

The voice of the Voluntary Arts

What's happening with the Licensing Act 2003?

The new Licensing Act, which came into force on 24 November 2005, was the biggest shake up of the licensing laws in over forty years, designed to streamline the six previous regimes governing public entertainment and the sale and supply of alcohol (alcohol, public entertainment, cinemas, theatres, late night refreshment house and night cafes) into a single integrated licensing system. This briefing provides an update on the Act since its implementation, and helps organisations avoid some of the pitfalls that have arisen in the first twelve months of its operation.

Note: This briefing should be read in conjunction with VAN briefing 76: *Licensing Act 2003* (March 2004) available to download from the VAN website at www.voluntaryarts.org or by emailing info@voluntaryarts.org

I. Background

a. Summary of the Act

The Licensing Act is designed to create a balanced package of freedom and safeguards, including a greater say for residents and fewer disincentives for venues to put on a more diverse range of activities. It has four key objectives which provide additional protection over and above other laws:

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

Under the new Act, licensing authorities (usually local authorities) are responsible for licensing entertainment, sales of alcohol and late night refreshment. They may only object to an application on the basis of one or more these four key objectives.

Whereas licensing fees were at the sole discretion of the licensing authorities under the old regime, the new Act has introduced fees that are set by central government. This is intended to eliminate the huge differences that often existed between neighbouring local authorities.

Another benefit of the new **premises licences** is that they are permanent, abolishing the need for renewals. For venues that do not have a premises licence, or wish to put on activities that were not specified on the original licence application, the new Act has introduced a system of **temporary event notices** (TENs). These are designed as a 'light touch', to create sufficient versatility within the law to allow for alcohol sales and a wide range of entertainment activities, while still protecting the public.

b. Fears surrounding the Act

During the planning of the Licensing Act, a number of fears were expressed to the government and licensing authorities.

- the form is too complicated and puts applicants off;
- small venues may decide to opt for recorded entertainment rather than bothering to apply for a license for live entertainment;
- licensing authorities may impose punitive conditions;
- the limit on the number of TENS on premises may stop activities from taking place.

Since the Act was introduced, the Government has introduced a number of measures (see *the overleaf*) to allay these fears and prevent the new laws from harming the performance of live entertainment.



2. What's happened since the Act was introduced?

After the Act was passed on 10 July 2003, there was a period for licensing authorities to create their licensing policy statements and for organisations to apply for new licences in preparation for the Act coming into force on 24 November 2005.

To monitor the effects of the Act, the Government set up a number of panels and committees, some of which have reported back on their findings, while others are due to report some time in 2007. A few of the conclusions so far:

a. Village halls and community venues

On 5 July 2006 it was announced that village halls and community venues may no longer be required to have a designated premises supervisor (DPS) with a personal license in order to sell alcohol. Instead the responsibility would fall to the whole management committee, as it does with private members' clubs. This change was in response to concerns from community groups over bureaucracy and costs, and unwillingness by volunteers to take on the responsibility. This change is subject to public consultation and might not realistically happen until the end of 2007.

b. Number of TENs

It was also announced on 5 July 2006 that the number of temporary event notices would not be extended beyond the current cap of 12 for unlicensed venues. This decision was made in response to a consultation of 237 licensees, 67 of which were community venues and 22 were arts organisations. Although the majority of community venues and arts organisations were in favour of an extension, this was outweighed by other organisations that were not in favour.

c. Simplifying the application procedure

As a result of the reports conducted in summer 2006, ministers agreed the need for a strategy to simplify the application process, while continuing to protect the public. As well as removing the DPS requirement for community halls, other suggestions included:

- single licences for travelling entertainment such as circuses or theatre;
- a single annual payment date;
- simplified forms;
- an easing of the advertising burden (see section 3a).

Decisions on each of these suggestions are expected sometime in 2007.

d. The Live Music Forum

The Live Music Forum was set up in February 2004 to monitor the effect of the Act on live music. On 7 December 2007 an Ipsos MORI report on the experience of smaller venues in applying for licenses was published on behalf of the Live Music Forum and the Department for Culture, Media and Sport (DCMS). It showed that, of the 2,101 small venues surveyed:

- 63 per cent have either obtained a music licence or put on live music via other means – compared to 60 per cent under the old laws;
- a quarter of premises now have a licence to put on music for the first time;
- of the small proportion of venues that used to operate under the 'two in a bar rule', the majority now have live music licences;
- fewer than two per cent had their live music applications refused.

e. Fees

An independent fees review into the overall fee levels, structures and cases for exemption is due to report to ministers shortly.

3. Authorisations and exemptions

a. Premises licences

It is the responsibility of the owner, landlord, or anyone running a business involving licensable activities to apply for a licence for their premises. These are venue/location specific and are not time limited (unless requested), meaning that applying for a licence is a one-off process that never needs repeating. To apply you must submit your application form (*available to download from the DCMS website – www.culture.gov.uk*) to your licensing authority, provide copies to the relevant authorities, provide a premises plan, pay the fees, and advertise the details of your application for the benefit of local residents. Authorities and local residents can object if they are concerned that the application would breach any of the four key objectives of the Licensing Act.

To advertise you must display a printed notice or notices at the premises, and in a local newspaper (or if there is none, in a local newsletter, circular or similar document). Details of what the advert must include, its format and a timetable are available on the DCMS website.



