

APPLYING FOR A PREMISES LICENCE

The following information is intended as a guide to the main provisions of the legislation. Applicants should take their own professional and legal advice where appropriate.

It is advisable that you make sure you have the correct planning permission in place before applying for a licence.

The process takes 28 days or it could be longer should representations be made against the application. Therefore you must ensure you have at least 28 days plus 15 working days clear before you intend to open your premises when you make your application.

<https://www.gov.uk/government/publications/premises-licence-application-forms/premises-licence-guidance>

What is a premises licence?

Premises at which entertainment and certain other activities including the sale of alcohol are provided are required to be licensed under the Licensing Act 2003 (the Act). The premises licence is valid for the life of the business supplying alcohol and/or regulated entertainment.

What are the objectives of the Licensing Act 2003?

The four licensing objectives of the Licensing Act 2003 are:

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

The four licensing objectives are the principle concerns that the legislation is designed to deal with, and are:

- the matters which an application for a premises licence must address;
- the only matter which a licensing authority will address when considering whether to grant the licence;
- the only grounds on which an objection may be made to the grant of a premises licence;
- the only grounds on which a licensing authority is able to refuse a premises licence or impose conditions on it.

What is a 'premises'?

'Premises' is defined as 'any place and includes a vehicle, vessel or moveable structure'. An application can be made to the licensing authority for the area where the premises is located for any premises to be used for licensable activities. More than one premises licence may be granted for the whole or for different areas of a premises, which may be held by the same or different individuals or organisations.

What are the licensable activities covered by a premises licence?

The licensable activities covered by a premises licence are:

- the sale by retail of alcohol;
- the provision of regulated entertainment;
- the provision of late night refreshment.

See Appendix 1 for full information regarding licensable activities.

Who can apply for a premises licence?

An application for a premises licence can be made by:

- any individual or individuals aged 18 years or over if they propose to carry on a business involving
- the use of the premises for licensable activities;
- a business or partnership; and
- other organisations, such as hospitals, charities, schools, village hall committees.

What is a complete premises licence application?

The completed application form for a premises licence must be accompanied by:

- the licence fee based on the business rateable value of the premises (www.voa.gov.uk);
- the operating schedule;
- a plan of the premises; and
- if it is intended to sell alcohol, a form of consent given by the person whom the applicant proposes as the designated premises supervisor (DPS).

What is a designated premises supervisor?

A designated premises supervisor (DPS) is the person named on the premises licence (not necessarily the premises licence holder) who is the person responsible for authorising the sale or supply of alcohol at the premises and will normally be the person responsible for the day to day running of the premises.

A DPS must hold a personal licence under the Licensing Act 2003.

Since 24 November 2005, all premises that have been granted a premises licence for the sale by retail of alcohol under the Licensing Act 2003 require at least one personal licence holder; one of whom is named on the premises licence as the designated premises supervisor (DPS) as every sale of alcohol under the premises licence must be made or authorised by a personal licence holder.

Even if a premises licence is in force for the sale by retail of alcohol, alcohol cannot be sold if a personal licence holder is not named as the designated premises supervisor on the premises licence.

What is an operating schedule?

The operating schedule must include information necessary to enable any responsible authority or interested party to assess whether the steps taken to promote the licensing objectives are satisfactory.

The operating schedule must include a statement of:

- the relevant licensable activities;
- the standard and non-standard times during which it is proposed that the relevant licensable activities are to take place;
- whether the licensable activities will be carried out inside or outside the premises or both;
- the standard and non-standard times during which it is proposed that the premises will be open to the public;
- non-standard timings may include additional hours for festival days such as Christmas Day, New Year's Eve and Bank Holidays and/or set a limit for the final hour for outside entertainment;
- where it is proposed that the licence will have effect for a limited period, the details of that period;
- where the relevant licensable activities include the sale by retail of alcohol, prescribed information regarding the proposed DPS;
- where the relevant licensable activities include the supply of alcohol, whether such sales are proposed to be for consumption on the premises or off the premises or both;
- the steps the applicant proposes to take to promote the four licensing objectives of the Act.

The operating schedule must also include:

- a general description of the style and character of the business that is to be conducted on the premises;
- where alcohol is to be consumed on the premises, the intended areas to be designated for alcohol consumption and seating arrangements;
- an indication of all types of entertainment to be made available on the premises, especially entertainment of an adult nature, which would require the applicant to include additional steps to protect children from harm;
- where music is to be provided, the type of music must be stated to allow responsible authorities and interested parties to form a proper view as to the measures necessary to ensure public safety and prevent public nuisance.

What is a premises plan?

Every premises licence application must be accompanied by a premises plan, which must show the:

- location of the extent of the boundary of the building, including external and internal walls of the building and, if different, the perimeter of the premises;
- location of points of access to and egress from the premises;
- location of escape routes from the premises;
- area(s) within the premises used for each activity;
- fixed structures;
- where there is a stage or raised area, the location and height of each stage or area relative to the floor;
- location of any steps, stairs, elevators or lifts;
- location of the toilets;
- location and type of any fire safety and other safety equipment;
- location of any kitchens.

