

LICENSING ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

PART 3: Premises licences

General

48. This Part of the Act provides for a single licensing system for all premises used for licensable activities (see note on Part 1 for description of licensable activities). The ‘relevant licensing authority’ (see section 12) is to consider applications for premises licences.
49. Under the system established by the Act, an applicant for a premises licence will submit an operating schedule setting out certain details about the activities to be carried out on or from the premises. Where no relevant representations are made by responsible authorities (the police, fire authority, health and safety agency, etc) or interested parties (local residents and businesses), the licensing authority must grant the licence application, subject to certain mandatory conditions (see sections 19, 20 and 21).
50. If relevant representations are received, the licensing authority must, unless specified persons agree, convene a hearing and consider the representations. This consideration may result in the rejection of the licence application in whole or in part, or the attachment of conditions to the licence that relate to the promotion of one or more of the licensing objectives.

Section 11 - Premises licence

51. For the purposes of the Act, a premises licence is defined in the section as a licence which authorises the use of specified premises for the carrying on of one or more licensable activities (see sections 1 and 2).

Section 12 - The relevant licensing authority

52. This section provides that for the purposes of premises licences, the relevant licensing authority for any premises is the authority in whose area the premises are situated (or mainly situated). If premises straddle two or more areas equally, applicants can nominate one of the licensing authorities in question to act as the relevant licensing authority. The effect of this section is to identify the authority which will carry out licensing functions in relation to premises licences.

Section 13 - Authorised persons, interested parties and responsible authorities

53. This section defines the terms ‘authorised persons’, ‘interested parties’ and ‘responsible authorities’. The significance of designation as an ‘authorised person’ is that it confers a role in the inspection of premises in connection with their use for licensable activities (see in particular sections 57 and 59). An interested party or responsible authority may make representations to a licensing authority in relation to the application for the grant, variation or review of a premises licence.

Section 14 – Meaning of ‘supply of alcohol’

54. This section defines for the purposes of Part 3 the ‘supply of alcohol’ as sale by retail or the supply by or on behalf of a club to its members (see paragraph 27 above).

Section 15 – Meaning of ‘designated premises supervisor’

55. This section defines the term ‘designated premises supervisor’ as the individual who is specified in a premises licence as fulfilling the role of ‘premises supervisor’ for those premises. A ‘designated premises supervisor’ is required in every case where the premises licence authorises the supply of alcohol, and no supply of alcohol may be made on the premises unless there is a designated premises supervisor in possession of a personal licence (see section 19).

Section 16 – Applicant for premises licence

56. This section lists the categories of persons who may apply for a premises licence in respect of any premises. The principal category is anyone who carries on or proposes to carry on a business involving licensable activities on the premises. This will cover any individual (aged at least 18) or business which wishes to carry on, on a commercial basis, the sale of alcohol, the supply of alcohol by a club, or the provision of regulated entertainment (see Schedule 1) or of late night refreshment (see Schedule 2).
57. The section also provides that the following may apply for a premises licence: a person exercising a statutory function (for example, a local authority); a person exercising any function by virtue of the Royal prerogative (for example, a body exercising functions by virtue of a royal charter); recognised clubs (see note on Part 4); charities; educational institutions; health bodies in the public and private sector; the police; and any other category of person prescribed in regulations made by the Secretary of State.

