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STATUTORY INSTRUMENTS

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**2004 No. 2360 (C.101)**

**LICENCES AND LICENSING**

**Licensing Act 2003 (Commencement No. 5) Order 2004**

Made - - - - 9th September 2004

The Secretary of State, in exercise of the powers conferred upon her by section 201(2) of the Licensing Act 2003(1), hereby makes the following Order:

**Citation and interpretation**

1.—(1) This Order may be cited as the Licensing Act 2003 (Commencement No. 5) Order 2004.

(2) In this Order—

“the Act” means the Licensing Act 2003;

“the first appointed day” means 7<sup>th</sup> February 2005(2).

**Commencement**

2.—(1) The provisions of the Licensing Act 2003 specified in the Schedule to this Order, to the extent specified in the Schedule, shall come into force on the first appointed day.

(2) Sections 6 and 9(1) and (3) shall come into force on the day after the day on which this Order is made.

9th September 2004

*Richard Caborn*  
Minister of State,  
Department of Culture, Media and Sport

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(1) 2003 c. 17

(2) S.I 2004/1739 makes provision for the “first appointed day”

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## SCHEDULE

Article 2

<b>PROVISION AND EXTENT</b>	<b>SUBJECT MATTER</b>
Section 7	Exercise and delegation of functions
Section 10	Sub-delegation of functions by licensing committee etc.
Section 11	Premises licence
Section 12	The relevant licensing authority
Section 13 - all remaining provisions	Authorised persons, interested parties and responsible authorities
Section 14	Meaning of “supply of alcohol”
Section 15	Meaning of “designated premises supervisor”
Section 16 - all remaining provisions	Applicant for premises licence
Section 17 - all remaining provisions	Application for premises licence
Section 18	Determination of application for premises licence
Section 19	Mandatory conditions where licence authorises supply of alcohol
Section 20	Mandatory condition: exhibition of films
Section 21	Mandatory condition: door supervision
Section 22	Prohibited conditions: plays
Section 23	Grant or rejection of application
Section 25	Theft, loss etc.of premises licence or summary
Section 29 - all remaining provisions	Application for a premises licence where premises being built etc.
Section 31 - all remaining provisions	Determination of application for provisional statement
Section 32	Restriction on representations following a provisional statement
Section 33	Notification of change of name and address
Section 34 - all remaining provisions in so far as they relate to the provisions of Schedule 8 specified below	Application to vary premises licence
Section 35 in so far as it relates to the provisions of Schedule 8 specified below	Determination of application under section 34
Section 36 in so far as it relates to the provisions of Schedule 8 specified below	Supplementary provision about determination under section 35
Section 37 - all remaining provisions in so far as they relate to the provisions of Schedule 8 specified below	Application to vary licence to specify individual as premises supervisor

<b>PROVISION AND EXTENT</b>	<b>SUBJECT MATTER</b>
Section 39 in so far as it relates to the provisions of Schedule 8 specified below	Determination of section 37 application
Section 59(1)(a) and (b), (2)(a), (3), (4), (5) and (6)	Inspection of premises before grant of a licence and provisional statement
Section 59(1)(c) in so far as it relates to the provisions of Schedule 8 specified below	Inspection of premises before variation of a licence in relation to transitional provision
Section 60	Club premises certificate
Section 61	Qualifying clubs
Section 62	The general conditions
Section 63	Determining whether a club is established and conducted in good faith
Section 64	The additional conditions for the supply of alcohol
Section 65	Industrial and provident societies, friendly societies etc.
Section 66	Miners' welfare institutes
Section 68	The relevant licensing authority
Section 69 - all remaining provisions	Authorised persons, interested parties and responsible authorities
Section 70	Other definitions relating to clubs
Section 71 - all remaining provisions	Application for club premises certificate
Section 72	Determination of application for club premises certificate
Section 73	Certificate authorising supply of alcohol for consumption off the premises
Section 74	Mandatory condition: exhibition of films
Section 75	Prohibited conditions: associate members and their guests
Section 76	Prohibited conditions: plays
Section 77	Grant or rejection of application for club premises certificate
Section 79	Theft, loss, etc. of club premises certificate or summary
Section 82	Notification of change of name or alteration of rules of club
Section 83	Change of relevant registered address of club
Section 84(1),(2) and (3) in so far as they relate to the provisions of Schedule 8 specified below	Application to vary club premises certificate during the transitional period