The plan may include a legend through which the points referred to above are sufficiently illustrated by the use of symbols on the plan.

For both written and electronic applications, plans are not required to be submitted in any particular scale, but must be in a format that is 'clear and legible in all material respects'. Plans must be accessible and provide sufficient detail for the licensing authority to be able to determine the application, including the relative size of any features relevant to the application. There is no requirement for plans to be professionally drawn as long as they clearly show all the prescribed information.

Where alcohol is to be consumed on the premises, all areas to be designated for alcohol consumption should be outlined in red on the premises plan. Where alcohol is to be consumed off the premises, all areas to be designated for the sale and display of alcohol products should be outlined in red on the premises plan.

How is the application advertised?

Applicants must advertise their application for a premises licence to the public in two ways:

1. By prominently displaying a notice at or on the premises to which the application relates where it can be conveniently read by the public for not less than 28 consecutive days, starting on the day after the day on which the application was submitted to the licensing authority. For premises covering an area of more than 50 metres square, a further notice in the same form and subject to the same requirements must be displayed every 50 metres along the external perimeter of the premises abutting any highway. The notice should be:

- of a size no smaller than A4;
- pale blue in colour;
- printed in black ink;
- in a print size equal to or larger than 16 font.

2. By placing a notice in a local newspaper circulating within the vicinity of the premises within 10 working days after the date of submission of the application to the licensing authority. The newspaper notice must be published as follows:

- in a local newspaper or, if there is none, in a local newsletter, circular or similar document, circulating in the vicinity of the premises; and
- on at least one occasion during the period of 10 working days starting on the day after the day on which the application was submitted to the Licensing Authority.

In both cases the notices must include the following information:

- the name of the applicant;
- the postal address of the premises, or a description sufficient to enable the location and extent of the premises to be identified;
- the postal address of the licensing authority where the record of the application may be inspected;
- the date by which a responsible authority or interested party may make written representations to the licensing authority;
- that it is an offence to knowingly or recklessly make a false statement in connection with an application; and
- details of the maximum fine for which a person is liable on summary conviction for this offence.

To prevent unnecessary costs, it is suggested that an application is not advertised in a local newspaper until the applicant has received confirmation from the licensing authority that the application is valid and includes all required information.

An application for a premises licence, whether in writing or by electronic means, will only take effect from the time that a valid application, accompanied by the fee, premises plan and any other required document, is received by the relevant licensing authority.

If the application is in writing, the applicant must also serve a copy of the application form and premises plan, on the same day as it is served on the licensing authority, on each of the responsible authorities for the area in which the premises is wholly or partly situated:

- the chief officer of police;
- the fire authority;
- the relevant health and safety authority;
- the local planning authority;
- the local authority environmental services noise control department;
- the children's services department;
- trading standards;
- The Director of Public Health
- any licensing authority, other than the relevant licensing authority, in whose area part of the premises is situated.

In relation to a vessel, the responsible authorities also include:

- the navigation authority;
- Environment Agency;
- British Waterways Board;
- Secretary of State.

If the application is made on-line, the licensing authority is responsible for copying the application to the appropriate responsible authorities on the first working day after a valid application has been submitted and the fee has been paid. However, if any part of the application is not submitted on line, the applicant remains responsible for copying those parts of the application not submitted on-line to the appropriate responsible authorities at the same time as the application is served on the licensing authority. In such cases, the application will not be valid unless it is properly served in accordance with the Act and applicable Regulations.

What are relevant representations?

Relevant representations are:

- representations can be made by authorised persons and responsible authorities or persons who live, or are involved in a business, in the relevant licensing authority's area, and are likely to be affected by the proposal.
- Representations that are not deemed to be frivolous, vexatious or repetitious.
- representations regarding the likely effect of the premises licence on the promotion of the licensing objectives;
- representations made by the chief officer of police relating to the identity of the proposed designated premises supervisor, where the police are satisfied that the designation of the person concerned would undermine the crime prevention objective of the Licensing Act 2003.

What happens if no relevant representations are raised?

As long as an application is properly made and no relevant representations are raised the licensing authority must grant the licence subject only to conditions as are consistent with the operating schedule accompanying the application and, if applicable, the mandatory conditions, as follows:

- that no sale of alcohol can be made under the premises licence when there is no DPS or when the DPS does not hold a personal licence or his personal licence has been suspended and additional mandatory conditions relating to irresponsible drink promotions, dispense of alcohol, provision of free tap water and measures of alcohol;
- any person at the premises carrying out a security activity must be licensed with the Security Industry Authority;
- where a premises licence authorises the exhibition of films, the admission of children to films must be restricted in accordance with recommendations given by the British Board of Film Classification or by the local authority.

What happens if relevant representations are made?

If relevant representations are made, the licensing authority must hold a hearing to consider them unless the authority, the applicant and any person who has made representations have agreed that the hearing is not necessary.