Section 17 - Application for a premises licence

58. Subsections (1) to (3) provide that applications for a premises licence should be made, in the form prescribed in regulations made by the Secretary of State, to the relevant licensing authority, and must be accompanied by an operating schedule, a plan of the premises and (if the application proposes that the licence will authorise the supply of alcohol) a form containing the consent of the individual whom it is proposed will be specified in the licence as the designated premises supervisor.
59. Subsection (4) provides that the operating schedule must set out various details relating to the operation of the premises when carrying on licensable activities, including the licensable activities to be carried out, the proposed hours of opening etc, the duration of the licence (if it is to have a fixed term), details about the individual (if any) who is to act as the designated premises supervisor, details of whether alcohol is to be supplied (if at all) for on-sales, off-sales or both, and a statement of how the applicant intends to promote the licensing objectives (for instance, the arrangements to be put in place to prevent crime and disorder, such as door security). The significance of the operating schedule is that if the application for the premises licence is approved, it will be incorporated into the licence itself and will set out the permitted activities and the limitations on them. As a consequence, it is the applicant who will decide, subject to the determination of applications by the authority, the nature and the extent of the activities and the conditions relating to the carrying on of the activities.
60. Subsection (5) provides that the Secretary of State must make regulations setting out how applications are to be advertised, and specifying when interested parties and responsible authorities can make representations to the authority.

Section 18 – Determination of application for premises licence

61. Subsections (1) and (2) provide that unless relevant representations are made in respect of an application for a premises licence, a licensing authority will be required to grant a licence in accordance with the application if it is duly made. That licence will be subject to conditions consistent with those listed by the applicant in the operating schedule, and subject to the mandatory conditions set out in sections 19, 20 and 21.
62. Subsection (3), together with subsections (6) to (8), provides that where relevant representations are made, licensing authorities are required to hold a hearing. In order for representations to be ‘relevant’ they must have been made by an interested party or a responsible authority (see the definitions in section 13, paragraph 53 above) and they must relate to the likely effect of the grant of the licence on the promotion of the licensing objectives. Representation relating to the identity of the premises supervisor may only be made by the police (see subsections (6)(c) and (9)) and must meet the requirements of subsection (9)(b). If the representations are made by an interested party there is a further requirement that the licensing authority does not consider them to be frivolous or vexatious. If it does the authority is to explain its decision to the person who made the representations.
63. The need for a hearing can be dispensed with by agreement of the authority, the applicant for the licence and all of the parties who have made relevant representations.
64. Subsection (4) provides that when a hearing is held (or dispensed with as indicated above), the licensing authority must, if it considers it necessary for the promotion of the licensing objectives, attach conditions to any licence granted, rule out any of the licensable activities applied for, refuse to specify a premises supervisor, or reject the application. For example, a licensing authority might decide to remove the playing of amplified recorded music after 11pm from the scope of the licence applied for by a tenant of a pub in the middle of a quiet residential area, or it might prohibit the admittance of under-18s to premises where adult entertainment is provided. If the authority takes the view that none of the foregoing steps is required to promote the licensing objectives it must grant the licence in the terms sought by the applicant.
65. Subsection (10) provides that a licensing authority may, within the same licence, impose different conditions on different parts of the premises, or impose different conditions in relation to different licensable activities.

Section 19 - Mandatory conditions where licence authorises supply of alcohol

66. By virtue of this section some conditions are mandatory in respect of premises licences. The licensing authority will be required to attach to any premises licence authorising the supply of alcohol the conditions that at any time when such supplies under the premises licence are made
 - there must be a ‘designated premises supervisor’ who is the holder of a valid personal licence, and
 - every supply of alcohol under the premises licence must be made by a personal licence holder (although not necessarily by the designated premises supervisor) or an individual authorised by a personal licence holder.

Section 20 – Mandatory condition: exhibition of films

67. Where a premises licence authorises the exhibition of a film this section makes it mandatory for a condition to be included in the premises licence requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 or by the licensing authority itself. When the Act was passed the only body designated under section 4 of the Video Recordings Act 1984 was the British Board of Film Classification.

Section 21 – Mandatory condition: door supervision

68. This section applies where the provision of door supervision is a requirement of the premises licence. It requires the licence to provide that anyone carrying out such a security function must be licensed by the Security Industry Authority established under the Private Security Industry Act 2001. Subsection (2) specifies some exceptions to this requirement (e.g. theatres). The provisions of the Private Security Industry Act 2001 are amended by paragraph 118 of Schedule 6 to the Act.