Tips:

- When applying for a licence, make sure you include all the activities you think might take place at the premises in the future. If you are unsure about a particular activity it is better to specify it just in case – if you do decide to do it and it is not included in your licence you will either have to apply for a new licence or rely on a TEN.
- When considering the cost of licence, do not forget the cost of advertising your application to your local community, a compulsory part of the process of becoming licensed.
- When organising an event at an unfamiliar venue, do not assume that there is a licence in place to cover all the activities you have planned. If there is not, it is up to you or the venue owner to apply for a new licence or issue a TEN. Similarly, do not automatically assume that you have to issue a TEN each time you stage an event – if the venue owner already has the correct licence in place you can save yourself the time and expense.
- If you are a venue owner or venue committee member (e.g. of a community hall), ensure that you have a hiring agreement explaining what the premises are licensed for, along with any health and safety issues such as what to do in the event of fire. A proper agreement is essential as you are passing responsibility for a valuable community asset to another group who you may or may not know. A proper agreement creates a legally binding contract and protects all parties.

b. Temporary entertainment notices (TENs)

Events covered by a TEN can last for up to 96 hours and must involve no more than 499 people. The 96 hour period includes the time between performances, so even if you are staging a three-hour performance on consecutive nights, your TEN will last just four nights. Concern has been expressed by amateur drama groups that this is unfair, as many of their venues are unwilling to apply for a full alcohol licence, and to rely on a TEN means serving alcohol on only four nights of a much longer run.

Temporary entertainment notices are precisely that, notices to be *issued* rather than licences to be *applied for*. The organiser of the event must submit two copies of the notice to the licensing authority at least 10 days before the event is due to take place. They must also send a copy to the local police – the only other body that can object to an application for a TEN, on the grounds of crime and disorder. TEN forms are available to download from the DCMS website. You must issue the notice in duplicate, at least 10 working days prior to the day on which the event period begins, to your licensing authority together with the fee of £21.

Tips:

- If the venue you are planning to use has a licence for regulated entertainment but not for the sale of alcohol, and you wish to serve alcohol for up to 96 hours of the event's duration, you can issue a TEN to supplement the provision of the premises licence.
- You must issue a TEN at least 10 working days in advance of your event, but it is a good idea to give more time in case the police have any objections and are prepared to negotiate changes to the event. If the police are in doubt with regards to public safety and the event is only 10 days away, they will err on the side of caution and make an objection.
- TENs do not have to be displayed at the event, and it is a good idea not to do so, as they contain personal information. It is necessary, however, to display a notice stating that a TEN has been issued.

c. Exemptions

In addition to the exemptions specified in briefing 79, the following have been added/clarified to help allay some of the fears expressed in the run up to and early stages of the Act coming into force:

- **Church, chapel, village, parish or community halls** – need a licence for regulated entertainment, but are exempt from paying the license fee. If, however, the licence also authorises the use of the premises for the supply of alcohol or the provision of late night refreshment, a fee will be required for those activities.
- **Schools** – similarly, these need a licence for regulated entertainment, but, as long as the entertainment is provided by and at the school and for the purposes of the school, are exempt from paying the fee. Many schools are not applying, or applying for regulated entertainment only, due to the perceived bureaucracy and cost of a full alcohol licence, forcing the hirer to issue a TEN.
- **Circuses** – single licences for travelling entertainment such as circuses may come into force in the future. At the moment, circuses need to use land that has been licensed by the local authority or land owner for the use of regulated entertainment, or issue a TEN for each location.
- **Entertainment on moving vehicles**, such as carnival floats – exempt.
- **Other moving performances**, such as majorettes – are not exempt, except when incidental to a main performance, such as a procession of carnival floats. To avoid doubt it is best to use streets that have been licensed by the local authority or town centre manager.

- **Carol concerts** – exempt if performed as part of a religious service or in a place of public religious worship.

Tips:

- *Whether a form of entertainment is exempt or not remains at the discretion of the licensing authority. To avoid confusion further down the line, write to the head of your licensing authority and ask for a judgement in writing as to whether your event is exempt from licensing (and, if not, what type of licence is required).*

d. The licensing of public places

Since the Act was introduced, the Government has been encouraging local authorities to license public places, including schools and outdoor areas such as parks and streets, so community events, circuses, street arts, etc. would not need their own licences. Unfortunately, in many authorities, this practice is not yet widespread.

Tips:

- *Find out what spaces near you are licensed on the Department for Culture, Media and Sport's central register of licensed public spaces in England and Wales (see Further Information & Resources).*
- *Remember that even if a public place is licensed, you still need the permission of the licence holder to run an event there.*
- *If you know of a public space that you think should be licensed for community events, contact your local authority or town centre manager and suggest that they do it.*

Further Information & Resources

- **The DCMS website** has answers to most queries about the Licensing Act at: www.culture.gov.uk/what_we_do/alcohol_entertainment
- **The Act and Explanatory Notes** can be viewed via the Office of Public Sector Information website: www.opsi.gov.uk/acts/acts2003/20030017.htm
- **Local authority licensed spaces (DCMS):** www.culture.gov.uk/what_we_do/Alcohol_entertainment/licensed_public_spaces.htm – at the time of going to press the full register has not yet been published, although a pilot version is available
- **'My Guide to Licensing'** by Jim Hunter (Taunton Deane Borough Council and South Somerset District Council, 2006) – for more details email licensing@tauntondeane.gov.uk

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Disclaimer

This briefing is by no means a definitive statement on the Licensing Act and VAN cannot be held responsible for any errors or misinformation. If you have any further queries, contact the Department of Culture, Media and Sport, 2-4 Cockspur Street, London SW1Y 5DH.

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