



# Licensing Act 2003

## 2003 CHAPTER 17

### PART 3

#### PREMISES LICENCES

##### *Variation of licences*

#### **34 Application to vary premises licence**

- (1) The holder of a premises licence may apply to the relevant licensing authority for variation of the licence.
- (2) Subsection (1) is subject to regulations under—
  - (a) section 54 (form etc. of applications etc.);
  - (b) section 55 (fees to accompany applications etc.).
- (3) An application under this section must also be accompanied by the premises licence (or the appropriate part of that licence) or, if that is not practicable, by a statement of the reasons for the failure to provide the licence (or part).
- (4) This section does not apply to an application within section 37(1) (application to vary licence to specify individual as premises supervisor).
- (5) The duty to make regulations imposed on the Secretary of State by subsection (5) of section 17 (advertisement etc. of application) applies in relation to applications under this section as it applies in relation to applications under that section.

#### **Commencement Information**

- II** S. 34(5) in force at 16.12.2003 by [S.I. 2003/3222](#), **art. 2**, **Sch.**; s. 34(1)-(4) in force for certain purposes at 7.2.2005 and 7.8.2005 otherwise by [S.I. 2004/2360](#), **art. 2**, **Sch.**; [S.I. 2005/2090](#), **art. 2**, **Sch.**

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### **35 Determination of application under section 34**

- (1) This section applies where the relevant licensing authority—
- (a) receives an application, made in accordance with section 34, to vary a premises licence, and
  - (b) is satisfied that the applicant has complied with any requirement imposed on him by virtue of subsection (5) of that section.
- (2) Subject to subsection (3) and section 36(6), the authority must grant the application.
- (3) Where relevant representations are made, the authority must—
- (a) hold a hearing to consider them, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary, and
  - (b) having regard to the representations, take such of the steps mentioned in subsection (4) (if any) as it considers necessary for the promotion of the licensing objectives.
- (4) The steps are—
- (a) to modify the conditions of the licence;
  - (b) to reject the whole or part of the application;
- and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.
- (5) In this section “relevant representations” means representations which—
- (a) are about the likely effect of the grant of the application on the promotion of the licensing objectives, and
  - (b) meet the requirements of subsection (6).
- (6) The requirements are—
- (a) that the representations are made by an interested party or responsible authority within the period prescribed under section 17(5)(c) by virtue of section 34(5),
  - (b) that they have not been withdrawn, and
  - (c) in the case of representations made by an interested party (who is not also a responsible authority), that they are not, in the opinion of the relevant licensing authority, frivolous or vexatious.
- (7) Subsections (2) and (3) are subject to sections 19, 20 and 21 (which require certain conditions to be included in premises licences).

#### **Commencement Information**

**I2** S. 35 in force for certain purposes at 7.2.2005 and 7.8.2005 otherwise by [S.I. 2004/2360, art. 2\(1\)](#), [Sch.](#); [S.I. 2005/2090, art. 2, Sch.](#)

### **36 Supplementary provision about determinations under section 35**

- (1) Where an application (or any part of an application) is granted under section 35, the relevant licensing authority must forthwith give a notice to that effect to—
- (a) the applicant,

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- (b) any person who made relevant representations in respect of the application, and
  - (c) the chief officer of police for the police area (or each police area) in which the premises are situated.
- (2) Where relevant representations were made in respect of the application, the notice under subsection (1) must state the authority's reasons for its decision as to the steps (if any) to take under section 35(3)(b).
- (3) The notice under subsection (1) must specify the time when the variation in question takes effect.
- That time is the time specified in the application or, if that time is before the applicant is given that notice, such later time as the relevant licensing authority specifies in the notice.
- (4) Where an application (or any part of an application) is rejected under section 35, the relevant licensing authority must forthwith give a notice to that effect stating its reasons for rejecting the application to—
- (a) the applicant,
  - (b) any person who made relevant representations in respect of the application, and
  - (c) the chief officer of police for the police area (or each police area) in which the premises are situated.
- (5) Where the relevant licensing authority determines for the purposes of section 35(6) (c) that any representations are frivolous or vexatious, it must notify the person who made them of the reasons for that determination.
- (6) A licence may not be varied under section 35 so as—
- (a) to extend the period for which the licence has effect, or
  - (b) to vary substantially the premises to which it relates.
- (7) In discharging its duty under subsection (2) or (3)(b) of that section, a licensing authority may vary a premises licence so that it has effect subject to different conditions in respect of—
- (a) different parts of the premises concerned;
  - (b) different licensable activities.
- (8) In this section “relevant representations” has the meaning given in section 35(5).

#### Commencement Information

**I3** S. 36 in force for certain purposes at 7.2.2005 and 7.8.2005 otherwise by [S.I. 2004/2360, art. 2\(1\), Sch.](#); [S.I. 2005/2090, art. 2, Sch.](#)

### 37 Application to vary licence to specify individual as premises supervisor

- (1) The holder of a premises licence may—
- (a) if the licence authorises the supply of alcohol, or
  - (b) if he has applied under section 34 to vary the licence so that it authorises such supplies,

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apply to vary the licence so as to specify the individual named in the application (“the proposed individual”) as the premises supervisor.