Section 22 – Prohibited conditions: plays

69. Under this section, in the case of any premises licence authorising the performance of a play (see Schedule 1), licensing authorities will not be able to attach conditions relating to the nature of the play performed or the manner of its performance, unless they are justified as a matter of public safety. This section reproduces for England and Wales the effect of section 1(2) of the Theatres Act 1968.

Section 23 – Grant or rejection of application

70. A licensing authority which grants or refuses a premises licence is required through this section to notify its decision to the applicant, to any person who made relevant representations and to the chief officer of police for the relevant area. If the application is granted, the licensing authority must also notify those parties of any steps it took in response to relevant representations and its reasons for taking or not taking the steps available. It must issue the licence and a summary of it to the applicant. If the application is rejected, the licensing authority must notify those parties of the reasons for its decision.

Section 24 – Form of licence and summary

71. This section makes provision for a premises licence and the summary of it to be in a form prescribed in regulations made by the Secretary of State. Subsection (2) lists the basic requirements which those regulations must include as to the information to be included in a premises licence. Under section 57, the summary must be displayed prominently at the relevant premises.

Section 25 - Theft, loss, etc. of premises licence or summary

72. Subsection (1) provides that a premises licence holder may apply to the licensing authority for a copy of the premises licence if it has been lost, stolen, damaged or destroyed. Subsection (3) provides that if the licensing authority is satisfied of the veracity of such an application, it must then issue a certified copy of the licence. Where a licence has been lost or stolen, there is an additional requirement that the licence holder must have reported this to the police. A fee may be prescribed for the issue of replacement documents. Subsection (5) provides that the provisions in the Act will apply to the issued copy of the premises licence as they applied to the original licence. This section applies in relation to the summary of the licence as it applies to the licence.

Section 26 – Period of validity of premises licence

73. This section makes provision that, unless it has been granted only for a limited period, the premises licence will last until it is surrendered or revoked. Subsection (2) provides that if a premises licence is suspended, it will not have effect during periods of suspension.

Section 27 – Death, incapacity, insolvency etc of licence holder

74. This section provides that a premises licence will lapse if the holder dies, becomes mentally incapable or insolvent, in the case of a company is dissolved, or in the case of a club ceases to be a recognised club. Insolvency, is relevant to individuals

or companies and is widely defined to include, among other things, voluntary arrangements, bankruptcy, administration and administrative receivership. Subsection (2) provides that the lapse of a licence is subject to the possibility of it being reinstated under section 47 or 50.

Section 28 – Surrender of premises licence

75. This section provides that a licence holder may voluntarily surrender a premises licence by returning it to the licensing authority accompanied by a notice of surrender. If it is impractical to return the licence (e.g. where it has been lost), a statement to that effect must be sent with the notice of surrender. A premises licence ceases to have effect when the authority receives the notice of surrender. Subsection (4) makes reference to the fact that, in certain circumstances, surrendered licences can be reinstated (see section 50).

Section 29 – Application for a provisional statement where premises being built, etc.

76. Subsections (1) and (2) provide that in relation to premises which are being or are about to be constructed, extended or altered for use for licensable activities a person interested in the premises (in the case of an individual there is the requirement that the person is 18 or over) may apply to the licensing authority for a ‘provisional statement’. A provisional statement is a statement issued by the authority in accordance with section 31 (see paragraph 78 below). Subsection (4) provides that any such application may be required to be in a form prescribed by the Secretary of State and accompanied by a fee. Subsection (6) provides that the application must also be accompanied by a schedule of works, which sets out details of the premises concerned, of the licensable activities intended to be carried on there and of the planned construction or alteration works (with plans). The effect of the section is to establish a mechanism whereby those engaged in or about to engage in construction or development work at premises to be used for licensable activities, or already used for those activities, can obtain a certain degree of assurance about their potential trading conditions. By obtaining a provisional statement they can receive, at an early stage, a statement describing the likely effect of the intended licensable activities on the licensing objectives and an indication of the prospects of any future application for a premises licence.

