

**EXPLANATORY MEMORANDUM TO**  
**THE LICENSING ACT 2003 (PERMITTED TEMPORARY ACTIVITIES)**  
**(NOTICES) (AMENDMENT) REGULATIONS 2012**

**2012 No. 960**

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 (Permitted Temporary Activities) (Notices) Regulations 2005 (SI 2005/2918) (“the 2005 Regulations”).

2.2 The purpose of the amendments is to prescribe revised versions of two existing forms and two new forms, and set out new processes to give effect to changes made to the Licensing Act 2003 (“the 2003 Act”) by the Police Reform and Social Responsibility Act 2011 (“the 2011 Act”).

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

3.1 None.

**4. Legislative Context**

4.1 The Licensing Act 2003 (“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 an 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 (“TEN”).

4.2 Part 5 of the 2003 Act sets out a framework under which a person (“the premises user”) can carry on licensable activities without having to obtain a licence or certificate. The premises user may instead give a TEN to the licensing authority which must include certain information (for example, the proposed licensable activities and duration of the proposed event). The use of a TEN is subject to a number of limits which apply in any calendar year (for example, the number of TENs which may be given by the premises user and the number which may be given in relation to the same premises). The changes to the 2003 Act made by the 2011 Act enable, amongst other things, the police and local authority exercising environmental health functions to object to a TEN on the basis of any licensing objectives (previously, only the

police could object on crime prevention grounds), the premises user to give a limited number of TENs no later than five working days before the event (ordinarily, the minimum period is no later than ten working days) and the licensing authority to impose conditions on a TEN if certain requirements are met.

- 4.3 These Regulations amend the 2005 Regulations to revise the form of a TEN, and the form of counter notice which may be given by a licensing authority under section 107 of the 2003 Act if one or more of the permitted limits have been exceeded. These Regulations prescribe the new form of counter notice which a licensing authority may give to a premises user under section 104A of the 2003 Act if the police or local authority exercising environmental health functions have objected to a TEN (where it is given later than 10 working days before the event to which it relates), and the new form of the notice and statement of conditions which the licensing authority may give to the premises user if it decides under section 106A of the 2003 Act that it is appropriate to impose conditions on the TEN. These Regulations also prescribe the manner in which the licensing authority may give each of the counter notices or notice described above to the premises user.

## **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 It emerged during the consultation on the proposals which are now contained in the 2011 Act that members of the public, the police and other bodies had a number of concerns about the existing framework for TENs. Residents complained of excessive noise from activities authorised by TENs. The police confirmed that TENs were open to abuse by some businesses. Other individuals and bodies complained that the system was inflexible.
- 7.2 The relaxation of certain limits applying to TENs (for example, in relation to the duration of events they can authorise), the extension of the basis on which TENs can be challenged and the availability to premises users of a limited number of late TENs are intended to address these concerns. Permitting a local authority exercising environmental health functions to object to a TEN provides residents with greater protection from noise nuisance. Enabling a licensing authority to impose conditions on a TEN which is given in relation to licensed premises (in a case where the police or the local authority exercising environmental health functions have objected) will ensure that unscrupulous operators cannot use TENs to evade their licensing conditions,

providing further protection for customers, residents and local businesses. The changes to the limits applying to TENs will give greater flexibility to bodies (for example, theatre groups) to run events for up to a week. The ability of premises users to give TENs less than the ordinary ten working day period before the proposed event will greatly assist those whose plans change at short notice before the event (for example, charities which need to change the venue for their event or circuses who discover that their usual pitch is not going to be available), or those who are unfamiliar with the legislative framework (for example, local community groups) and therefore inadvertently miss the prescribed deadline.

- ***Consolidation***

7.3 The Government does not intend to consolidate the legislation.

## **8. Consultation outcome**

8.1 The amendments made by these Regulations are necessary to give effect to the changes made by the 2011 Act to the 2003 Act, and formed a part of the proposals which were the subject of consultation in relation to the 2011 Act. Details of the consultation, as well as the responses and the Government's response, are available on the Home Office website at <http://www.homeoffice.gov.uk/>.

## **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 will also be communicated to licensing authorities in England and Wales.

## **10. Impact**

10.1 There is no 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.

### **13. Contact**

- 13.1 Nigel Voden, Drugs and Alcohol Unit, the Home Office on 020 7035 0609 or [nigel.voden@homeoffice.gsi.gov.uk](mailto:nigel.voden@homeoffice.gsi.gov.uk) can answer any queries regarding the instrument.