The hearing of the authority's licensing sub-committee must be arranged within twenty working days of the final representation date. Having listened to the representations the licensing authority can determine the premises licence application as follows:

- grant the premises licence subject only to the conditions that are consistent with the operating schedule accompanying the application and the mandatory conditions that must be attached;
- grant the premises licence subject to different conditions in respect of different parts of the premises or different licensable activities;
- exclude from the scope of the licence any of the licensable activities to which the application relates;
- refuse to specify a person in the licence as the premises supervisor; or
- reject the application.

How can an appeal be made against a licensing sub-committee decision?

Appeals against a licensing authority's determination of a premises licence application must be made to a Magistrates' Court within twenty-one days.

Is a refund of application fees possible?

No refund of the premises licence fees can be made under any circumstance.

What happens if the application is granted?

It is in the public interest that the licensing authority must grant an application for a premises licence before a premises can be used for the provision of regulated entertainment, the provision of late night refreshment and the sale by retail of alcohol.

Unless representations are made, the period of 28 consecutive days during which the application must be advertised on a notice outside the premises is the statutory timescale by which the application must be determined. If no representations are made during this period, the licensing authority must notify the applicant as quickly as possible that the licence has been granted. The licensing authority must send the licence to the applicant as soon as possible after this, but the applicant may start the licensed activity as soon as they have been notified that the application is granted.

Applicants can begin the licensable activity/ies once they have received notification from the licensing authority that the application has been granted where without waiting for the licence to arrive. However, applicants do so at their own risk if they have not first ensured that they are aware of any conditions on the licence.

Operating times

Premises licence holders must comply with the agreed operating times in line with both planning permissions and premises licences issued under the Licensing Act 2003. When, as a condition of planning permission a terminal hour has been set for the use of the premises for commercial purposes and where these hours are different from the licensing hours, the premises licence holder must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.

Help, advice, where to download forms and on-line application facility

www.licensing@thanet.gov.uk

<https://www.thanet.gov.uk/info-pages/alcohol-and-entertainment-licensing/>

APPENDIX 1

LICENSABLE ACTIVITIES

The following information is intended as a guide to what type of event activities fall under each of the licensable activity headings of the Licensing Act 2003. The list below is not definitive and applicants should take their own professional and legal advice where appropriate.

'Plays' include:

Theatrical entertainment, plays, reviews, amateur dramatics, school drama productions, mime, punch and judy, book reading events

'Films' include:

Cinema entertainment, public film shows, race nights (if using a DVD recording), juke box with DVD facility, wii tournaments, sky plus

'Indoor sporting events' include:

Darts, pool, billiards, table tennis, five a side football, indoor bowls, bowling

'Boxing or wrestling entertainment' includes:

Boxing and wrestling matches/events, amateur boxing matches, kick boxing and judo/karate events, fun events such as mud wrestling

'Live music' includes:

Rock bands, brass bands, jazz bands, folk groups, piano recitals, school music events

'Recorded music' includes:

Discos, jukeboxes, CDs, piped music, background music

'Performance of dance' includes:

Dance performed by entertainers, such as line dancing, flamenco, belly dancing, burlesque, country dancing, school productions

'Entertainment of a similar description' includes:

Karaoke, wii tournaments

'Provision of entertainment facilities for making music' includes:

Provision of facilities, such as the hire of a premises or part of a premises for events where music will be played for events such as weddings and parties

'Provision of entertainment facilities for dancing' includes:

Provision of facilities, such as the hire of a premises or part of a premises for events where dancing will take place for events such as weddings, parties, tea dances, drop in dance classes/sessions, dinner/dances

'Provision of entertainment facilities for entertainment of a similar description' includes:

Provision of facilities, such as the hire of a premises or part of a premises for events where karaoke, wii tournaments will take place for events such as weddings, parties, pub games nights, charity fundraisers

'Provision of late night refreshment' includes:

Any sale of hot food and drink, including the sale of teas and coffees to customers between 23:00 and 05:00 hours

‘Sale by retail of alcohol’ includes:

‘On sales’ allows consumption of alcohol only on the premises in the area designated by the red boundary drawn on the premises plan.

‘Off sales’ allows the sale of unopened bottles/cans of alcohol for customers to take away from the premises to consume elsewhere.

Adult entertainment

Section N of the application form requires the applicant to highlight any adult entertainment or service, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children. This section must be appropriately completed or must state ‘none’.

‘Adult entertainment’ may include such entertainment as hen/stag nights, drag artistes, adult comedians, race nights, casino nights, burlesque shows, gaming machines and film shows where the category of the film is 18+.

If the applicant states ‘none’ in section N, then no adult entertainment of any description would be permitted on the premises.

If the applicant does highlight any adult entertainment in section N, it is suggested that the following condition is offered by the applicant as part of the operating schedule under the category ‘protection of children from harm’:

‘No person under 18 years of age to be allowed entry to any part of the premises when entertainment of an adult nature is taking place on the premises’.

Please note that there is now separate legislation covering lap dancing, pole dancing, striptease and nudity, which may require the premises to be licensed as a sexual entertainment venue.