Section 30 – Advertisement of application for provisional statement

77. This section provides that regulations must require applications for provisional statements to be advertised in the prescribed manner to give responsible authorities and interested parties, including local residents, the opportunity to make representations about the application. Those regulations may also require any such advertisement to contain a statement, in wording set by the regulations, to make it clear that people will be precluded from subsequently objecting to the grant of a premises licence for the premises concerned if they could have made the same objection when the provisional statement was sought.

Section 31 – Determination of application for provisional statement

78. Subsections (1) and (2) provide that unless relevant representations are made in respect of an application for a provisional statement, a licensing authority will be required to issue a provisional statement stating that no relevant representations have been made.
79. Subsection (3), together with subsections (6) and (7), provide that where relevant representations are made licensing authorities are required to hold a hearing. In order for representations to be ‘relevant’ they must have been made by an interested party or a responsible authority (see the definitions in section 13) and they must relate to the likely effect on the licensing objectives if a premises licence were to be granted in the form sought if the premises were constructed or altered in the way proposed in the schedule of works (see section 29). If the representations are made by an interested party there is a further requirement that the licensing authority does not consider them to be frivolous

or vexatious. If it does, the authority is to explain its decision to the person who made the representations. The need for a hearing can be dispensed with by agreement of the authority, the applicant for the provisional statement and all of the parties who have made relevant representations.

80. When a hearing is held (or dispensed with as indicated above), the licensing authority must decide whether, if the premises were constructed or altered in the way proposed in the schedule of works and if a premises licence was sought for those premises, it would consider it necessary for the promotion of the licensing objectives to attach conditions to the licence, to rule out any of the licensable activities applied for, to refuse to accept the person specified as premises supervisor, or to reject the application. The licensing authority must then notify its decision (together with its reasons for considering that it would be necessary to impose any condition or restriction in respect of a premises licence or reject an application for a premises licence) to the applicant, the police and any person who has made relevant representations about the application.

Section 32 – Restriction on making representations following provisional statement

81. By virtue of this section, in cases where a premises licence is later sought for premises in relation to which a provisional statement has been issued, interested parties and responsible authorities will not be able to make representations on such applications in respect of matters upon which representations could have been made by them when the provisional statement was applied for. Subsection (3) provides that this restriction will not apply if a person who wishes to make those representations has a reasonable excuse for not having made those representations at the time of the application for the provisional statement, or if there has been a material change in the circumstances relating to those premises or the vicinity of those premises since that time. For example, a person may have been confined to hospital during the period in which representations could have been made in circumstances where arrangements could not have been put in place for representations to be made.

Section 33 – Notification of change of name or address.

82. This section places a duty on the holder of a premises licence to notify the licensing authority of any change of name or address of the premises licence holder or of the designated premises supervisor (unless the designated premises supervisor has already done so in accordance with subsection (4)). Such notification of a change of the licence holder's name or address or that of the designated premises supervisor must be accompanied by the licence (unless that is impracticable, when a statement must be provided) and by any fee that may have been prescribed. Notification of a change of the designated premises supervisor's name or address may be made by the designated premises supervisor under subsection (4) (in which case he must notify the licence holder). Failure to provide the required notifications is an offence.

Section 34 - Application to vary premises licence

Section 35 - Determination of application under section 34 and

Section 36 - Supplementary provision about determinations under section 35

83. Under these sections a premises licence holder can apply, in the prescribed form and manner, to vary that licence in any way, other than to change the designated premises supervisor (for which there is a separate procedure (see section 37)), to extend the time for which the licence has effect (if it is time limited) or to vary substantially the premises to which it relates. In general the ability to apply for a variation of a premises licence under these sections will concern variation of the conditions attaching to the licence or of the authorised licensable activities. Any such application may be subject to a fee and is subject to regulations under section 17 relating to advertising requirements.

The application must also be accompanied by the premises licence (unless that is impracticable when a statement explaining why must be provided).