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<b>PROVISION AND EXTENT</b>	<b>SUBJECT MATTER</b>
Section 85 in so far as it relates to the provisions of Schedule 8 specified below	Determination of application under section 84
Section 86 in so far as it relates to the provisions of Schedule 8 specified below	Supplementary provision about applications under section 84
Section 90	Club ceasing to be a qualifying club
Section 96, except subsections 1(b) and (c)	Inspection of premises before grant of a certificate etc.
Section 96(1)(b) in so far as it relates to the provisions of Schedule 8 specified below	Inspection of premises before variation of a certificate in relation to transitional provision
Section 111	Personal licence
Section 112	The relevant licensing authority
Section 113 - all remaining provisions	Meaning of “relevant offence” and “foreign offence”
Section 114	Spent convictions
Section 115	Period of validity of personal licences
Section 116	Surrender of personal licence
Section 117	Application for grant or renewal of personal licence
Section 118	Individual permitted to hold only one personal licence
Section 120 - all remaining provisions	Determination of application for grant
Section 122	Notification of determinations
Section 123	Duty to notify licensing authority of convictions during application period
Section 124	Convictions coming to light after grant or renewal
Section 125 - all remaining provisions	Form of personal licence
Section 126	Theft, loss, etc. of personal licence
Section 127	Duty to notify change of name or address
Section 128	Duty to notify court of personal licence
Section 129	Forfeiture or suspension of licence on conviction for relevant offence
Section 130	Powers of appellate court to suspend order under section 129
Section 131	Court’s duty to notify licensing authority of convictions
Section 132	Licence holder’s duty to notify licensing authority of convictions

<b>PROVISION AND EXTENT</b>	<b>SUBJECT MATTER</b>
Section 134	Licensing authority's duty to update licence document
Section 135	Licence holder's duty to produce licence
Section 158	False statements made for the purposes of this Act
Section 178 - all remaining provisions	Right of freeholder etc. to be notified of licensing matters
Section 181 in so far as it relates to the provisions of Schedule 5 specified below	Appeals against decisions of licensing authorities
Section 183(2)	Hearings
Section 184	Giving of notices, etc.
Section 185	Provision of information
Section 186	Proceedings for offences
Section 187 - all remaining provisions	Offences by bodies corporate etc.
Section 188	Jurisdiction and procedure in respect of offences
Section 189	Vessels, vehicles and moveable structures
Section 190	Location of sales
Section 195	Crown application
Section 200 in so far as it relates to the provisions of Schedule 8 specified below	Transitional provisions etc.
Schedule 4	Personal licence: relevant offences
Schedule 5 paragraphs 1(a) and (d), 2, 3, 9, 10(a), 11, 15 and 17 (except paragraphs (1)(b), (9) and (10)), and paragraphs 1(b) and (c), 4, 5, 10(b) and 12 to the extent that they relate to the transitional provisions in Schedule 8.	Appeals
Schedule 8 - all remaining provisions except paragraphs 31, 32, and 33	Transitional Provisions etc.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order is the fifth Commencement Order made by the Secretary of State under the Licensing Act 2003 ("the Act"). The Order brings into force those provisions of the Act specified in article 2(2) and listed in the Schedule to the Order, to the extent specified. Those provisions are concerned

with enabling licensing authorities to make the necessary arrangements for the application for and conversion of existing licences and club certificates and the variation of new licences and certificates as provided for in Schedule 8 to the Act, during the transitional period, and for applicants to make such applications, from the first appointed day (SI2004/1739 appointed 7<sup>th</sup> February 2005 as this day) within a period of six months.

Further, the provisions of the Act which provide for the application for premises licences, club premises certificates and provisional statements and their determination are brought into force with effect from the first appointed day to enable applications for new authorisations to be made in the transitional period.

#### NOTE AS TO EARLIER COMMENCEMENT ORDERS

*(This note is not part of the Order)*

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
s.199 of and Sch.7 to the Act, so far as it relates to s.66 (Sunday closing in Wales and Monmouthshire) and s.67 (supplementary provisions for Welsh Sunday polls) of and Sch. 8 (polls in Wales and Monmouthshire) to the Licensing Act 1964	16.07.03	2003/1911
s.155 and s.199 in so far as it relates to entries in Sch. 7 to the Act relating to the Confiscation of Alcohol (Young Persons) Act 1997 and section 12 of the Criminal Justice and Police Act 2001	10.09.03	2003/2100
ss. 1, 3 to 5, 8, 9(2), 13(2)(f) and 4(i), 16(1)(i), 17(3)(b), (c), (4) and (5), 24,29(6), 30, 31(6) (a), 34(5), 37(3)(a), 47(2)(a), 51(3), 54, 55, 58(1)(c), 69(2) (f), and (4)(i), 71(4)(b), (5) and (6), 78, 84(4), 87(3), 91, 92, 95(1)(c), 100(4),(5)(f), (7)(b) and (8), 102(2), 107(7) and (12), 110(3), 113(2), 120(2)(b), 125(4), 133, 167(4), 173(1)(h), (3) and (5), 176(3), 178(1)(b) and (4)(d), 182, 183(1), 187(7), 191 to 194, 197, 198(2), 200 (partially), Schs. 1 to 3 and Sch. 8 (partially)	16.12.03	2003/3222
Paragraph 34 of Sch. 8 to the Act and s.200 in so far as it relates to it	07.07.04	2004/1738

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