

Draft Order laid before Parliament under section 14(1) of the Legislative and Regulatory Reform Act 2006, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2014 No.

**LICENCES AND LICENSING,
ENGLAND AND WALES**

The Legislative Reform (Entertainment Licensing) Order 2014

Made - - - - - *2014*
Coming into force - - - - - *6th April 2015*

The Secretary of State for Culture, Media and Sport (“the Secretary of State”), in exercise of the powers conferred by section 1 of the Legislative and Regulatory Reform Act 2006⁽¹⁾, makes the following Order.

The Secretary of State considers that the conditions in section 3(2) of that Act are satisfied.

The Secretary of State has consulted in accordance with section 13 of that Act, and has laid a draft Order and explanatory document before Parliament in accordance with section 14 of that Act.

Pursuant to section 15(1)(b) of that Act, the affirmative resolution procedure (within the meaning of section 17 of that Act) applies in relation to the making of this Order.

In accordance with section 17(2) of that Act, the draft has been approved by a resolution of each House of Parliament after the expiry of the 40-day period referred to in that provision.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Legislative Reform (Entertainment Licensing) Order 2014 and comes into force on 6th April 2015.

(2) In this Order, “the Act” means the Licensing Act 2003⁽²⁾.

Amendments to section 177A of the Licensing Act 2003

2.—(1) Section 177A of the Act (licence review for live music)⁽³⁾ is amended as follows.

(2) In the heading, after “live” insert “and recorded”.

(3) For subsection (1) substitute—

(1) 2006 c. 51; see section 32 for the definition of “Minister of the Crown”.

(2) 2003 c. 17.

(3) Section 177A was inserted by the Live Music Act 2012 (c. 2), section 1(2).

“(1) Subsection (2) applies where—

- (a) music takes place on premises which are authorised by a premises licence or club premises certificate to be used for the supply of alcohol for consumption on the premises,
- (b) at the time of the music, the premises are open for the purposes of being used for the supply of alcohol for consumption on the premises,
- (c) if the music is amplified, it takes place in the presence of an audience of no more than 500 persons, and
- (d) the music takes place between 8am and 11pm on the same day (or, where an order under section 172 has effect in relation to music, during any times specified under that order).”.

(4) In subsection (2) for “does not have effect in relation to the live music,”, substitute “, recorded music or both does not have effect in relation to the music”.

(5) In subsection (4) omit “live” in each place it occurs.

(6) After subsection (4) insert—

“(4A) This section does not apply to music which, by virtue of a provision other than paragraph 12A or 12C of Schedule 1(4), is not regarded as the provision of regulated entertainment for the purposes of this Act.”.

(7) In subsection (5), after the definition of “live music” insert—

““music” means live music or recorded music or both;

“recorded music” means entertainment of a description falling within, or of a similar description to that falling within, paragraph 2(1)(f) of Schedule 1; and”.

Amendments to Part 2 of Schedule 1 to the Licensing Act 2003

3.—(1) Part 2 of Schedule 1 to the Act (provision of regulated entertainment: exemptions) is amended as follows.

(2) In paragraph 7(5)—

- (a) in the heading, after “Music” insert “and film”; and
- (b) for “or the playing of recorded music” substitute “, the playing of recorded music or the exhibition of a film”.

(3) After paragraph 12, insert—

“Entertainment provided by health care providers, local authorities and school proprietors

12ZA.—(1) The provision of any entertainment by or on behalf of a health care provider, local authority or school proprietor is not to be regarded as the provision of regulated entertainment for the purposes of this Act if the conditions in sub-paragraphs (2) to (5) are satisfied.

(2) The first condition is that the entertainment takes place—

- (a) if it is provided by or on behalf of a health care provider, on any premises forming part of a hospital—
 - (i) in which that provider has a relevant property interest, or

(4) Paragraphs 12A and 12C of Schedule 1 were added by the Live Music Act 2012 (c. 2), section 3(1), (3) and (5).

(5) Paragraph 7 was substituted by the Live Music Act 2012 (c. 2), section 2(1) and (9).

- (ii) which are lawfully occupied by that provider,
 - (b) if it is provided by or on behalf of a local authority, on any premises in which that authority has a relevant property interest or which are lawfully occupied by that authority, and
 - (c) if it is provided by or on behalf of a school proprietor, on the premises of the school.
- (3) The second condition is that the premises are not domestic premises.
- (4) The third condition is that the entertainment takes place between 8am and 11pm on the same day (or, where an order under section 172 has effect in relation to that entertainment, during any times specified under that order).
- (5) The fourth condition is that the entertainment is not relevant entertainment within the meaning of paragraph 2A(2) of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982⁽⁶⁾ (meaning of “sexual entertainment venue”).
- (6) For the purposes of this paragraph, a person has a relevant property interest in premises if that person—
- (a) is for the time being entitled to dispose of the fee simple in the premises, whether in possession or in reversion, or
 - (b) holds or is entitled to the rents and profits of the premises under a lease which (when granted) was for a term of not less than 3 years.
- (7) In sub-paragraph (3), “domestic premises” means premises occupied as a private dwelling, including any garden, yard, garage, outhouse or other appurtenance of such premises whether or not used in common by the occupants of more than one such dwelling.