84. By virtue of section 35, the authority must make the variation as applied for, subject to the mandatory conditions, unless relevant representations are made, in which case a hearing must be held. In order for representations to be 'relevant' they must have been made by an interested party or a responsible authority (see the definitions in section 13) and they must relate to the likely effect on the promotion of the licensing objectives if the application were to be granted. If the representations are made by an interested party there is a further requirement that the licensing authority does not consider them to be frivolous or vexatious. If it thinks they are, it must explain its decision to the person who made the representations. The need for a hearing can be dispensed with by agreement of the authority, the applicant for the variation and all of the parties who have made relevant representations.
85. In any case where relevant representations have been made, subsection (3) of section 35 provides that the licensing authority must, if it considers it necessary for the promotion of the licensing objectives (see section 4), modify the conditions of the licence or reject the application for variation (in whole or in part). If the licensing authority does not consider it necessary to modify the licence or reject the application it will grant the variation in the terms sought. The authority must notify its decision to the applicant, the police and any person who has made relevant representations, and must give reasons for its decision. A variation of a premises licence may impose different conditions on different parts of the premises, or impose different conditions in relation to different licensable activities. The provisions in these sections follow closely the procedure to apply in respect of an original application for a premises licence (see paragraph 58 above).

Section 37 – Application to vary licence to specify individual as premises supervisor

86. Subsections (1) to (3) provide that a premises licence holder can apply to name a person in the licence as the premises supervisor or substitute a different person for the person currently named. Any such application may be required to be in a form prescribed by the Secretary of State and to be accompanied by a fee. The application must also be accompanied by a form of consent given by the proposed new premises supervisor, and by the premises licence or the relevant part of the licence or a statement as to why the licence or part cannot be submitted. Subsection (4) provides that the applicant must notify the police and the existing designated premises supervisor, if there is one, of the application. Subsections (5) and (6) provide that the chief officer of police can object to the variation if he believes there are exceptional circumstances whereby the grant of the application to specify a new premises supervisor would undermine the crime prevention objective, and if so he must provide reasons for his decision within 14 days.

Section 38 – Circumstances in which section 37 application given interim effect

87. An application to vary a premises licence so as to name a different premises supervisor may be given immediate effect (that is, from the time that the application is received by the licensing authority) if the premises licence holder requests it at the time he makes an application under section 37. This section enables the holder of a premises licence to continue the supply of alcohol if, for example, the existing premises supervisor is suddenly indisposed or unable to work. If the application is rejected, the licence reverts to the form it took before the application was made.

Section 39 – Determination of section 37 application

88. By virtue of this section the relevant licensing authority must grant the application to vary the designated premises supervisor except where the chief officer of police for the area gives notice that to do so would undermine the crime prevention objective, in

which case a hearing must be held. The need for a hearing can be dispensed with by agreement of the authority, the applicant for the variation and the police.

89. In any case where the police have given notice of objection under section 37 (5), the licensing authority must, if it considers it necessary for the promotion of the licensing objectives (see section 4), reject the application for this variation. In any other case the variation must be granted.
90. The authority must notify its decision to the applicant, the police and the proposed new designated premises supervisor, and must give reasons for its decision.

Section 40 – Duty of applicant following determination under section 39

91. If an application to vary the designated premises supervisor is granted, by virtue of this section the premises licence holder must notify the person (if any) who is being replaced as such supervisor. Failure to do so will be an offence.

Section 41 – Request to be removed as designated premises supervisor

92. A person who wishes to cease acting as designated premises supervisor may give notice under this section. If this person is also the premises licence holder, his notice must be accompanied by the premises licence (unless that is impracticable when he must give a statement of reason as to why this is the case). If he is not the premises licence holder, he must provide the licence holder with a copy of the notice and notify the licence holder that he must send the premises licence to the relevant authority. Failure by the licence holder to submit the licence will be an offence. An effect of this section is that whenever a person stops acting as a designated premises supervisor, the licensing authority will be informed of it and can make the appropriate change in the licensing register. By virtue of subsections (7) and (8) the designated premises supervisor will cease to be such either at the time the licensing authority receives an application or the time specified in the notice if that is later.

