it will benefit the club as a whole.

Temporary events

Applying for permission to provide alcohol at temporary events is now done with a Temporary Event Notice (TEN). A TEN can be used to authorise events on any premises for a period not exceeding 96 hours, where no more than 499 people are involved at any one time. An example might be if you are organising a sports or fundraising event and want to use the premises for licensable activities.

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You simply need to give a copy of the TEN to the licensing authority and to the police at least 10 working days before the day the event is due to take place. Your event can last up to 96 hours and you may apply for up to twelve TENs in any calendar year. "As with Club Premises Certificates, TENs do have certain conditions attached to them," says Carmine, "But overall the system is more straightforward than before."

Can it all be good news?

The Act has been designed to cut down on licensing law red tape and, in some cases; it should make the business of licensing less costly for applicants.

At the same time, the Act gives local communities the opportunity to be heard when licensing applications are made. It also provides a more effective range of remedies, which can be taken against badly run premises. Any complaints will take into account the Act's 'licensing objectives', which are:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

But there are down sides to the new legislation, too. For example, the application forms are complex, while local authorities and the police have a higher burden of responsibility. "I'm not convinced the Government has really done enough to help organisations manage these extra obligations," Carmine remarked.

Appealing against decisions

The Act provides certain rights of appeal where an application has been rejected, or a licence has been granted subject to conditions.

Similarly, anyone who objects to a licence having been granted can appeal against a decision too - for example, a local resident who made representations when the application was being considered.

If you are not happy with the decision made by the licensing authorities about your application, you can make an appeal to the magistrates' court. An appeal about a personal licence must be made to the court for the area where the licensing authority is situated. For all other licences, the appeal is handled through the court where the premises concerned are situated.

In either case, you need to ensure that your appeal is lodged within a period of 21 days, beginning with the day on which you were notified in writing of the authorities' decision.

The respondent to the appeal will always be the licensing authority. The court will review the merits of the original decision and consider points of law when determining the appeal. The court may also make an order as to costs.

What if you don't apply for a licence?

There are severe penalties for anyone who does not apply for a premises licence, club premises certificate or TEN, or a personal licence where required. You could face a maximum £20,000 fine or up to six months in prison – or both.

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