

Licensing Act 2003

General Licensing Guidance-Clubs

Introduction

The Licensing Act 2003 heralds a change in the way liquor licensing is administered moving control from the Magistrates' Courts to local authorities. Part of the change involves the amalgamation of the licensing of public entertainment events, theatres, cinemas and late night refreshment houses already carried out by local authorities with the new liquor licensing arrangements.

The new regime fully comes into effect in November 2005 by which time all premises and persons requiring to be licensed will need to have applied for their respective permissions. The new law provides for premises licences, club premises certificates, temporary events notices and personal licences to be applied for.

The Licensing Act 2003 recognises that volunteer and social clubs give rise to different issues for licensing law than commercially run premises selling direct to the public. These clubs (such as the Royal British Legion, working men's or cricket or rugby clubs) are generally organisations where members join together for a particular social, sporting or political purpose and then combine to purchase alcohol in bulk for its members. The clubs carry on activities from premises to which public access is restricted and alcohol is supplied other than for profit.

Clubs which meet specified criteria set out in the 2003 Act are known as 'qualifying clubs' and the authority under which they may supply alcohol and conduct other 'qualifying club activities' from their premises is a club premises certificate issued by the licensing authority (Gedling Borough Council). The grant of a club premises certificate means that a club is entitled to certain benefits, which include the authority to supply alcohol to its members and sell it to guests without the need for any member or employee to hold a personal licence, and the absence of a requirement to specify a designated premises supervisor. There are also more limited rights of entry for the police and other authorised persons, as the premises are considered private and not generally open to the public.

Club Premises Certificate

To be classified as a qualifying club a number of general conditions must be met. These are:

- That under the rules of the club, persons may not be admitted to membership, or be admitted, as candidates for membership or to any of the privileges of membership without an interval of at least two days between their nomination for membership and their admission.
- That under the rules of the club, those becoming members without prior nomination or application may not be admitted to the privileges of membership without an interval of at least two days between their becoming members and their admission.

- That the club is established and conducted in good faith as a club.
- That the club has at least 25 members.
- That alcohol is not supplied to members on the premises otherwise than by or on behalf of the club. To qualify as a club authorised to supply alcohol to its members and guests, additional conditions must be met:
 - The purchase and supply of alcohol by and for the club is managed by a committee made up of elected members of the club all aged over 18 years
 - No arrangements may be made for any person to receive at the expense of the club any commission, percentage or similar payment on, or with reference to, purchases of alcohol by the club
 - No arrangements may be made for any person to derive directly or indirectly any monetary benefit from the supply of alcohol to members or guests apart from to benefit the club as a whole or any indirect benefit a person derives by reason of the supply contributing to a general gain for the club as a whole

Which activities does a club premises certificate authorise?

A club premises certificate may authorise the conduct of any of the qualifying club activities, namely:

- The supply of alcohol by or on behalf of the club to, or to the order of, members of the club
- The sale by retail of alcohol by or on behalf of the club to a guest of a member of the club for consumption on the premises where the sale takes place
- The provision of regulated entertainment (where that provision is by or on behalf of a club for members of the club or members of the club and their guests)

How do I apply for a club premises certificate?

An application for a club premises certificate must be made to Gedling Borough Council. If you currently hold a Club Registration Certificate through the Magistrates' Court you will be able to apply for a conversion with Grandfather rights during the first 6 months of the transition period commencing on 7 February 2005 until 6 August 2005. Also during this period you can apply for a variation to your current licence provisions. If you do not currently hold a licence you can make a new application for a licence to come into force at the end of the transition period. When making your conversion application, the requirements are as follows:

- Completed application form. (You will only need to complete Part A of the application form for a straight conversion);
- Original certificate or certified copies;
- A copy of the club rules;
- Fee. Details of the fees payable are available on a separate general licensing guidance sheet. Cheques should be made payable to 'Gedling Borough Council';
- A copy of application must be sent to the police within 48 hours of the application being made to the Council. A separate contact sheet of all the responsible authorities is available.
- A plan of the premises drawn to the scale of 1:100 unless the Council has previously agreed in writing an alternative scale. The plan must show:

The extent of the boundary of the building and any external and internal walls of the building, and if different, the perimeter of the premises;

The location points of entrances and exits and any escape routes from the premises;

The locations in the premises where the licensable activity is to take place, and if there is more than one licensable activity, where each activity is to take place;

The locations which are used for the consumption of alcohol;

Fixed structures (including furniture) or similar objects temporarily in a fixed location (but not furniture) which may impact on the ability of individuals on the premises to use exits or escape routes without obstruction;

The location and height of any stage or raised area, if any;

The location and type of any fire safety and other safety equipment;

The location of a kitchen on the premises, if any;

The location of any steps, stairs, elevators or lifts;

The location of public toilets.

