

**EXPLANATORY MEMORANDUM TO**  
**THE LICENSING ACT 2003 (PERMITTED TEMPORARY ACTIVITIES)**  
**(NOTICES) (AMENDMENT) REGULATIONS 2014**

**2014 No. 2417**

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 (S.I. 2005/2918) (“the 2005 Regulations”) to prescribe a revised version of the form of temporary event notice (“TEN”).
  
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 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).
  - 4.3 These Regulations amend the 2005 Regulations to revise the form of a TEN by inserting in it a requirement on the premises user to state if the licensable activities which it is proposed will be carried on in accordance with the TEN include the provision of relevant entertainment (and, if so, the times during the event period that it is proposed to provide such entertainment). Relevant entertainment is defined in paragraph 2A(2) of the Local Government (Miscellaneous Provisions) Act 1982 (“the 1982 Act”) and includes, but is not limited to, activities such as lap dancing and pole dancing.

## **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 the 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 1982 Act requires that premises which provide relevant entertainment to a live audience for gain must be licensed under that Act. Such premises are called sexual entertainment venues (SEVs). Relevant entertainment is defined as any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means); it includes lap dancing and pole dancing.

7.2 Premises at which there have not been more than eleven occasions on which such entertainment has been provided within a period of 12 months, no such occasion has lasted for more than 24 hours and there has been a period of at least one month between each such occasion are exempt from the requirement to obtain a licence under the 1982 Act.

7.3 Premises licensed to operate as an SEV are subject to a number of restrictions and other requirements specifically designed to safeguard both performers and patrons. Premises which provide relevant entertainment but which are exempt are required to hold a relevant premises licence or club premises certificate under the Licensing Act 2003 (the 2003 Act) which permits the provision of regulated entertainment (including relevant entertainment). Premises seeking to host a 'one-off' event involving relevant entertainment, for which it is not licensed, may do so in accordance with a TEN.

7.4 The TENs system is designed to be light touch and to avoid disproportionate interference with events. Where no objections are raised by either the police or the environmental health authority, the licensing authority must allow the event to go ahead. To date, individuals giving a TEN have only been required to describe the activities proposed to be carried on at the event in general terms. Where infrequent events involving relevant entertainment are authorised by TENs, local authorities may therefore have very little information about the precise nature of an event taking place. Concerns that

the exemption can be exploited by operators seeking to avoid the stricter controls of the SEV licensing system were raised in Parliament in September and October 2013.

7.5 In light of these concerns, the Government agreed to look at options for tightening up the system and has taken the view that the TEN form should require premises users to state explicitly whether any relevant entertainment is intended to be provided at the proposed event. The inclusion of a direct question about relevant entertainment in this way will make the nature of the event absolutely clear to licensing authorities, as well as the police and environmental health authorities (as relevant persons). This change will therefore allow informed decisions to be made, whilst keeping the form and process light-touch and avoiding disproportionate interference with events. TENs users who knowingly or recklessly make a false declaration commit a criminal offence which could result in prosecution and a fine not exceeding level 5 on the standard scale. The authorities would also have grounds to close the event and/or seek to reject any future TENs given by the same user in relation to similar events.

- ***Consolidation***

7.6 The Department does not consider that this is appropriate.

## **8. Consultation outcome**

8.1 No formal consultation has been conducted as this is a minor change and the Department considers that consultation is not necessary.

## **9. Guidance**

9.1 Reference to this change will be made in the statutory guidance issued under section 182 of the Licensing Act 2003. The guidance will be placed on the Gov.uk website. Notification of the change will be given to all licensing authorities, enforcement agencies and other relevant users.

## **10. Impact**

10.1 An impact assessment has not been produced for this instrument as there is no impact on businesses, charities, voluntary bodies or the public sector is foreseen.

## **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 These Regulations will make a minor change to the TEN form by requiring the user to explicitly state whether the licensable activities covered by the notice will include relevant entertainment. The Department therefore has no plans to conduct a monitoring or review process.

## **13. Contact**

13.1 Rob Turner, Drugs and Alcohol Unit, the Home Office on 020 7035 8836 or [robert.turner2@homeoffice.gsi.gov.uk](mailto:robert.turner2@homeoffice.gsi.gov.uk) [mailto:](mailto:robert.turner2@homeoffice.gsi.gov.uk) can answer any queries regarding the instrument.