

Adams & Remers

A&R. Licensing

An introduction to licensing law



The 2003 Act brought about the introduction of a dual licensing system: the Premises Licence and the Personal Licence and is an area that causes confusion for businesses and individuals

Since the Licensing Act 2003 came into force, barely a week goes by when alcohol is out of the news and the government's response has seen more legislation and further rule changes to a system that existed quite happily for 500 years before the Act.

The 2003 Act brought about the introduction of a dual licensing system: the Premises Licence and the Personal Licence which is now managed entirely by local authorities and this is an area that causes confusion for businesses and individuals but could be a useful asset to both.

The Premises Licence

In a nutshell, a premises (which could be anything from a building, part of a building, to a marquee or a caravan) that wants to sell alcohol to the public and/or offer most types of entertainment (such as performances or music, plays, sporting events) has to apply to the local council for a premises licence. This involves:

- a lengthy form based on your risk assessment of the running of your business or trade and how you will promote the licensing objectives set out in the Act;
- a notice period to the public, the police and various council services letting them know what you intend to do at the premises, and when;
- a notice in the local paper; and
- a fee based on the rateable value of the premises.

At the end of all that if anyone such as a nearby resident, the police, fire officer or other council department so much as raises an eyebrow at your application, you may find yourself at a hearing at the council offices trying to persuade the committee to grant your premises licence with as few restrictions on your enterprise as possible. Appeals are to the Magistrates court, all the way up to judicial review in the High Court if need be.

The good news is that once granted, the premises licence can potentially subsist over those premises forever, subject to various conditions. If the premises is sold as a going concern the premises licence can be easily and cheaply transferred as part of the sale process. Just don't forget to include it in the contract!

You can also apply to vary an existing premises licence by again, going through the same process as applying for a new licence above, just detailing the proposed changes, notifying the council services and possibly attending a hearing if anyone objects.

If you don't have a premises licence and you want to hold an event, or you want to operate outside the parameters of your existing premises licence on one or two occasions you can apply for a Temporary Event Notice or TEN. Again, this involves completing a form outlining the event you are holding and notifying the local council accordingly. If you are a Personal Licence holder (see below) you can have 50 TENs a year, if not you can have 5; the same premises can have 12 a year.

The local police take a very strong interest in all the premises operating in their area, from the initial application, right through the ongoing life of the premises licence. This is because they are usually the first port of call if there is any public disturbance emanating from a premises and they are expected to mop up the results. It therefore helps to build up a good relationship with the police licensing officer who can have the power to close your business if licensing laws are breached on or around your premises.

The Personal Licence

If alcohol sales to the public is a part of your business then someone has to be authorised to sell it at the premises. So before applying for a premises licence someone, usually the manager or the business owner, will have to obtain a Personal Licence. This involves:

- being over 18;
- passing a qualification called the Award for Personal Licence Holders (APLH). Many course providers will exist providing the day-long course at varying cost. If you pass, the certificate should then be sent:
- with a form to the local council and the police force where you live;
- a CRB check; and
- a £23 fee

Only the police can object to you being granted a Personal Licence usually on grounds of previous convictions.

A Personal Licence holder can then become the Designated Premises Supervisor (DPS) for selling alcohol at a particular premises (and be named as such in the Premises Licence application above) but a premises only needs one of those and can have as many other ordinary personal licence holders or casual employees authorised to sell alcohol by those personal licence holders, as it requires.

The Personal Licence is just that – it does not have to relate to any particular premises and once obtained you can work wherever you want. In fact, employers may look upon Personal Licence holders favourably as being an extra educated pair of hands to help operate their business, and one that could be nominated as a DPS if necessary. It lasts for 10 years.

Recent Changes

Just as we are all now getting used to the systems above, the government is now talking about a removal of the requirement to renew personal licences every 10 years so that once granted they will last until revoked. There was talk of scrapping them altogether so watch this space.

The Live Music Act 2012 permits live amplified or unamplified music between 8am and 11 pm to an audience of up to 200 without a licence for certain premises. This is already being updated to increase the audience limit to 500 and to include recorded music.

Ancillary Seller Notices are to be introduced where a business owner can supply alcohol as an ancillary part of their business, such as a B&B leaving a bottle of wine for a guest in their room, without the need to apply for a full premises licence.

The government can also allow one-off blanket changes to all premises for important national events which is what happened during the Royal Wedding and which may see increased opening hours during the upcoming World Cup matches.

Clearly this is just an introduction to the Act and it is always best to seek expert advice before proceeding with an application, especially for a premises licence. Local authority websites also provide helpful advice and information.

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