



STROUD DISTRICT COUNCIL

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Environmental Health Service
Licensing Section

Licensing Act 2003

Guidance Booklet

*Stroud District Council
Licensing Section
Updated 25.11.2008*

LEGAL DISCLAIMER

This booklet is intended to provide a brief overview of the main provisions of The Licensing Act 2003. Its purpose is to give **guidance** to individuals and businesses regarding the requirements of the Licensing Act, 2003. The Council does not accept any responsibility or liability for any errors contained within the booklet or omissions. **You are strongly advised to seek your own independent legal advice.**

The Licensing Act 2003

The Licensing Act 2003 received Royal Assent on 10th July 2003 and replaced existing licensing laws regarding licensable activities. The Act came into effect on 24 November 2005 and affects amongst others:

- ❖ Pubs and nightclubs
- ❖ Off-licenses
- ❖ Restaurants that serve alcohol
- ❖ Businesses offering hot food/hot drinks between 11 pm and 5 am
- ❖ Hotels, guest houses and other places that sell alcohol
- ❖ Private member's clubs and social clubs
- ❖ Theatres and amateur dramatic groups
- ❖ Cinemas
- ❖ Indoor sporting events
- ❖ Organisers of occasional entertainments
- ❖ Provision of public entertainment

The Act made district council's the Licensing Authority and the body responsible for dealing with all licence applications relating to licensable activities.

There are four licensable activities contained within the Act:

- 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 (see below)
- The provision of late night refreshment (i.e. supply of hot food and drink between 11pm and 5 am for on and off the premises)

Regulated Entertainment

Subject to qualifying conditions, and exemptions, the definitions are:

- 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, any playing of recorded music and the performance of dance

The Act requires licence holders, the council and other identified agencies to promote the Licensing Objectives (see fig 1 overleaf.)



A premises licence or Temporary Event Notice is required for all premises where any of the licensed activities take place.

The Act also requires that anyone authorising the retail sale or supply of alcohol in a licensed premises must hold a personal licence.

Exempt activities

In certain circumstances some licensable activities are exempt from the requirement for licensing, these exemptions include:-

- ❖ Incidental or background music
- ❖ Use of television or radio (Live transmissions only)
- ❖ Films for the purpose of advertisement, information or education
- ❖ Film exhibitions in museums and galleries where it forms part or all of an exhibit
- ❖ Religious services
- ❖ Entertainment in educational establishments for the establishments educational purposes
- ❖ Garden fetes – unless for the purposes of private gain
- ❖ Morris dancing
- ❖ Entertainment from vehicles in motion
- ❖ Provision of late night refreshments in certain circumstances in relation to: -
 - Hotels, guest houses, camping sites etc
 - Members Clubs
 - Through vending machines
 - Refreshments provided by a registered charity

(N.B. Mobile food vans providing hot drink or food and trading between 11 pm and 5 am, i.e. those trading outside nightclub premises etc; need to be licensable under this act.)



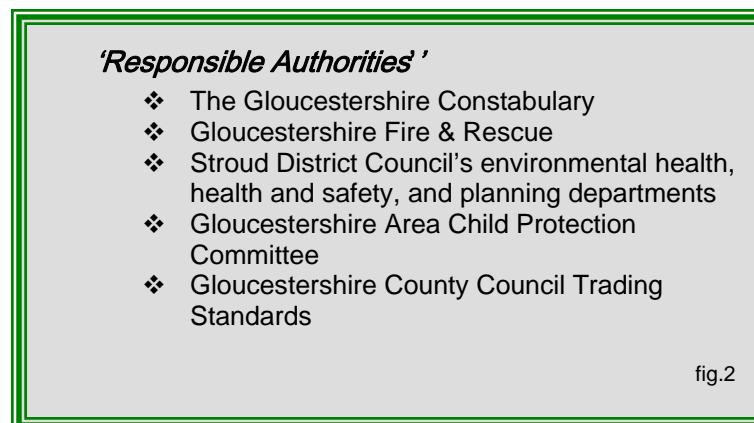
Premises Licences

A premises licence can be granted for either a fixed period (for example, for a pop festival) or indefinitely for the life of the business.

When making an application for a premises licence applicants must submit a completed application form which includes an operating schedule and must be accompanied by,

- ❖ A plan of the building drawn to a scale of 1:100
- ❖ The appropriate fee, which are determined by the Non Domestic Rateable Value of the premises.
- ❖ If the licence is to authorise the retail sale or supply of alcohol it must include the details of the person nominated as the Designated Premises Supervisor (DPS)
- ❖ Documentation to show that the DPS has agreed to be so.

When submitting an application for a premises licence the applicant must 'give' copies of the application to all the '*responsible authorities*' on the same day that the application is made to the Licensing Authority (see fig 2 below)



Any of the above can make representations about the application, which may lead to conditions being imposed, or the application being refused.

Where an application is made in the correct form the Licensing Authority must grant the application without a hearing and in the terms applied for unless representations (objections) are made against the applications proposals.

Village Halls and Community Centres, etc

Village halls, Community centres, Church and Parish halls etc that only provide regulated entertainment are exempt from having to pay application and annual licence fees.



Objecting to licences

Regulations require all applicants to advertise their application outside their premises and in a local newspaper.