Section 42 – Application for transfer of premises licence

93. Subsections (1) and (2) set out those people or bodies who may apply for the transfer of a premises licence. These are the same as the people and bodies who may apply to be granted a premises licence under section 16. Any such application may be required to be in a form prescribed by the Secretary of State and to be accompanied by a fee. The application must also be accompanied by the premises licence (unless that is impracticable and then the applicant must state the reasons why this is the case). Subsection (5) provides that the applicant must notify the application to the chief officer of police for the area. The police can object to the transfer if they believe there are exceptional circumstances whereby the grant of the application would undermine the crime prevention objective, and if so they must notify the licensing authority and provide reasons for the objection within 14 days.

Section 43 – Circumstances in which transfer application given interim effect

94. By virtue of this section a person applying for the transfer of a premises licence may request that it be given immediate effect (that is, that it takes effect from the time that the application is received by the licensing authority). Such an application generally requires the consent of the holder of the premises licence. But no consent is required if the applicant can show that he has taken all reasonable steps to obtain that consent and that he is in a position to use the premises straightaway for the licensable activities authorised by the licence. An authority must provide reasons for any decision to refuse to exempt an applicant from the requirement for consent. The effect of this section is to allow licensable activities to be carried on, at the premises, without interruption, pending the determination of an application for a transfer. The section allows for the possibility of a transfer being given interim effect even where the transferor has not given consent because in some circumstances he may be indisposed or unable to give

consent, or a conflict may exist between the existing licence holder and others which does not concern the carrying on of the licensable activities for the purposes of the Act. If the application is rejected, the applicant ceases to be treated as the holder of the licence under this section and the licence reverts to the person who held it before the application was made.

Section 44 – Determination of transfer application

95. Where a person applies for a premises licence to be transferred to him, this section provides that the licensing authority may not consider the application unless
- the transfer application has been given immediate effect under section 43,
 - the existing licence holder has agreed to the transfer, or
 - the applicant has been exempted from the need to obtain that consent. An applicant will be so exempted if he can show that he has taken all reasonable steps to obtain that consent and that he is in a position to use the premises straightaway for the licensable activities authorised by the licence. An authority must provide reasons for any decision to refuse to exempt an applicant.
96. Subsection (5) provides that if the police have notified the licensing authority of objections under section 42, the authority must hold a hearing to consider the application for transfer, and, if it considers it necessary for the promotion of the crime prevention objective (see section 4), must reject the application. The need for a hearing can be dispensed with by agreement of the authority, the applicant for the transfer and the police. The section provides, in subsection (2), that in all other cases the authority must grant the application for transfer.

Section 45 – Notification of determination under section 44

97. By virtue of this section the licensing authority must notify its decision to the applicant and to the police, and in any case where the police gave notice under section 42 the authority must give reasons for its decision to grant or reject the application. The authority must also notify its decision to the person who was the licence holder before the application for transfer was made or, where applicable, before it was given interim effect.

Section 46 – Duty to notify designated premises supervisor of transfer

98. An applicant for the transfer of a premises licence pursuant to sections 42 and 43 must under this section notify the designated premises supervisor (if any) specified in that licence of his application and, if the application is successful, of the transfer of the premises licence to him. Failure to do so is an offence.

