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LICENSING ACT 2003

Guidance - Minor Variations

The Licensing Act 2003 has been amended by the insertion of Sections 41A to 41C relating to minor variations. These sections were commenced on 29 July 2009.

Small variations that will not impact adversely on the Licensing Objectives are subject to a simplified 'minor variations' process. Under this process, the applicant is not required to advertise the variation in a newspaper or copy it to Responsible Authorities.

However, in determining an application the licensing authority itself will consult the Responsible Authorities as it considers appropriate.

What changes can a 'Minor Variation' cover?

Minor variations will generally fall into four categories:

- Minor changes to the structure or layout of a premises;
- Small adjustments to licensing hours;
- The removal of out of date, irrelevant or unenforceable conditions and the addition of volunteered conditions;
- The addition of certain licensable activities.

In all cases, the overall test is whether the proposed variation could impact adversely on any of the four licensing objectives, which are:

- Prevention of crime and disorder;
- Prevention of Public Nuisance;
- Public Safety;
- Protection of children from harm.

The following are **excluded** from the minor variations process and must be treated as full variations in all cases:

- To extend licensing hours for the sale or supply of alcohol for consumption on or off the premises between the hours of 23:00 and the following 07:00; or,
- To increase the amount of time on any day during which alcohol may be sold or supplied for consumption on or off the premises.

Documents to be Included

You must enclose the following with your application form:

- The fee of £89.00;
- Your existing Premises Licence. This must be the entire original document including both Part A and the laminated summary, Part B (photocopies are not acceptable);
- New Plans (if applicable)

Please note that we cannot accept incomplete applications. The time limit for processing will not start until you have supplied a correctly completed application, fee and all other documentation required.

What is the application process?

After correctly submitting the application and all relevant enclosures, the applicant must display a white notice (in order to distinguish it from the blue notice used for full variations and new applications under the Licensing Act 2003) detailing the changes requested.

White Notice templates can be downloaded from the Greenwich website or we can send one in the post, if required.

The notice must be displayed for a period of ten working days starting on the working day after the minor variation application was given to the Licensing Authority, to allow for representations to be made by the Responsible Authorities and “interested parties” as defined by the Licensing Act 2003.

On receipt of an application for a minor variation, the Licensing Authority will consider whether the variation could impact adversely on the Licensing Objectives.

Interested parties have ten working days from the ‘initial day’, i.e. the day after the application is received by the licensing authority, to submit representations in respect of the application.

Representations are only relevant if they clearly relate to the likely effect of the grant of the variation on the promotion of at least one of the licensing objectives. In the case of minor variations, there is no right to a hearing (as for a full variation or new application), but licensing authorities must take any representations into account in arriving at a decision.

The licensing authority must determine the application within 15 working days, beginning on the first working day after the authority received the application, with effect that either:

- The minor variation is granted; or,
- The application is refused.

If the licensing authority fails to respond to the applicant within 15 working days, the application will be treated as refused and the authority must return the fee to the applicant forthwith.

However, the licensing authority and the applicant may agree instead that the undetermined application should be treated as a fresh application and, if so agreed, the fee originally submitted will be treated as the fee for the fresh one.

Types of 'Minor Variations' - Details

Changes to the Structure and/or Layout of Premises

Many small variations to layout will have no adverse effect on the licensing objectives and so can be subject of a minor variation application. However, changes to layout must be made using the full variation process if they could potentially have an adverse impact on the promotion of the licensing objectives, for example by:

- Increasing the capacity for drinking on the premises by a significant amount;
- Affecting access between the public part of the premises and the rest of the premises or the street or public way, e.g. block emergency exits or routes to emergency exits;
- Impeding the effective operation of a noise reduction measure such as an acoustic lobby.

The Licensing Authority will consider the combined effect of a series of applications for successive small layout changes (for example, as part of a rolling refurbishment of premises) which in themselves may not be significant, but which cumulatively may impact adversely on the licensing objectives.

Licensable Activities

An application to remove a licensable activity will normally be approved as a minor variation.

Variations to add the sale by retail or supply of alcohol to a licence are excluded from the minor variations process and must be treated as full variations in all cases.

What about music in small premises?

You still need a licence for regulated entertainment, even in small premises. However, no conditions on your licence relating to music entertainment will apply between 8.00am and midnight provided that:

- The premises are used primarily for the consumption of alcohol on the premises;
- The capacity of the premises is less than 201 persons;
- The premises are being used for unamplified live music or facilities to enable people to take part in such entertainment,

unless Royal Greenwich Licensing specifies the conditions are necessary to prevent crime & disorder or for public safety reasons.