The Act allows certain identified Responsible Authorities and Interested parties to make representations (objections) against the application. i.e. The Police may make a representation on crime and disorder issues, the environmental protection section of SDC Environmental Health Services and local residents on grounds of nuisance etc.

If a representation is made then unless the Authority considers the representation to be irrelevant, vexatious or repetitive the application must be determined by a hearing. In these cases Stroud District Council's Licensing and Regulation Committee will sit as the Licensing Authority and determine the application.

The Licensing and Regulation Committee comprises of elected Members of the Council and Sub-Committees (Panels) are charged with determination of individual applications on behalf of the Licensing Authority.

At that hearing the Authority may

- ❖ Decide to grant the licence in the same terms as it was applied for.
- ❖ Decide to refuse the application if they believe it is necessary to do so to promote the Acts objectives.
- ❖ Decide to grant the licence but impose conditions on a licence to promote the licensing objectives.
(e.g. requiring door supervisors in a nightclub to promote the crime prevention objective, the installation of CCTV, noise control measures to prevent public nuisance.)
- ❖ Exclude from the scope of the licence a licensable activity if they believe it is necessary to do so to promote the Acts objectives.

The Licensing Act 2003 (Hearings) Regulations 2005 regulations specify how hearings are conducted, and the type of evidence that may be presented at a hearing if you wish to make representation against a grant or variation.

Individuals will not be able to claim expenses for costs incurred in making a representation or for their attendance at hearings.

Appeals against a Council's licensing decision can be made to the Magistrates' Court. Rules will be laid down about how this can be done.

Provisional Statements

People who are considering opening licensed premises may apply for a provisional statement. This allows new premises to be prepared in the knowledge that a full licence will be granted, providing that it is built according to the original Operating Schedule and plans submitted to the council, and that there have been no material changes in the meantime.

Temporary Event Notices

A Temporary Event Notice (TEN) is a notification given by an individual (the premises user) to the Licensing Authority (Stroud District Council) giving notice of an event that is to take place which involves licensable activity for which a premises licence is not in force.

TEN's relate to small events where less than 500 people are likely to attend and will last for less than 96 hours.

Holders of a Personal licence will be able to hold up to 50 temporary events in any 12-month period at premises that are not licensed. Non-personal licence holders can (subject to other conditions) hold up to 5 temporary in any 12-month period. Individual premises may be used for temporary events on a maximum of 12 occasions in any 12-month period but there must be at least 24 hours between events at the same premises.

A Temporary Event Notice (TEN) must be given to the Council (in duplicate and accompanied by the appropriate fee, £21) and Police by the '**premises user**' who must be 18yrs or over, **at least 10 working days prior to the event.**

Objections against a TEN can only be made by the Police and only on grounds of prevention of crime and disorder.

Planning Laws

The giving of a temporary event notice does not relieve the premises user from any requirements under planning law for appropriate planning permission where it is required

Children

Children

Under the Act it is unlawful to allow any unaccompanied child under the age of 16 to be present on premises where a Premises Licence or Temporary Event Notice is exclusively or primarily used for supply and consumption of alcohol. e.g. a Beer Tent.

It is also unlawful between midnight and 5 a.m. to permit children under 16 that is not accompanied by an adult to be present on any premises supplying alcohol for consumption and operating under Premises Licence or Temporary Event Notice.



Personal Licence Holders

The sale of alcohol in any premises - including pubs, off-licences, restaurants, hotels or clubs - operating under a Premises Licence must be under the supervision of a Personal licence holder.

Persons holding a recognised qualification and over 18 yrs may apply for a personal licence to the council for the area in which they live. Personal licences will be valid for 10 years.

Personal licence holders must:

- ❖ *be over 18*
- ❖ *not have any relevant criminal convictions as set out in the Act*
- ❖ *possess an approved licensing qualification*
- ❖ *pay the required fee*

fig.3

Review Hearings

Sometimes, the way licensed premises are run can lead to problems. When this happens any of the 'responsible authorities' or an 'interested party', e.g. a local resident, or a residents or business association, can request a review of the premises licence.

Providing the grounds for the request are not frivolous, vexatious or repetitious a hearing **will** be held to review the licence. At that review the Authority may decide to do nothing, impose conditions, remove certain activities from the licence, suspend or revoke the licence.

Licensing Policy

The Council's Statement of Licensing Policy is available on request or may be downloaded from the Council's web site @ www.stroud.gov.uk.

Further information on The Licensing Act 2003 may be obtained from:

The Licensing Section, Environmental Health Service, Stroud District Council (contact details overleaf) or Department of Culture, Media and Sport website at www.culture.gov.uk or The Institute of Licensing at <http://www.instituteoflicensing.org/>

HOW TO CONTACT US

By Personal visit to:

Stroud District Council Offices, Ebley Mill, Westward Road, Stroud.



Call at Central Reception and give the receptionist details of what you wish to talk about and if possible arrangements will be made for someone to come down to talk to you without delay. However as officers are generally working away from the office it is always best to ring first to make an appointment.

By writing to us at:

The Licensing Section, Environmental Health Service , Stroud District Council, Council Offices, Ebley Mill, Westward Road, Stroud, Glos. GL5 4UB



By phone:

Licensing Section: (01453) 754440



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We welcome any comments you have to enable us to improve our services.