Section 47 – Interim authority notice following death etc of licence holder

99. In the initial seven days after the lapse of a premises licence due to the death, mental incapacity or insolvency of a premises licence holder, those with a prescribed interest in the relevant premises or connected to the licence holder (by virtue of being the licence holder's personal representative, having an enduring power of attorney in respect of the individual or acting as insolvency practitioner), under this section can give an interim authority notice to the relevant licensing authority. But no notice can be given if application for a transfer of the premises licence under section 50 has already been made (see paragraph 102 below). Any such notice may be required to be in a form prescribed by the Secretary of State and to be accompanied by a fee. By virtue of subsection (6) the effect of such a notice will be to reinstate the lapsed premises licence, and for the person who gave that notice to become the licence holder, from the time the authority receives the notice for two months, or until terminated by the person who gave notice, unless a successful transfer application is made to the relevant authority within that

time. The reinstated licence will also lapse if the police are not notified of the giving of the notice within the initial seven day period (see subsection (7)). A person who gives an interim authority notice becomes the holder of the licence for the interim authority period. Subsection (8) makes it clear that, notwithstanding this, he may apply for the licence to be transferred to him permanently.

Section 48 – Cancellation of interim authority notice following police objections

100. Subsections (1) and (2) provide that the police can object within 48 hours of being notified of an interim authority notice, but they can do so only where they believe that exceptional circumstances mean that a failure to cancel the notice would undermine the crime prevention objective. Subsections (3) to (6) provide that in such cases, the authority must hold a hearing to decide whether or not to cancel the notice. The need for a hearing can be dispensed with by agreement of the authority, the police and the person who has given the interim authority notice. If the authority considers it necessary for the promotion of the crime prevention objective (see section 4), it must cancel the interim authority notice. If it does so the licence will again lapse. A cancellation must be notified to the police and to the person who gave the interim authority notice, together with the authority's reasons for its decision. Subsection (6) (the lapse of the licence) is expressed to be subject to reinstatement in the case of an appeal. Subsection (7) provides that the authority cannot cancel an interim authority notice after a time when a transfer application has been made which provides for the transfer to have interim effect (sections 42 and 43).

Section 49 – Supplementary provision about interim authority notice

101. Subsections (1) to (3) provide that when a licensing authority receives an interim authority notice, it must send the person who sent that notice a copy of the premises licence (and summary) in the form it was in immediately prior to the licence lapsing, save that it will specify that person as the licence holder. Subsections (4) to (6) provide that anyone who became the licence holder under section 47 must notify the designated premises supervisor specified in the licence (if any) of the interim authority notice. It will be an offence to fail to do so, without reasonable excuse.

Section 50 – Reinstatement of licence on transfer following death etc of holder

102. Where a premises licence lapses under section 27 (death, incapacity or insolvency of the holder etc.) or by its surrender, but no interim authority notice has effect (as defined by subsection (2)), a person who may apply for the grant of a premises licence under section 16(1) may apply within seven days of the lapse for the transfer of the licence to him. This will cause the licence to be reinstated from the point at which the transfer application is received by the licensing authority. Subsection (3) provides that a reinstatement will only occur if the transfer application is one which is to have immediate effect under section 43. If the application is rejected or withdrawn, however, the licence lapses again.

Section 51 – Application for review of premises licence

103. Subsections (1) to (3) make provision for an interested party or responsible authority to apply, in such manner and form as may be prescribed and subject to the regulations that must be made by the Secretary of State about requirements as to notification and advertisements, to a relevant licensing authority for a review of the premises licence. For example, a local resident may consider that the measures taken by the licensee to prevent public nuisance are insufficient and request that they be reviewed. Similarly, the police may consider that the measures put in place to prevent crime and disorder are not being effective and need to be reviewed. Subsections (4) to (7) provide that the authority can at any stage reject a ground for review in an application unless it is relevant to at least one of the licensing objectives, or (if the application is made by an interested party) if it is frivolous, vexatious or repetitious (namely, identical or substantially similar to

a ground for review already considered by the authority in a previous review, or in the determination of the application for grant of the licence, and a reasonable period has not passed since that time.) Under subsection (6) if a licensing authority rejects a ground for a review on the basis that it is frivolous or vexatious it must notify the applicant of its reasons.