Music at community premises etc.

12ZB.—(1) The provision of entertainment consisting of one or both of the following is not to be regarded as the provision of regulated entertainment for the purposes of this Act if the conditions in sub-paragraphs (2) to (6) are satisfied—

- (a) a performance of live music;
 - (b) the playing of recorded music.
- (2) The first condition is that the entertainment takes place at—
- (a) community premises⁽⁷⁾ that are not authorised, by a premises licence or club premises certificate, to be used for the supply of alcohol for consumption on the premises,
 - (b) the premises of a hospital,
 - (c) premises in which a local authority has a relevant property interest or which are lawfully occupied by a local authority, or
 - (d) the premises of a school.
- (3) The second condition is that the premises are not domestic premises (within the meaning of paragraph 12ZA⁽⁷⁾).
- (4) The third condition is that the entertainment takes place in the presence of an audience of no more than 500 persons.

⁽⁶⁾ 1982 c. 30; paragraph 2A was added by the Policing and Crime Act 2009 (c. 26), section 27(1) and (3).

⁽⁷⁾ The definition of “community premises” was added to section 193 of the Act by the Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls &c.) Order 2009 (S.I. 2009/1724), articles 2 and 6(1)(a).

(5) The fourth condition is that the entertainment takes place between 8am and 11pm on the same day (or, where an order under section 172 has effect in relation to that entertainment, during any times specified under that order).

(6) The fifth condition is that a person concerned in the organisation or management of the entertainment has obtained the prior written consent of a relevant person for the entertainment to take place.

(7) In sub-paragraph (6), “relevant person” means—

(a) where the entertainment takes place at community premises—

(i) the management committee⁽⁸⁾ of the premises, or

(ii) if there is no management committee, a person who has control of the premises (as occupier or otherwise) in connection with the carrying on by that person of a trade, business or other undertaking (for profit or not) or (in the absence of such a person) a person with a relevant property interest in the premises;

(b) where the entertainment takes place at the premises of a hospital, a health care provider which has a relevant property interest in or lawfully occupies those premises;

(c) where the entertainment takes place at premises in which a local authority has a relevant property interest or which are lawfully occupied by a local authority, that authority;

(d) where the entertainment takes place at the premises of a school, the school proprietor.

(8) Paragraph 12ZA(6) (meaning of “relevant property interest”) applies for the purposes of this paragraph as it applies for the purposes of paragraph 12ZA.”.

(4) For paragraph 12A (live music in licensed venues)⁽⁹⁾ substitute—

“Music in licensed venues

12A.—(1) The provision of entertainment consisting of one or both of the following is not to be regarded as the provision of regulated entertainment for the purposes of this Act if the conditions in sub-paragraph (2) are satisfied—

(a) a performance of live music;

(b) the playing of recorded music.

(2) The conditions referred to in sub-paragraph (1) are that—

(a) the requirements of section 177A(1) are satisfied, and

(b) conditions are not included in the premises licence or club premises certificate referred to in section 177A(1)(a) by virtue of section 177A(3) or (4).⁽¹⁰⁾

(5) In paragraph 12B(b) (live music in workplaces)⁽¹¹⁾ for “200” substitute “500”.

(6) After paragraph 12C (live unamplified music)⁽¹²⁾ insert—

“Circuses

12D.—(1) The provision of any entertainment that consists of or forms part of a performance by a travelling circus is not to be regarded as the provision of regulated

⁽⁸⁾ The definition of “management committee” was added to section 193 of the Act by the Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls &c.) Order 2009 (S.I. 2009/1724), articles 2 and 6(1)(b).

⁽⁹⁾ Paragraph 12A was added by the Live Music Act 2012 (c. 2), section 3(3).

⁽¹⁰⁾ Section 177A was added by the Live Music Act 2012, section 1(2).

⁽¹¹⁾ Paragraph 12B was added by the Live Music Act 2012, section 3(1) and (4).

⁽¹²⁾ Paragraph 12C was added by the Live Music Act 2012, section 3(1) and (5).

entertainment for the purposes of this Act if the conditions in sub-paragraphs (2) to (5) are satisfied.

(2) The first condition is that the entertainment is not of a description falling within paragraph 2(1)(b) (exhibition of a film) or paragraph 2(1)(d) (boxing or wrestling entertainment).

(3) The second condition is that the entertainment takes place between 8am and 11pm on the same day.

