

***Latest - the Licensing Act 2003 received Royal assent in July 2003. Guidance to the Act is expected November/December - the new measures are expected to come into force 6 months later.***

## **Frequently Asked Questions (FAQs) on Licensing Bill 2003**

(Information supplied by LACORS)

**Please note this list of FAQs is not exhaustive, and some of the information given is an interpretation of current thinking from Government rather than confirmed policy. The information given was correct at time of writing and South Cambridgeshire District Council will endeavour to update as further information is made available.**

### **What is the purpose of the Bill?**

The main aim of the Bill is to modernise the legislation governing the sale and supply of alcohol and control of public entertainment. Responsibility for licensing personnel and premises will transfer from magistrates and become the sole responsibility of District, Borough and Unitary Authorities in England and Wales.

### **Who is taking the lead on the Bill?**

The Department for Culture, Media and Sport (DCMS). The Department's Secretary of State is supported by Richard Caborn and Dr Kim Howells in the House of Commons and by Baroness Blackstone in the House of Lords.

### **Where can I get a copy of the Bill?**

The Bill and explanatory notes can be viewed at:

<http://www.publications.parliament.uk/>

The Regulatory Impact Assessment is available at:

[http://www.culture.gov.uk/new\\_responsibilities/ria\\_licensing.pdf](http://www.culture.gov.uk/new_responsibilities/ria_licensing.pdf)

### **Where can I get hold of a copy of the Guidance?**

(Due to be published in September 2003)

### **Does the Bill apply to the whole of the UK?**

No, the Bill is applicable to England and Wales only

### **When will the new licensing regime start?**

Royal assent was gained in July 2003. The actual transition period and timings are still under negotiation, indications however are that the transition date will commence in mid 2004. Government have proposed 12 months from Royal Assent to have the process fully up and running. However, South Cambs District Council along with others do not feel that this is a realistic period, and that it is in the interest of all stakeholders to allow a fair and reasonable period in order to effect the transition as smoothly as possible and would like to see a period of at least 18 months for transition. It seems possible that Government may allow an initial 6 month period from Royal Assent for local authorities to consult on and write their Licensing Policies, before they have to receive and consider any applications

under the new regime. There may then be a further period of 12 months to process all the applications. This means it could potentially be 2005 before the system is fully implemented.

### **What are the aims of the new licensing regime?**

The four licensing objectives that local authorities are under a duty to promote are:-

1. The prevention of crime and disorder
2. Public safety
3. The protection of children from harm
4. The prevention of public nuisance

### **What are licensable activities?**

According to Clause 1(1), and Schedules 1 and 2 of the Bill

The sale of alcohol by retail

The supply of alcohol by or on behalf of a club to, or to the order of, a member of a club

The provision of regulated entertainment

The provision of late night refreshment

### **What is Regulated Entertainment?**

Subject to qualifying conditions, and exemptions, the definitions contained in Schedule 1, state that it is:

A performance of a play

An exhibition of a film

An indoor sporting event

A boxing or wrestling entertainment (indoors or outdoors)

A performance of live music

Any playing of recorded music

A performance of a dance

Entertainment of similar description to that falling within the performance of live music, the playing of recorded music and the performance of dance

### **Does the Bill cover entertainment outdoors?**

Yes, the definition of 'premises' given in clause 188 states that it means 'any place and includes a vehicle, vessel or moveable structure'. Unlike the current system, outdoor entertainment (or any other licensable activity) can take place on either private or public land and still require a licence.

### **What is late night refreshment?**

Late night refreshment, and the exemptions, are defined in Schedule 2 of the Bill. It is worth remembering that because the definition of premises includes vehicles, a burger van which has regular pitches will require a premises licence for each of these.

The Bill received royal assent on the 10<sup>th</sup> July 2003. Secondary legislation that will determine more detailed parts of the bill such as fees, information required by applicants etc will be announced in November/December 2003

**Will there be any additional funding to assist local authorities set up the new system?**

DCMS is currently resisting the provision of any additional funding to assist local authorities in starting up the new system. Their opinion is that there will be little enforcement during the transition period, and therefore the licence fee income will cover the start up costs. However there will be work to do before any licence fee income is received, and that there will still be enforcement relating to existing Public Entertainment Licences. Examples of start up costs include, training of Members and officers, staffing and recruitment, software and hardware, transfer of records from Licensing Justices to local authorities and producing and consulting on licensing policies.