The plan may include a legend which clearly illustrates the above requirements by the use of symbols on the plan.

Only the police can make a representation against a conversion under grandfather rights and only on grounds of crime and disorder. If there is no representation made by the police the certificate will be granted. If there is a representation by the police a hearing will be held by the Council's Licensing Panel.

Applying for a conversion to a Club Premises Certificate with variations during the Transition Period

You will need to submit:

- a completed application form (both Parts A and B);
- a plan of premises (see above requirements);
- the original club certificate or certified copies;
- a copy of the club rules;
- a club operating schedule;

Details of the correct fee payable can be found on a separate general licensing guidance sheet. Cheques should be made payable to 'Gedling Borough Council'.

Copies of application and all supporting documents to be sent to all the responsible authorities within 48 hours of the application being made to the licensing authority and

the application advertised for benefit of interested parties

Applicants may if they wish apply to vary their current club registration certificate provisions during the first 6 months of the transition period commencing on 7 February 2005 until 6 August 2005. For example they may wish to change their closing times.

Requirements for a variation are:

Responsible authorities and interested parties will be able to make representations against the variations. The Council has up to two months to determine your variation application. If no representations to the application are received, then the Council must grant the application subject to the mandatory conditions and any conditions you have included in your operating schedule and any conditions on your existing licence.

If representations have been received from any responsible authority and/or interested parties and the issues cannot easily be resolved by revising your club operating schedule, the application will go for a hearing before one of Gedling Borough Council's Licensing Panels for a decision.

What should be included in the clubs operating schedule?

Whilst the precise detail of each will be slightly different the key details in the club operating schedule will include:

- The qualifying club activities to be carried out;
- The proposed hours that the relevant licensable activities are to take place;
- The proposed hours that the premises are to be open to members and members' guests;
- Where the applicant wishes the variation to have effect for a limited period, that period must be stated;
- Where the relevant qualifying club activities include the supply of alcohol, whether the alcohol is to be consumed on and/or off the premises;
- The steps which it is proposed to take to promote the four licensing objectives:

The prevention of crime and disorder;

Public Safety;

The prevention of public nuisance; and

The protection of children from harm.

A list of the model pool of conditions which focus on addressing the four licensing objectives can be found attached to our Statement of Licensing Policy.

How long does a club premises certificate last?

A club premises certificate has no time limit and will continue to have effect unless it is

withdrawn by the licensing authority following an application for the review of the certificate, if the club ceases to be a qualifying club or it lapses on surrender by the club.

Will I still be able to sell or supply alcohol to under 18's in the club?

No. Under the Licensing Act 2003 a club will commit an offence if alcohol is supplied by it, or on its behalf, to a member of the club who is under 18, or to the order of a member of a club, to a person who is under 18. Also, a person (e.g. a member of or employee at the club) will commit an offence if he supplies alcohol to a member of a club who is under 18, or to the order of a member of a club, to a person who is under 18.

Will a member of the club need to be a designated premises supervisor and have to obtain a personal licence?

No. There is no requirement to have a designated premises supervisor or for a member or employee of the club to be a personal licence holder, in order for the club to be able to obtain a club premises certificate to authorise it to sell or supply alcohol.

Will door supervisors have to be licensed by the Security Industry Authority?

No. If a qualifying club under the authorisation of a club premises certificate decides to have door supervisors for a particular event there is no mandatory condition in the Licensing Act 2003 that states they will have to be licensed by the Security Industry Authority.

Further help and information

Further licensing information is available on the Council's website at www.gedling.gov.uk and the Department for Culture Media and Sport at www.culture.gov.uk.

You may contact our Licensing Office by telephoning 0115 901 3895, by email:licensing@gedling.gov.uk

Our postal address is Licensing Office, Planning and Environment Department, Gedling Borough Council, Civic Centre, Arnot Hill Park, Arnold, Notts. NG5 6LU.

These notes are intended to help existing licence holders to apply to convert their existing licences under the new regime. They are not comprehensive and do not form part of the Regulations issued by the Department for Culture, Media and Sport (DCMS).

The Licensing Regulations can be viewed or downloaded on the DCMS website at the above address. Applicants are also advised to seek their own independent legal advice.