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LICENSING ACT 2003 Resident's Guide

What is the Licensing Act 2003?

The Licensing Act 2003 requires people carrying on the following activities to be licensed by their local authority:

- Selling alcohol
- Providing regulated entertainment
- Selling hot food or drink (late night refreshment) between 11.00pm and 5.00am for consumption on or off the premises.

The Government has made four licensing objectives that underpin the Licensing Act. The local authority must focus on these objectives when considering applications.

What are the four licensing objectives?

- Prevention of crime and disorder;
- Prevention of public nuisance (i.e. noise, light and litter);
- Public safety (i.e. fire safety, stability of temporary structures, etc); and,
- Protection of children from harm (i.e. underage drinking and adult entertainment such as lap dancing);

How long do the licences last for?

The lifetime of the business. A small annual fee will be payable to the local authority as well as an initial application fee.

What is a Temporary Event Notice (TEN)?

A TEN is a notice given by a person to the local authority of their intention to hold a temporary or one off event involving the following:

- Less than 500 people attending
- Lasting for not more than 96 hours, with a break of at least 24 hours before the next event.

The Notice allows them to hold a licensable activity on premises that are not currently licensed, or to hold activities their existing licence does not permit.

What is regulated entertainment?

The following kinds of entertainment are subject to regulation – but note where exempted:

1. Plays – but exempted if performed between 08:00am and 11:00pm to an audience not exceeding 500 people;
2. Film exhibitions;

3. Indoor sporting events – but exempted if performed between 08:00am and 11:00pm to an audience not exceeding 1,000 people;
4. Boxing or wrestling exhibitions – but *wrestling* exempted if Greco-Roman or Freestyle only;
5. A contest, exhibition or display which combines boxing or wrestling with one or more martial arts (“combined fighting sports”);
6. Live music – but note the exemptions described below;
7. Recorded music;
8. Dancing – but exempted if performed between 08:00am and 11:00pm to an audience not exceeding 500 people;
9. Any entertainment similar to that described in 6, 7 or 8 above;

but only where –

- The entertainment is provided in front of an audience or spectators and is for the purpose of entertaining those persons; AND,
- The entertainment is:
 - To any extent to members of the public; OR,
 - Exclusively to members of a qualifying club and their guests; OR,
 - For consideration and with a view to profit. The charge must be made by or on behalf of the organisers or management of the entertainment or the premises, and must be paid for by or on behalf of some or all of the persons for whom the entertainment or facility is provided. This would include, for example, letting out a room in your premises for people to use for wedding receptions.

Live music

Exemptions have been provided pursuant to the Live Music Act 2012, as follows:

- The licensing requirement for **amplified** live music (including karaoke) has been removed, providing it takes place between 08:00am and 11:00pm before an audience of no more than 200 persons on premises authorised by either a premises licence or a club premises certificate. Venues with more than one function room may have audiences of up to 200 per room. Performances must take place at a time when the venue is open for the purposes of being used for the supply of alcohol for consumption on the premises.
- The licensing requirement for **amplified** live music (including karaoke) being performed in a **workplace** has been removed. Schools, colleges, village halls and church halls are all classified as workplaces. This exemption provides that performances must take place between 08:00am and 11:00pm before an audience of no more than 200 persons in premises not otherwise licensed under the 2003 Act (or are only licensed for Late Night Refreshment). The workplace exemption does *not* apply if the premises are licensed to sell alcohol.
- The licensing requirement for **unamplified** live music being performed in any location has been removed, providing performances take place between 08:00am and 11:00pm.

It remains the right of Royal Greenwich Licensing to impose live music conditions following the formal review of a licence attached to a venue where music is performed. Existing conditions on a current licence pertaining to live music are deregulated, but can be re-imposed for the purposes of making them enforceable if a review should determine this appropriate.

However, conditions imposed as a result of something included in a licensee's operating schedule when the licence was applied for under the 2003 Act still apply under any circumstances.

Are local residents consulted on licence applications?

The applicant must display notice of their application at the premises for 28 days and place an advertisement of their application in the local press.

Additionally, Royal Greenwich will write to all residents living within 100 metres of the premises or event to advise them of the application.

You may only object on the grounds of one or more of the four Licensing Objectives.

How do I object?

Objections must:

- Be received within the time limit on the notice, advertisement or letter relating to the application;
- Be made in writing (e-mails and faxes) providing it has your name and address;
- Relate to any of the four licensing objectives;
- Say in what way the premises or event contravene, or may contravene, those objectives;
- Be specific to those premises or that event and not relate to "general" issues;
- Contain your name and address;
- Not be frivolous, vexatious or repetitious.

Can I submit a petition?