(4) The third condition is that—

(a) the entertainment takes place wholly within a moveable structure, and

(b) the audience present is accommodated wholly inside that moveable structure.

(5) The fourth condition is that the travelling circus has not been located on the same site for more than 28 consecutive days.

(6) In this paragraph, “travelling circus” means a circus which travels from site to site for the purpose of giving performances.

Boxing or wrestling entertainment: certain forms of wrestling

12E. The provision of entertainment consisting of a boxing or wrestling entertainment is not to be regarded as the provision of regulated entertainment for the purposes of this Act if—

(a) it is a contest, exhibition or display of Greco-Roman wrestling, or of freestyle wrestling, between two participants (regardless of their sex),

(b) it takes place in the presence of no more than 1000 spectators,

(c) it takes place between 8am and 11pm on the same day,

(d) it takes place wholly inside a building, and

(e) the spectators present at that entertainment are accommodated wholly inside that building.”.

Amendments to Part 3 of Schedule 1 to the Licensing Act 2003

4. In Part 3 of Schedule 1 to the Act (provision of regulated entertainment: interpretation), after paragraph 18 insert—

“Health care providers and hospitals

19.—(1) “Health care provider” means a person providing any form of health care services for individuals.

(2) In sub-paragraph (1), “health care” means all forms of health care provided for individuals, whether relating to physical or mental health, and the reference to health care services is to be read accordingly.

(3) “Hospital”—

(a) in England, has the same meaning as in section 275 of the National Health Service Act 2006(**13**), and

(b) in Wales, has the same meaning as in section 206 of the National Health Service (Wales) Act 2006(**14**).

(13) 2006 c. 41.

(14) 2006 c. 42.

Local authorities

20. “Local authority” means—

- (a) a local authority within the meaning of section 270 of the Local Government Act 1972**(15)**;
- (b) the Greater London Authority;
- (c) the Common Council of the City of London;
- (d) the Council of the Isles of Scilly;
- (e) a National Park authority established by an order under section 63(1) of the Environment Act 1995**(16)** for an area in England or Wales;
- (f) the Broads Authority; and
- (g) the Sub-Treasurer of the Inner Temple or the Under-Treasurer of the Middle Temple.

Schools, school proprietors and school premises

21.—(1) “School” means—

- (a) a maintained school as defined by section 20(7) of the School Standards and Framework Act 1998**(17)**;
- (b) an independent school as defined by section 463 of the Education Act 1996**(18)** entered on a register of independent schools kept under section 158 of the Education Act 2002**(19)**;
- (c) an independent educational institution within section 92(1)(b) of the Education and Skills Act 2008**(20)** entered on a register of independent educational institutions kept under section 95 of that Act;
- (d) a pupil referral unit as defined by section 19 of the Education Act 1996**(21)**;
- (e) an alternative provision Academy within the meaning of section 1C(3) of the Academies Act 2010**(22)**, other than an independent school as defined by section 463 of the Education Act 1996;
- (f) a school approved under section 342 of the Education Act 1996**(23)** (non-maintained special schools);
- (g) a 16 to 19 Academy within the meaning of section 1B(3) of the Academies Act 2010**(24)**;

(15) 1972 c. 70; the definition of “local authority” was amended by the Local Government Act 1985 (c. 51), Schedule 17 and the Local Government (Wales) Act 1994 (c. 19), section 1(4) and (5).

(16) 1995 c. 25.

(17) 1998 c. 31.

(18) 1996 c. 56; section 463 was substituted by the Education Act 2002 (c. 32), section 172, and amended by the Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), Schedule 2, paragraph 10(1) and (2).

(19) 2002 c. 32.

(20) 2008 c. 25.

(21) Subsections (2A) and (2B) were added by the Education Act 1996 (Amendment of Section 19) (England) Regulations 2007 (S.I. 2007/1507), regulation 2; subsections (2), (2A) and (2B) were amended by the Local Education Authorities and Children’s Services Authorities (Integration of Functions) (Local and Subordinate Legislation) Order 2010 (S.I. 2010/1172), article 3.

(22) 2010 c. 32; section 1C was added by the Education Act 2011 (c. 21), section 53(1) and (7).

(23) Section 342 was substituted by the School Standards and Framework Act 1998 (c. 31), Schedule 30, paragraphs 57 and 82, and amended by the Education and Skills Act 2008 (c. 25), sections 142(2), (3) and (4) and 143, and Schedule 2.

(24) Section 1B was added by the Education Act 2011 (c. 21), section 53(1) and (7).

