

LICENSING ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

PART 3: Premises licences

Section 18 – Determination of application for premises licence

61. Subsections (1) and (2) provide that unless relevant representations are made in respect of an application for a premises licence, a licensing authority will be required to grant a licence in accordance with the application if it is duly made. That licence will be subject to conditions consistent with those listed by the applicant in the operating schedule, and subject to the mandatory conditions set out in sections 19, 20 and 21.
62. Subsection (3), together with subsections (6) to (8), provides that where relevant representations are made, licensing authorities are required to hold a hearing. In order for representations to be ‘relevant’ they must have been made by an interested party or a responsible authority (see the definitions in section 13, paragraph 53 above) and they must relate to the likely effect of the grant of the licence on the promotion of the licensing objectives. Representation relating to the identity of the premises supervisor may only be made by the police (see subsections (6)(c) and (9)) and must meet the requirements of subsection (9)(b). If the representations are made by an interested party there is a further requirement that the licensing authority does not consider them to be frivolous or vexatious. If it does the authority is to explain its decision to the person who made the representations.
63. The need for a hearing can be dispensed with by agreement of the authority, the applicant for the licence and all of the parties who have made relevant representations.
64. Subsection (4) provides that when a hearing is held (or dispensed with as indicated above), the licensing authority must, if it considers it necessary for the promotion of the licensing objectives, attach conditions to any licence granted, rule out any of the licensable activities applied for, refuse to specify a premises supervisor, or reject the application. For example, a licensing authority might decide to remove the playing of amplified recorded music after 11pm from the scope of the licence applied for by a tenant of a pub in the middle of a quiet residential area, or it might prohibit the admittance of under-18s to premises where adult entertainment is provided. If the authority takes the view that none of the foregoing steps is required to promote the licensing objectives it must grant the licence in the terms sought by the applicant.
65. Subsection (10) provides that a licensing authority may, within the same licence, impose different conditions on different parts of the premises, or impose different conditions in relation to different licensable activities.