**How will fees be determined under the new legislative system?**

DCMS have stated that there will be a system of standard fees set by the Secretary of State. These are outlined in the Regulatory Impact Assessment to accompany the Bill. The proposed estimates are:

Premises Licence – Between 100-500 pounds

Personal Licence – Approximately 30 pounds

Temporary Event Notice – Approximately 20 pounds

In addition there will be an annual fee for on-going enforcement costs, but there has been no official indication of what this might be.

LAGA/LACORS do not feel that these proposed fees are sufficient to cover the costs to local authorities of administering the system, and they continue to lobby for discretion in setting fees, or at least some form of regional banding. This should be based on full cost recovery.

**What training will be required ?**

Training in the new legislative regime will be important for both local authority officers and Elected Members in order to assist with the smooth implementation of the new scheme.

**How often does a licensing policy need to be published?**

It will need to be reviewed every three years. The first must be published before the local authority can carry out any function in respect of individual applications made under the terms of the new Act. Further details are contained in Clause 5 of Bill and Section 4 of the Draft Guidance. LACORS is proposing to issue a framework or guidance document to assist local authorities in writing and consulting on their Licensing Policies.

**What is a personal licence?**

This is a portable licence granted by the local (licensing) authority of residence to an individual enabling the right to sell alcohol at any premise licensed for the sale of alcohol.

**How long is it valid?**

10 years. Then, as the Bill currently stands, the licence holder reapplies to the authority which

originally issued the licence irrespective of where they live now.
<b>Are there any qualification requirements for personal licences?</b>
Yes, there will be a requirement for new personal licence holders to take a qualification approved by the Secretary of State. This will not apply to licences issued under 'grandfather rights' i.e. the holders of current Justices Licences. LACORS/LGA has a representative attending the DCMS working group set up to examine the structure and content for the new personal licence holders qualification.
<b>What is an Operating Schedule?</b>
The operating schedule is a mandatory requirement of a Premises Licence application. It must be submitted with the application, and include details such as descriptive information about the premises, a statement of the proposed relevant licensable activities, details of any risks associated with the location, size, opening hours, controls on capacity, soundproofing, door supervisors etc. Further information can be found in Clause 17 of the Bill and paragraphs 6.22 – 6.25 of the draft Guidance. The Secretary of State may prescribe, by statutory instrument, other matters that must be included in an operating schedule.
<b>Will current opening hours change?</b>
Yes, an important aspect of the Bill is that it proposes that pubs, clubs and restaurants can open up to 24 hours a day. Licensing authorities will not be able to impose quotas or zoning resulting in artificially staggered closing times. For further information see paragraphs 4.20 – 4.23 and Section 7 of the draft Guidance.
<b>Are Places of Worship affected by the Bill?</b>
The provision of any entertainment or entertainment facilities are exempt if – <ul style="list-style-type: none"> <li>• For the purpose of, or for purposes incidental to, a religious meeting or service or</li> <li>• At a place of public religious worship.</li> </ul>
<b>Are there any other exemptions?</b>
Yes: moving vehicles on the public Highway, live television/radio broadcasts and spontaneous music and singing. For further details see Part 2 of Schedule 1 of the Bill.
<b>What is a temporary event notice?</b>
A license enabling the temporary sale of alcohol or the provision of regulated entertainment or late night refreshment at premises not authorised by premises licence or club premises certificate. No permission is required from the licensing authority for these events. See Part 5 of the Bill.

<b>What are the limitations on temporary event notices?</b>
<ul style="list-style-type: none"><li>• A personal licence holder can only apply 50 times in a year, and only 5 times for all other people</li></ul>
Only 5 temporary event notices can be given in respect to a particular premise in one calendar year
The temporary event cannot exceed 96 hours.
A maximum of 500 people can be in attendance at any one time
<b>Where can I find further information about the Bill?</b>
Via the LACORS website: <a href="http://www.lacors.gov.uk/pages/trade/lacors.asp">http://www.lacors.gov.uk/pages/trade/lacors.asp</a>
The LGA's website: <a href="http://www.lga.gov.uk/">http://www.lga.gov.uk/</a>
The DCMS website: <a href="http://www.culture.gov.uk/">http://www.culture.gov.uk/</a>
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