

EXPLANATORY MEMORANDUM TO
THE LICENSING ACT 2003 (FORMS AND NOTICES) (AMENDMENT)
REGULATIONS 2012

2012 No. 2290

1. This explanatory memorandum has been prepared by the Home Office (“the Department”) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations amend the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 (S.I. 2005/42) (“the Licences and Certificates Regulations”); and the Licensing Act 2003 (Permitted Temporary Activities) (Notices) Regulations 2005 (S.I. 2005/2918) (“the Permitted Temporary Activities Regulations”).

2.2 The forms prescribed in these Regulations replace a number of forms prescribed in the Licences and Certificates Regulations and the one form of notice prescribed in the Permitted Temporary Activities Regulations. The need to prescribe revised versions of these forms is as a consequence of amendments to the Licensing Act 2003 (“the 2003 Act”) by the Live Music Act 2012 (“the 2012 Act”).

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 The 2003 Act provides a system of authorisation for certain activities (referred to as “licensable activities”), namely: the sale by retail of alcohol; the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club; the provision of regulated entertainment; and the provision of late night refreshment. It is a criminal offence to carry on, or attempt to carry on, a licensable activity on or from any premises without an appropriate authorisation under the 2003 Act. Such an authorisation may comprise a premises licence, a club premises certificate or a temporary event notice.

4.2 The 2012 Act amended Schedule 1 to the 2003 Act to remove the provision of entertainment facilities from the definition of what constitutes the provision of regulated entertainment under that Act. Therefore, references to the provision of entertainment facilities in each of the previous versions of the forms are required to be removed. “Entertainment facilities” (facilities relating to the

provision of “music entertainment” under the 2003 Act, such as the provision of musical instruments, or a stage) were previously licensable.

4.3 Moreover, the 2012 Act amends the 2003 Act so that the following public performances of live music taking place between 8 am and 11 pm are no longer licensable:

- unamplified live music in any location and which, in certain circumstances, is not precluded by Review conditions;
- amplified music in premises authorised to supply alcohol for consumption on the premises by a premises licence or club premises certificate under the 2003 Act where the live music is performed, at a time when the premises are open for the supply of alcohol for consumption on the premises, to audiences of 200 or less (and is not precluded by Review conditions); and
- amplified music in other workplaces which are not licensed under the 2003 Act (or which are licensed only for the provision of late night refreshment), where live music is performed to audiences of 200 or less.

4.4 Premises licences and club premises certificates are granted (and may be varied or transferred) by licensing authorities, subject to the procedures, forms and fees prescribed by or under the 2003 Act. The Licences and Certificates Regulations prescribe the processes governing applications and related forms for licence and certificates. Similarly, the Permitted Temporary Activities Regulations prescribe the processes governing the giving of temporary event notices and related forms. The amendments to the 2003 Act by the 2012 Act necessitate the revision of a number of these forms.

5. Territorial extent and application

5.1. These Regulations apply to England and Wales only.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- *What is being done and why*

7.1 The Government has overarching commitments to promote economic growth and remove unnecessary regulations and burdens on businesses, as well as a specific commitment in the Coalition Programme to remove red tape that prevents live music performances. The 2012 Act began life as a Private

Member's Bill tabled in the House of Lords in 2010 by Lord Clement-Jones. This received Government support. The 2012 Act meets these Coalition commitments by deregulating live music performances in "low risk" environments and scenarios. The requirements relating to the provision of "entertainment facilities" in the 2003 Act, such as musical equipment, have been very confusing for many businesses and licensing authorities, and removal is designed to help simplify the licensing process. The prescribed forms in relation to licences and other authorisations and notices under the 2003 Act are being amended to reflect these changes.

- ***Consolidation***

7.2 The Government does not intend to consolidate the legislation.

8. Consultation outcome

8.1 The content of these Regulations has not been the subject of consultation because the amendments they make are necessary to give effect to the changes made by the 2012 Act to the 2003 Act.

9. Guidance

9.1 Information on these changes will be made available through updates to the Department's website and statutory guidance issued under section 182 of the 2003 Act. Any changes have been communicated to licensing authorities in England and Wales.

10. Impact

10.1 There is no adverse impact on businesses, charities or voluntary bodies.

10.2 The impact on the public sector is less than £5 million.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation applies to small business but will not have an adverse impact on it.

12. Monitoring & review

12.1 The impact of the amendments made by these Regulations will be kept under review by the Department for Culture, Media and Sport and the Home Office.

13. Contact

- 13.1 Stuart Roberts, Department for Culture, Media and Sport, on 0207 211 6099 or stuart.roberts@culture.gsi.gov.uk can answer questions on the changes introduced as a result of the 2012 Act. Ann Oldroyd, Drugs and Alcohol Unit, the Home Office, on 020 7035 1587 or ann.oldroyd@homeoffice.gsi.gov.uk can answer queries regarding the instrument.