- (2) Subsection (1) is subject to regulations under—
  - (a) section 54 (form etc. of applications etc.);
  - (b) section 55 (fees to accompany applications etc.).
- (3) An application under this section must also be accompanied by—
  - (a) a form of consent in the prescribed form given by the proposed individual, and
  - (b) the premises licence (or the appropriate part of that licence) or, if that is not practicable, a statement of the reasons for the failure to provide the licence (or part).
- (4) The holder of the premises licence must give notice of his application—
  - (a) to the chief officer of police for the police area (or each police area) in which the premises are situated, and
  - (b) to the designated premises supervisor (if there is one),
 and that notice must state whether the application is one to which section 38 applies.
- (5) Where a chief officer of police notified under subsection (4) is satisfied that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective, he must give the relevant licensing authority a notice stating the reasons why he is so satisfied.
- (6) The chief officer of police must give that notice within the period of 14 days beginning with the day on which he is notified of the application under subsection (4).

#### Commencement Information

- I4** S. 37(3)(a) in force at 16.12.2003 by [S.I. 2003/3222](#), [art. 2](#), [Sch.](#); s. 37(1)(2)(3)(b)(4)-(6) in force for certain purposes at 7.2.2005 and 7.8.2005 otherwise by [S.I. 2004/2360](#), [art. 2](#), [Sch.](#); [S.I. 2005/2090](#), [art. 2](#), [Sch.](#)

VALID FROM 07/08/2005

#### **38** Circumstances in which section 37 application given interim effect

- (1) This section applies where an application made in accordance with section 37, in respect of a premises licence which authorises the supply of alcohol, includes a request that the variation applied for should have immediate effect.
- (2) By virtue of this section, the premises licence has effect during the application period as if it were varied in the manner set out in the application.
- (3) For this purpose “the application period” means the period which—
  - (a) begins when the application is received by the relevant licensing authority, and
  - (b) ends—
    - (i) if the application is granted, when the variation takes effect,
    - (ii) if the application is rejected, at the time the rejection is notified to the applicant, or

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(iii) if the application is withdrawn before it is determined, at the time of the withdrawal.

### 39 Determination of section 37 application

- (1) This section applies where an application is made, in accordance with section 37, to vary a premises licence so as to specify a new premises supervisor (“the proposed individual”).
- (2) Subject to subsection (3), the relevant licensing authority must grant the application.
- (3) Where a notice is given under section 37(5) (and not withdrawn), the authority must—
  - (a) hold a hearing to consider it, unless the authority, the applicant and the chief officer of police who gave the notice agree that a hearing is unnecessary, and
  - (b) having regard to the notice, reject the application if it considers it necessary for the promotion of the crime prevention objective to do so.
- (4) Where an application under section 37 is granted or rejected, the relevant licensing authority must give a notice to that effect to—
  - (a) the applicant,
  - (b) the proposed individual, and
  - (c) the chief officer of police for the police area (or each police area) in which the premises are situated.
- (5) Where a chief officer of police gave a notice under subsection (5) of that section (and it was not withdrawn), the notice under subsection (4) of this section must state the authority’s reasons for granting or rejecting the application.
- (6) Where the application is granted, the notice under subsection (4) must specify the time when the variation takes effect.

That time is the time specified in the application or, if that time is before the applicant is given that notice, such later time as the relevant licensing authority specifies in the notice.

#### Commencement Information

- I5** S. 39 in force for certain purposes at 7.2.2005 and 7.8.2005 otherwise by [S.I. 2004/2360, art. 2, Sch.](#); [S.I. 2005/2090, art. 2](#)

VALID FROM 07/08/2005

### 40 Duty of applicant following determination under section 39

- (1) Where the holder of a premises licence is notified under section 39(4), he must forthwith—
  - (a) if his application has been granted, notify the person (if any) who has been replaced as the designated premises supervisor of the variation, and
  - (b) if his application has been rejected, give the designated premises supervisor (if any) notice to that effect.

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- (2) A person commits an offence if he fails, without reasonable excuse, to comply with subsection (1).
- (3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

VALID FROM 24/11/2005

#### **41 Request to be removed as designated premises supervisor**

- (1) Where an individual wishes to cease being the designated premises supervisor in respect of a premises licence, he may give the relevant licensing authority a notice to that effect.
- (2) Subsection (1) is subject to regulations under section 54 (form etc. of notices etc.).
- (3) Where the individual is the holder of the premises licence, the notice under subsection (1) must also be accompanied by the premises licence (or the appropriate part of the licence) or, if that is not practicable, by a statement of the reasons for the failure to provide the licence (or part).
- (4) In any other case, the individual must no later than 48 hours after giving the notice under subsection (1) give the holder of the premises licence—
  - (a) a copy of that notice, and
  - (b) a notice directing the holder to send to the relevant licensing authority within 14 days of receiving the notice—
    - (i) the premises licence (or the appropriate part of the licence), or
    - (ii) if that is not practicable, a statement of the reasons for the failure to provide the licence (or part).
- (5) A person commits an offence if he fails, without reasonable excuse, to comply with a direction given to him under subsection (4)(b).
- (6) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (7) Where an individual—
  - (a) gives the relevant licensing authority a notice in accordance with this section, and
  - (b) satisfies the requirements of subsection (3) or (4),
 he is to be treated for the purposes of this Act as if, from the relevant time, he were not the designated premises supervisor.
- (8) For this purpose “the relevant time” means—
  - (a) the time the notice under subsection (1) is received by the relevant licensing authority, or
  - (b) if later, the time specified in the notice.

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