

LICENSING ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

PART 6: Personal Licences

183. [Part 6](#) establishes a regime for the supply of alcohol to be regulated by the granting of personal licences to individuals. The licensing of individuals separately from the licensing of premises permits the movement of personal licence holders from one set of premises to another. The Act also provides the police and licensing authorities with powers to deal with errant personal licence holders.
184. The personal licence is to relate only to the supply of alcohol (as defined in section 111(2)) and not to other activities covered by the Act such as regulated entertainment or the provision of late night refreshment, for which no personal licence will be required. A personal licence does not authorise its holder to supply alcohol anywhere, but only from premises with a premises licence.
185. Where premises have a premises licence authorising the supply of alcohol, a personal licence must be held by the nominated individual responsible for the day-to-day running of the licensed premises, known as the designated premises supervisor. More than one individual at the licensed premises may hold a personal licence, although it will not be necessary for all staff to be licensed. But, all supplies of alcohol under a premises licence must be made by or under the authority of a personal licence holder.
186. A personal licence is issued for ten years in the first instance and there will be a presumption in favour of renewal if the licence holder has not been convicted of any offence.
187. The initial grant of a personal licence will additionally be subject to the possession of an accredited qualification. However, during the transitional period, existing holders of justices' licences for the sale of alcohol, will not be required to obtain an accredited qualification (see paragraph 23 of Schedule 8). Rather, there will be a general presumption that a personal licence will be granted automatically, except in limited circumstance (for example following representations by the police that to do so would undermine the crime prevention objective).
188. Convictions for offences which are relevant for the purposes of the determination of applications for the grant or renewal of a personal licence include:
- those involving serious crime
 - those involving serious dishonesty
 - those involving the supply of drugs
 - certain sexual offences
 - offences created by the Act.

(see paragraph 191 below on section 113 and Schedule 4).

Section 111 – Personal licence

189. For the purposes of the Act, this section defines a personal licence as a licence granted by a licensing authority and permitting an individual to sell alcohol by retail or to supply alcohol by or on behalf of a club (in the latter case this would relate only to a supply authorised under a premises licence).

Section 112 – The relevant licensing authority

190. This section provides that the relevant licensing authority in relation to a personal licence is the authority which originally granted the licence. The effect of this is that if a personal licence holder works in or moves to the area of a different licensing authority, the relevant licensing authority for the purpose of renewals etc will be unchanged.

Section 113 – Meaning of “relevant offence” and “foreign offence”

191. For the purposes of Part 6 of the Act, relevant offences are defined as offences listed in Schedule 4. In subsection (2) the Secretary of State is given a power (subject to the negative resolution procedure) to amend that list. Subsection (3) provides that for the purposes of Part 6 of the Act, a ‘foreign offence’ is defined as an offence (other than a relevant offence) under the law of anywhere outside England and Wales. The significance of designation as a ‘relevant offence’ is that a conviction for such an offence (or a comparable foreign offence), unless spent, must be taken into account by a licensing authority in its consideration of an application for the grant or renewal of a personal licence (see sections 120 and 121). If an existing personal licence holder is convicted of a relevant offence, his licence may be forfeited or suspended (see section 129).

Section 114 – Spent convictions

192. This clause provides that convictions for relevant or foreign offences must be disregarded when spent under the Rehabilitation of Offenders Act 1974 for the purposes of Part 6 of the Bill.

Section 115 – Period of validity of personal licence and

Section 116 – Surrender of personal licence

193. **Section 115** provides that a personal licence is valid for 10 years unless before then it is surrendered by the holder, revoked by the licensing authority or forfeited or suspended by the court. At the end of the 10 year period, the holder may apply for renewal to the licensing authority which issued the original licence and the authority can renew the licence for a further ten years or refuse the application for renewal. Licences do not have effect during periods of suspension. In some circumstances, a licence may extend beyond 10 years, pending a renewal or disposal of an appeal; for example, where an application for renewal of a personal licence has not been determined prior to the expiry of the 10 year validity period (see section 119). **Section 116** provides that a personal licence holder may surrender his licence and sets out the procedural requirements of such a surrender.