You can submit a petition, but for it to be legally acceptable it must:

- Contain a header outlining the premises name and address, the fact that it is an objection, and the reasons for objecting at the top of every page;
- Give the name and address of each signatory;
- Nominate a spokesperson to receive details about the hearings, etc, from the licensing authority. This spokesperson should be willing to speak on behalf of the petitioners at the hearing.
- Individual signatories will not be contacted by the licensing authority. You must therefore contact the individual signatories, if you deem it appropriate.

You need to be aware that copies of all representations are provided to the Licensing Sub-Committee and the applicant, and are published on our website. If you are concerned that there may be reprisals from the applicant, then you may request that your name and house number is removed. *We will only remove your details if we are satisfied that you have a genuine fear of intimidation or violence.* Otherwise, your representation will not be accepted unless you subsequently agree to lift your anonymity. If your details cannot be removed, then you can withdraw your representation or, alternatively, we can advise you on how to forward it to one of the responsible authorities to request them to make a representation on your behalf.

What is the meaning of "frivolous, vexatious or repetitious"?

A *frivolous* complaint is one so trivial it would be unreasonable to consider. A complaint may also be frivolous if it cannot be related specifically to the event or premises concerned.

A complaint is *vexatious* if it is not genuine and is made as a result of a dispute between neighbouring residents and businesses. Royal Greenwich officers will make their own observations to establish whether complaints are being made for vexatious reasons.

A complaint is defined as *repetitious* under the Act if:

It is identical, or substantially similar to:

- A ground for review already considered by the local authority; or
- A representation made by a responsible authority or interested party to the grant of a Premises Licence; or
- A representation about a provisional statement which was excluded; AND,
- A reasonable interval has not elapsed since that earlier time.

Royal Greenwich will decide what a “reasonable interval” is, depending on the circumstances of the case. However, Government guidance says the minimum period between reviews should be at least twelve months in any case, unless there are particularly compelling circumstances.

If we decide to reject your application for review, we will write to you and explain our decision and our reasons for it. If you are unhappy with a decision, you may apply to the High Court for a judicial review of our decision.

What happens if objections are received?

Royal Greenwich may attempt mediation with the applicant and objectors present, to see whether the issues can be resolved.

Our Licensing Sub Committee determines applications if no agreement can be reached (or mediation cannot take place for whatever reason). They will listen to evidence from both sides before deciding whether to grant a licence.

The Committee consists of an independent group of elected Members of the Royal Greenwich local authority.

They may either grant the application as requested, grant it subject to conditions, or refuse the application.

A hearing need not be held if all parties agree it is unnecessary.

What if I am unhappy with the Licensing Sub Committee’s decision?

Providing you made a representation to the original application, you may lodge an appeal against our decision. You must appeal within 21 days of being notified of the decision. If you wish to appeal you should contact the Magistrates’ Court on 020-8276 1338.

Does the new law mean 24-hour licensing?

It allows for that, theoretically. However all applications to extend licence hours are open to scrutiny by responsible authorities and local residents, and would not be granted in inappropriate circumstances.

What is an Operating Schedule?

An Operating Schedule is where a licensee describes how they are going to run their premises, event or business to promote the four Licensing Objectives.

Anything a person says they will do in their Operating Schedule will become a condition of their licence, if granted. Therefore they must only volunteer things they can, and will, do. If they do not comply with licence conditions, Royal Greenwich can prosecute them.

If you are concerned about a particular application and need to see the Operating Schedule, contact this office. You will be able to make an appointment to come and look at the Operating Schedule before deciding whether to make a representation.

What happens if licensed premises cause me nuisance?

If you are concerned about noise nuisance, you should contact the Royal Greenwich Noise Team in the first instance. They can be contacted on 020-8921 8166/7 during office hours and 020-8921 8921 at evenings and weekends. They can write a warning letter on your behalf and can assess the impact of the noise on you. They may take formal action such as serving an abatement notice, prosecuting the premises management or even seizing equipment in exceptional circumstances.

The Noise Team can only deal with noise from entertainment and also from customers within the venue. They cannot deal with noise from people in the street.

If you have concerns about noise and other anti-social behaviour in the street, you must contact the Police.

The Licensing Department are responsible for enforcing licence conditions and regularly visit licensed premises to ensure they are being complied with. If you suspect licensed premises are breaching their licence conditions you should contact the Licensing Department on 020-8921 8370/8139.

The Government have also introduced a mechanism where interested parties and responsible authorities can apply for the licence for particular premises to be reviewed.

What is a review?

A review is a request for your local authority to look at a licence and decide whether its conditions are adequate to meet the four licensing objectives defined under the Licensing Act 2003. This is because licences last for the lifetime of the business and would not be subject to review at any other time.

Reviews are dealt with in the same way as contested licence applications. A separate guidance sheet on reviews is available, which can be obtained from our website or Woolwich Centre offices (for address, see page one).

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.