

Draft Order laid before Parliament under section 14 of the Legislative and Regulatory Reform Act 2006.

DRAFT STATUTORY INSTRUMENTS

2010 No. 0000

**LICENCES AND LICENSING
REGULATORY REFORM**

**The Legislative Reform (Licensing)
(Interim Authority Notices etc) Order 2010**

<i>Made</i>	- - - -	<i>2010</i>
<i>Laid before Parliament</i>		<i>2010</i>
<i>Coming into force</i>	- -	<i>2010</i>

The Secretary of State for Culture, Media and Sport makes the following Order in exercise of the powers conferred by sections 1 and 2 of the Legislative and Regulatory Reform Act 2006⁽¹⁾.

He considers that the conditions referred to in section 3(2) of that Act are, where relevant, satisfied in relation to each provision made in the Order.

He has consulted in accordance with section 13(1) of that Act.

He has laid a draft of the Order and an explanatory document before Parliament in accordance with section 14(1) of that Act.

Pursuant to section 15 of that Act, the negative resolution procedure (within the meaning of Part 1 of that Act) applies in relation to the Order.

Citation, commencement and extent

1.—(1) This Order may be cited as the Legislative Reform (Licensing) (Interim Authority Notices etc) Order 2010 and comes into force on the day after the day on which it is made.

(2) This Order extends to England and Wales only.

Reinstatement of premises licence following death etc. of licence holder

2.—(1) In section 47 of the Licensing Act 2003⁽²⁾ (“the Act”)—

(1) 2006 c. 51.

(2) 2003 c. 17. Section 47 was amended by paragraph 46(1) and (3)(a) of Schedule 6, and Schedule 7 to the Mental Capacity Act 2005 (c. 9); and by regulation 49(1) and (8) of S.I. 2009/2999.

- (a) in subsections (2) and (7)(a) for “seven day” substitute “28 day”;
 - (b) in subsection (10)—
 - (i) for the definition of “initial seven day period” substitute—
 - ““initial 28 day period”, in relation to a licence which lapses as mentioned in subsection (1), means the period of 28 days beginning with the day after the day the licence lapses;”;
 - (ii) in paragraph (a) of the definition of “interim authority period” for “two months” substitute “three months”.
- (2) In section 48 of the Act—
- (a) in subsection (1)(b) for “seven day” substitute “28 day”;
 - (b) in subsection (2) for “no later than 48 hours after” substitute “before the end of the second working day following the day on which”.
- (3) In section 50(3)(a) of the Act, for “seven days” substitute “28 days”.

Objection to temporary event notice by police

3. In section 104(3) of the Act(3), for “no later than 48 hours after” substitute “before the end of the second working day following the day on which”.

Transitional provision

4. Articles 2 and 3 do not apply in respect of any period of time that begins before those articles have effect.

Gerry Sutcliffe
Parliamentary Under Secretary of State
Department for Culture, Media and Sport

Date

(3) Section 104 was amended by regulation 49(1), (12) and (13) of [S.I. 2009/2999](#).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Licensing Act 2003 (“the Act”) to extend the timescales applicable in relation to interim authority notices, and applications to transfer lapsed premises licences.

A premises licence lapses under section 27 of the Act upon the death, mental incapacity, insolvency or dissolution of the licence-holder. If the licence-holder is a club, the licence lapses if the club ceases to be a recognised club (as defined in section 193 of the Act). A premises licence also lapses if it is surrendered under section 28.

A lapsed premises licence may be reinstated using the procedures in sections 47 to 50 of the Act.

Under section 47 (which applies to lapses due to death, mental incapacity or insolvency), a person who has a prescribed interest in the premises, or who is connected with the former holder of the licence in certain ways may give an interim authority notice to the licensing authority. This reinstates the licence (with the giver of the notice as the holder) for a maximum of two months, during which an application may be made to the authority for transfer of the premises licence. The police may object to an interim authority notice on crime prevention grounds.

Section 50 identifies those entitled to apply for premises licences to be transferred to them in a case where such a licence is surrendered or lapses with no interim authority notice having effect. An applicant can be either an individual of at least 18 years of age or a body falling within specified descriptions (see section 16 of the Act). By virtue of section 50, upon receipt of such an application the licence is reinstated.

An applicant under section 47 or 50 will not become the holder of the premises licence on a permanent basis until the transfer process is completed.

Article 2(1) of this Order amends section 47, so that an interim authority notice may be given within 28 days of the death, mental incapacity or insolvency of the licence-holder (rather than 7 days as previously). In addition, the maximum period in which an interim authority notice can have effect is extended from two months to three months.

Paragraph (2) of article 2 amends section 48 of the Act so that the maximum period within which the police may object to an interim authority notice is two working days following receipt of the notice (rather than 48 hours as previously).

Paragraph (3) of that article amends section 50, so that the maximum period for making a transfer application following the lapse of a licence is 28 days after the lapse of the licence (rather than 7 days as previously).

Article 3 amends section 104 of the Act so that the police have two working days after receipt of a temporary event notice to object to it (rather than 48 hours as previously). A temporary event notice is a form of authorisation under the Act for occasional licensable activities, subject to the limitations set out in the Act (see sections 100(5)(b) and (d), 101 and 107).