- (h) a sixth form college as defined by section 91(3A) of the Further and Higher Education Act 1992(25); and
 - (i) a maintained nursery school as defined by section 22(9) of the Schools Standards and Framework Act 1998(26).
- (2) “School proprietor” means—
- (a) in relation to a school (other than a pupil referral unit or a sixth form college), the person or body of persons responsible for the management of the school,
 - (b) in relation to a pupil referral unit—
 - (i) the committee which is established to act as the management committee for that unit by virtue of paragraph 15 of Schedule 1 to the Education Act 1996(27), or
 - (ii) if there is no such committee, the local authority (as defined by section 579(1) of that Act(28)) which maintains that unit,
 - (c) in relation to a sixth form college, the sixth form college corporation as defined in section 90(1) of the Further and Higher Education Act 1992(29).
- (3) In relation to a school, “premises” includes any detached playing fields.”

Date

Name
Parliamentary Under Secretary of State
Department for Culture, Media and Sport

(25) 1992 c. 13; section 91(3A) was added by the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), Schedule 8, paragraph 13(1) and (3).

(26) Section 22(9) was amended by S.I. 2010/1158, Schedule 2, paragraph 10(1) and (2).

(27) Paragraph 15 was added by the Education Act 1997 (c. 44), section 48, and amended by the School Standards and Framework Act 1998, paragraphs 57 and 184(c) of Schedule 30, and Schedule 31; the Local Authorities (Executive and Alternative Arrangements) (Modification of Enactments and Other Provisions) (Wales) Order 2002 (S.I. 2002/808), articles 2 and 31; S.I. 2010/1158, Schedule 2, paragraph 7(1) and (2); and the Education Act 2011 (c. 21), Schedule 13, paragraphs 1 and 9(19).

(28) The definition of “local authority” in section 579(1) of that Act was substituted by S.I. 2010/1158, article 3(1) and (2)(b).

(29) The definition of “sixth form college corporation” was added by the Apprenticeships, Skills, Children and Learning Act 2009, Schedule 8, paragraph 12(1) and (3).

EXPLANATORY NOTE

(This note is not part of the Order)

The Licensing Act 2003 (c. 17) (“the Act”) provides a unified framework for the regulation of a number of specified activities, including the provision of regulated entertainment.

This Order amends the Act in exercise of the power conferred by section 1 of the Legislative and Regulatory Reform Act 2006 (c. 51) so that, in certain circumstances, the provision of regulated entertainment may no longer need to be authorised under the Act.

This Order extends the exemption in paragraph 12A of Schedule 1 to the Act (which at present is limited to performances of live music) so that it also exempts the playing of recorded music where the specified conditions are satisfied: article 3(4). Equivalent amendments are made to section 177A of the Act, so that the suspension of any licence condition which relates to live music also applies to licence conditions which relate to recorded music or to both live and recorded music: article 2.

Article 2(3) of the Order amends one of the conditions specified in section 177A of the Act, raising the maximum number of persons in the audience from 200 to 500 for the purposes of both the exemption in paragraph 12A of Schedule 1 and the suspension of licence conditions in section 177A.

Article 2(6) adds a subsection (4A) to section 177A. Section 177A provides that licence conditions relating to music are suspended when certain conditions are satisfied, subject to their reinstatement or the addition of new conditions as a result of a review of the relevant premises licence or club premises certificate. Subsection (4A) makes clear that section 177A does not apply to music which is exempt by virtue of paragraph 12ZA or 12ZB of Schedule 1 to the Act.

Article 3(2) of the Order extends the existing exemption relating to incidental music in paragraph 7 of Schedule 1 to the Act so that it also covers incidental film.

The Order introduces the following exemptions by amending Part 2 of Schedule 1 to the Act:

- (a) Article 3(3) introduces paragraph 12ZA, which provides that no authorisation under the Act is required in respect of any entertainment put on by or on behalf of a health care provider, local authority or school proprietor, provided the specified conditions (relating to, for example, the premises on which the entertainment takes place) are met.
- (b) Article 3(3) also introduces paragraph 12ZB, which provides that no authorisation under the Act is required in respect of a performance of live music or playing of recorded music, provided the specified conditions (relating to, for example, the number of persons in the audience) are met.
- (c) Article 3(6) introduces paragraph 12D, which provides that no authorisation is required under the Act in respect of various entertainments put on by a travelling circus, provided the specified conditions are met.
- (d) Article 3(6) also introduces paragraph 12E, which provides that no authorisation is required under the Act for a contest, display or exhibition of Greco-Roman wrestling or freestyle wrestling, provided the specified conditions are met.

Article 4 of the Order adds a number of definitions to Part 3 of Schedule 1 to the Act so as to give clarity to these new exemptions.

A full impact assessment as to the effect that this Order will have on the costs of business, the voluntary sector and the public sector is available on the Government website at [link]. This impact assessment is also published with the Explanatory Document alongside the instrument on www.legislation.gov.uk.

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Draft Legislation: *This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: The Legislative Reform (Entertainment Licensing) Order 2014 No. 3253*