Section 117 – Application for grant or renewal of personal licence

Section 118 – Individual permitted to hold only one personal licence

Section 119 – Licence continued pending renewal

194. These sections set out the steps an individual must take to apply for the grant or renewal of a personal licence. An application for the grant of a personal licence must be made, ordinarily, to the authority for the area in which the applicant is normally resident.

*These notes refer to the Licensing Act 2003 (c.17)
which received Royal Assent on 10 July 2003*

Applications for renewal are to be made to the licensing authority which originally granted the licence.

195. All applications must be made in the prescribed form and accompanied by the prescribed fee, information and documents. Applications for renewal can only be lodged within a two-month period beginning three months before the licence's expiry. If the licence expires before the application for renewal has been determined by the licensing authority, the licence remains in effect until a decision is made.
196. Only one licence can be held by a single individual at any one time.

Section 120 – Determination of application for grant

197. This section prescribes the manner in which a licensing authority must determine an application for a personal licence. The criteria for the grant of a licence are that:
- the applicant is at least 18 years old
 - he possesses an accredited licensing qualification or is of a prescribed description (see paragraph 200)
 - he has not had a personal licence forfeited in the previous five years
 - he has not been convicted of any relevant offences (see Schedule 4) or foreign offences (see paragraph 191)
198. Subsections (3) to (6) provide that the licensing authority must reject the application for a personal licence if the applicant fails to meet one of the first three eligibility criteria. If these are met but the applicant has been convicted of a relevant offence or a foreign offence, the licensing authority may grant the personal licence only after consulting the police. The chief officer of police must have regard to the conviction for any relevant offence, or for any foreign offence which he considers comparable to a relevant offence. Within 14 days of being notified, the chief officer must give to the licensing authority notice of objection to the grant of a licence if he is satisfied that granting the licence would undermine the prevention of crime and disorder (referred to here as “the crime prevention objective”). In the absence of such an objection, the licensing authority must grant the application.
199. When an objection is lodged by the police, the licensing authority must hold a hearing to decide whether to reject or grant the licence, and must give reasons for its decision. The need for a hearing may be dispensed with by agreement of the authority, the applicant and the police.
200. For the purpose of this section, the ‘licensing qualification’ must be recognised by the Secretary of State (by administrative action) or must be an equivalent qualification obtained in Scotland, Northern Ireland or an EEA state other than the UK.

Section 121 – Determination of application for renewal

201. The licensing authority must renew a personal licence except where the applicant has been convicted of one or more relevant offences since the original grant of the licence or its last renewal. If such a conviction has occurred, the licensing authority must consult with the police and give them the opportunity to object to the renewal of the personal licence where they are satisfied that renewal would undermine the crime prevention objective. Where there is no objection the renewal must be granted. If the police object, a hearing must be held (unless the licence holder, the police and the licensing authority agree that this is unnecessary) and the authority must give the reasons for its decision.

Section 122 – Notification of determinations

202. This section requires the licensing authority to notify the applicant and relevant chief officer of police of any decision to grant an application, explaining the decision in

cases where an objection notice was given by the police. Notice of decisions to reject applications and the reasons for the decision must be given to applicants and the police.

Section 123 – Duty to notify licensing authority of convictions during application period

203. Applicants convicted of a relevant offence or foreign offence (see section 113) in the period between an application being made and its determination (or withdrawal) must notify the relevant licensing authority of the conviction as soon as possible. Failure to do so is an offence.