However, conditions imposed as a result of something you have put in your operating schedule still apply for small premises under any circumstances.

The addition of other types of regulated entertainment, such as the performance of plays or exhibition of films, may have no adverse impact on the licensing objectives and so could be processed by means of a minor variation.

In considering applications to add licensable activities, the Licensing Authority will normally consider the following factors:

- The nature of the licensable activity;
- The proximity of the premises to residential areas;
- Any licence conditions volunteered by the applicant to mitigate the impact of the activity.

This is not an exhaustive list and Licensing Officers will bring their own experience and knowledge of licensing to bear when considering applications.

Licensing Hours

Variations to:

- Extend licensing hours for the sale or supply of alcohol for consumption on or off the premises between 23:00 and the following 07:00 will be treated as full variations in all cases;
- Increase the amount of time on any day during which alcohol may be sold or supplied for consumption on or off the premises are excluded from the minor variations process and will be treated as full variations in all cases;
- Alter without increasing, or reducing, licensing hours will normally be processed as minor variations;
- Vary the time during which other licensable activities take place will be considered on a case-by-case basis with reference to the likely impact on the licensing objectives.

In arriving at a decision, the Licensing Authority will normally consider the following factors:

- The nature of the licensable activity;
- The extent of additional hours sought and whether it will involve later opening or opening between 23:00 and the following 07:00;
- Proximity of the premises to residential areas;
- Any licence conditions already in place to mitigate the impact of the activity;
- Any additional conditions volunteered by the applicant;
- Arrangements for dispersal, i.e. when people leave the premises is there potential for noise and disturbance near the venue? Is the only means of dispersal a single route through residential areas?

- Whether the premises is already open during the extended period for other licensable activities.

These factors are not an exhaustive list and Licensing Officers will bring their own experience and knowledge of licensing to bear when considering applications.

Licensing Conditions

Imposed conditions

The Licensing Authority cannot impose its own conditions on the licence through the minor variations process. If the Licensing Officer considers that the proposed variation would impact adversely on the licensing objectives unless conditions are imposed, the application will be refused.

Volunteered conditions

Applicants may volunteer conditions as part of the minor variation application process. These conditions may arise from their own risk assessment of the variation, or from informal discussions with Responsible Authorities or the Licensing Authority.

For instance, there may be circumstances when the licence holder and a Responsible Authority (such as the Police or Environment Team) agree that a new condition should be added to the licence – such as in cases when a nightclub seeks to add the provision of late night refreshment to its licence to ensure a longer period of dispersal. Such a change would not normally impact adversely on the licensing objectives and could be expected to promote them by preventing crime and disorder or public nuisance. In these circumstances, the minor variation process may prove a less costly and onerous means of amending the licence than a review, with no risk to the licensing objectives. However, this route should only be used when the licensee and the Responsible Authority have come to a genuine agreement.

Amending or removing existing conditions

Licence or Club certificate conditions will normally have been volunteered or imposed to mitigate any possible adverse impact on the licensing objectives. In most cases therefore, any application to remove or change the wording of a condition will be treated as a full variation. However, there may be some circumstances when the minor variation process is appropriate.

Premises may change over time and circumstances that originally led to the condition being attached or volunteered may no longer apply. For example, some embedded conditions may no longer apply or conditions that duplicate other legislation and are not enforceable may be removed. There may be cases where it is necessary to revise the wording of a condition that is unclear and or/unenforceable. This would be acceptable as a minor variation as long as the purpose of the condition and its intended effect remain unchanged. Such a change could be expected to promote licensing objectives by making it easier for the licensee to understand and comply with the condition and easier for the Licensing Authority to enforce it.

In all cases where a minor variation is being considered, we strongly recommend that licensees contact the Licensing Team before an application is submitted, to discuss your plans and so that we might advise you and answer any queries you may have.

The Licensing Team can be contacted by email via licensing@greenwich.gov.uk or by telephone on 020-8921 8018.

Further information, application forms and additional copies of this document are available from our website: www.greenwich.gov.uk .

This leaflet has been made as comprehensive as possible. However, in attempting to simplify the law, certain requirements have been omitted. Full details of what you must do are in the legislation itself.

Laws can and do change. This information was accurate when produced, but may have changed since. We must advise that only the Courts can give an authoritative opinion on statute law.

This information is available in alternative formats such as large print, Braille or on audio cassette if required. Please contact us should you require any further information or assistance.

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