Section 52 – Determination of application for review

104. By virtue of this section, the authority must hold a hearing to consider and determine any application for review and any relevant representations made in respect of it. In order for representations to be ‘relevant’ they must have been made by the holder of the premises licence, an interested party or a responsible authority (see the definitions in section 13) and they must relate to the licensing objectives. If the representations are made by an interested party there is a further requirement that the licensing authority does not consider them to be frivolous or vexatious. If it does, the authority is to explain its decision to the person who made the representations. The section provides that as a result of this review the authority must, if it considers it necessary for the promotion of the licensing objectives, either modify the conditions of the licence, exclude a licensable activity which the premises licence covers, remove the designated supervisor, suspend the licence for a period not exceeding 3 months or revoke the licence. If the licensing authority does not consider any of the steps to be necessary for the promotion of the licensing objectives, it will leave the licence untouched.
105. Subsection (10) requires the licensing authority to notify the outcome of a review and its reasons for so deciding to the licence holder, the applicant, the police and any person who has made relevant representations. Subsection (11) provides that the determination of an application for review will not take effect until any appeal has been disposed of, or if there is no appeal at the end of the period within which an appeal may be brought (see Schedule 5).

Section 53 – Supplementary provision about review

106. A local authority that is both the relevant licensing authority and a responsible authority – for example, where it carries out the functions of the local environmental health authority – may apply for a review in its capacity as a responsible authority and determine that application in its capacity as licensing authority.

Section 54 – Form etc of applications and notices under Part 3

107. This section provides that, in relation to any application or notice in Part 3, regulations made by the Secretary of State may prescribe its form, the manner in which it should be made or given, and any information and documents that must accompany the notice or application.

Section 55 – Fees

108. By virtue of the exercise of the power under this section, premises licence holders may be required by regulations to pay an annual fee to the licensing authority, the amount and due date of which may be set by the Secretary of State. In addition, regulations may prescribe a fee in relation to any applications under Part 3 (other than applications for a review) or interim authority notices.

Section 56 – Licensing authority’s duty to update licence document

109. Subsection (1) requires the relevant licensing authority to amend a premises licence to reflect any determination by the authority in relation to the licence, the lapsing of the licence or the disposal of an appeal. This ensures that there is always an accurate record of the licence.

110. In most cases the licensing authority will have sent the appropriate licence (or part of a licence) to the licensing authority, but subsections (2) to (4) provide that the authority may require holders to produce licences or the appropriate parts of licences for this purpose. Failure to do so without reasonable excuse will be an offence.

Section 57 – Duty to keep and produce licence

111. Under this section a premises licence holder must ensure that the licence or a certified copy is held on the premises to which it relates either by the licence holder or by an individual nominated for this purpose by the licence holder. A summary of the licence and notice of the individual responsible for the custody of the licence on the premises, if not the licence holder, must be displayed prominently on the premises. It will be an offence to fail to comply with these requirements or to fail to produce the licence or a certified copy to a constable or an authorised person (see section 13) on request. Subsection (9) provides that the requirements relate to the most up to date summary of the licence issued under section 23 or 56.

Section 58 – Provision supplementary to section 57

112. By virtue of this section, a copy of a premises licence or summary is to be certified as a true copy by either the relevant licensing authority, a solicitor or notary, or any other person the Secretary of State may prescribe. Subsection (3) provides that a certified copy will be presumed to be a true copy of the original unless the contrary is shown.

Section 59 – Inspection of premises before grant of licence, etc

113. This section provides that a constable or an authorised person (see the definition in section 13) may enter the premises to which an application relates, before that application has been determined, in order to assess the likely effect on the promotion of the licensing objectives of the grant of the application, or as the case may be, the effect of the activities authorised by a licence which is the subject of an application for review. In the case of an authorised person, evidence of authorisation to enter must be produced if requested. Where entry is sought in connection with an application for review both constables and authorised persons may use reasonable force to gain entry to premises if necessary. It is an offence under this section to obstruct an authorised person exercising these powers. It is already an offence under the Police Act 1996 to obstruct a constable in the course of his duties.