Section 124 – Convictions coming to light after grant or renewal

204. This section applies where an applicant for the grant or renewal of a personal licence is convicted of a relevant offence in the period between the application being made and its determination but knowledge of the conviction emerges only after the licence has been granted or renewed. The licensing authority may revoke a personal licence, after consultation with the police.
205. The section requires the licensing authority to consult the police on becoming aware of such a conviction. The police will then have the opportunity to give the licensing authority notice that they object to the continuation of a licence where they believe that that would undermine the crime prevention objective. If the police object, a hearing must be held by the licensing authority (unless the licence holder, the police and the licensing authority agree that this is unnecessary). The licensing authority must give the reasons for its decision to the offender and to the police. A decision under this section does not have effect pending an appeal.

Section 125 – Form of personal licence

206. This section makes provision for a personal licence to be in a prescribed form and lists the basic requirements as to the content of a licence, including a record of any convictions for relevant or foreign offences.

Section 126 – Theft, loss, etc. of personal licence

207. Personal licence holders will be able to apply to the licensing authority that issued the licence for a copy if the licence has been lost, stolen, damaged or destroyed. If lost or stolen, this must be reported to the police before a copy will be issued. There may be a fee prescribed for the issue of replacement documents. The Act applies to a copy in the same way as it applies to the original.

Section 127 – Duty to notify change of name or address

208. This section provides that the holder of a personal licence must notify the licensing authority of any change of name or address. Failure to do so is an offence.

Section 128 – Duty to notify court of personal licence

Section 129 – Forfeiture or suspension of licence on conviction for relevant offence

209. Where the holder of a personal licence is charged with a relevant offence, he must produce the licence to the court before the case against him is first heard in court (or if that is not possible, he must explain why). If an individual is granted a personal licence after being charged, he must produce the licence to the court (or explain why he cannot). A licence holder must also notify the court if, after having first produced his licence, the licence is renewed, surrendered or revoked. Failure to comply with any of these requirements is an offence.

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210. Upon conviction of a personal licence holder of a relevant offence, the court may forfeit the personal licence or suspend it for up to 6 months. An order to forfeit or suspend the licence may itself be suspended by the convicting court allowing the licence to continue in force pending an appeal.

Section 130 – Powers of appellate court to suspend order under section 129

211. Orders made under section 129 may be suspended by the court on an appeal or an application for leave to appeal or an application for a quashing order by a defendant, allowing him to continue trading, if appropriate, while the appeal is being considered. If the court suspends the order it must notify the relevant licensing authority of that fact.

Section 131 – Court’s duty to notify licensing authority of convictions

212. This clause sets out the obligations of the court to the relevant licensing authority where a personal licence holder is convicted of a relevant offence. An appropriate officer of the court (defined in subsection (5)) must notify the relevant licensing authority of:
- the licence holder’s name and address
 - the nature and date of the conviction
 - details of any sentence passed.
213. Where a conviction is quashed or a sentence altered on appeal, or where the Court of Appeal takes action in relation to a sentence it regards as unduly lenient, the court concerned must notify the relevant licensing authority.

Section 132 – Licence holder’s duty to notify licensing authority of convictions

214. This section requires that, where the holder of a licence is convicted of a relevant offence or foreign offence, and the courts are not aware of the existence of the licence, the holder must notify the licensing authority as soon as possible about the conviction and the outcome of any appeal against a conviction. Failure to comply with this section is an offence.

Section 133 – Form etc. of applications and notices under Part 6

215. This section allows for the detail of the form, manner and content of applications, and any accompanying documents or fees, to be set out in regulations.

Section 134 – Licensing authority’s duty to update licence document

216. Where certain changes have been made to the terms or effect of a personal licence, (for example, where it has been renewed, or a change of details has been notified), the licensing authority must make the necessary amendments to the licence.
217. The licensing authority may require the personal licence holder to present the licence for amendment. Failure by the licence holder to comply with this obligation, without reasonable excuse, is an offence.

Section 135 – Licence holder’s duty to produce licence

218. This section applies where the holder of a personal licence is on premises to sell, or authorise the sale of, alcohol by virtue of a premises licence or temporary event notice. A constable or officer of the licensing authority may require the holder to produce his personal licence. Failure to produce it is an offence.