



# Licensing Act 2003

## 2003 CHAPTER 17

### PART 9

#### MISCELLANEOUS AND SUPPLEMENTARY

VALID FROM 24/11/2005

#### *Special occasions*

#### **172 Relaxation of opening hours for special occasions**

- (1) Where the Secretary of State considers that a period (“the celebration period”) marks an occasion of exceptional international, national, or local significance, he may make a licensing hours order.
- (2) A licensing hours order is an order which provides that during the specified relaxation period premises licences and club premises certificates have effect (to the extent that it is not already the case) as if specified times were included in the opening hours.
- (3) An order under this section may—
  - (a) make provision generally or only in relation to premises in one or more specified areas;
  - (b) make different provision in respect of different days during the specified relaxation period;
  - (c) make different provision in respect of different licensable activities.
- (4) Before making an order under this section, the Secretary of State must consult such persons as he considers appropriate.
- (5) In this section—

“opening hours” means—

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- (a) in relation to a premises licence, the times during which the premises may be used for licensable activities in accordance with the licence, and
  - (b) in relation to a club premises certificate, the times during which the premises may be used for qualifying club activities in accordance with the certificate;
- “relaxation period” means—
- (a) if the celebration period does not exceed four days, that period, or
  - (b) any part of that period not exceeding four days; and
- “specified”, in relation to a licensing hours order, means specified in the order.

VALID FROM 31/10/2012

*[<sup>F1</sup>Early morning alcohol restriction orders]*

**Textual Amendments**

- F1** Ss. 172A-172E and cross-heading inserted by [Crime and Security Act 2010 \(c. 17\)](#), [ss. 55\(2\)](#), 59 and ss. 172A-172E substituted (31.10.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), [ss. 119\(3\)](#), 157(1); [S.I. 2012/2670](#), [art. 2\(a\)](#) (as amended by [S.I. 2012/1659](#), art. 1(2), Sch. 3 para. 22 (with arts. 4-6))

**172A Power to make early morning alcohol restriction order**

- (1) If a licensing authority considers it necessary for the promotion of the licensing objectives, it may, subject as follows, make an order under this section.
- (2) An order under this section is an order providing that —
  - (a) premises licences and club premises certificates granted by the authority, and temporary event notices given to the authority, shall not have effect to the extent that they authorise the sale of alcohol between 3am and 6am, and
  - (b) club premises certificates granted by the authority shall not have effect to the extent that they authorise the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club between 3am and 6am.
- (3) It is immaterial for the purposes of an order under this section whether a premises licence or club premises certificate is granted, or a temporary event notice is given, before or after the order is made.
- (4) An order under this section may provide that it is to apply—
  - (a) every day or only on particular days (for example, particular days of the week or year),
  - (b) in relation to the whole or part of a licensing authority's area, or
  - (c) for a limited or unlimited period.
- (5) An order under this section must specify—
  - (a) the days in relation to which it is to apply,
  - (b) the area in relation to which it is to apply,

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- (c) if it is to apply for a limited period, that period, and
  - (d) the date from which it is to apply.
- (6) An order under this section must—
- (a) be in the prescribed form, and
  - (b) have the prescribed content.

#### **172B Procedural requirements for early morning alcohol restriction order**

- (1) A licensing authority proposing to make an order under section 172A must—
- (a) advertise the proposed order in the prescribed manner, and
  - (b) hold a hearing to consider any relevant representations, unless the authority and each person who has made such representations agree that a hearing is unnecessary.
- (2) In this section “relevant representations” means representations which—
- (a) are about the likely effect of the making of the proposed order on the promotion of the licensing objectives,
  - (b) are made to the licensing authority by—
    - (i) an affected person,
    - (ii) an interested party, or
    - (iii) a responsible authority,
  - (c) are made in the prescribed form and manner and within the prescribed period,
  - (d) have not been withdrawn, and
  - (e) in the case of representations made by an affected person or an interested party (who is not also a responsible authority), that they are not, in the opinion of the licensing authority, frivolous or vexatious.
- (3) In subsection (2)(b)(i) “affected person” means—
- (a) the holder of a premises licence or club premises certificate in respect of affected premises,
  - (b) the premises user in relation to a temporary event notice in respect of affected premises,
  - (c) a person who has applied for a premises licence or club premises certificate in respect of affected premises (where the application has not been determined), and
  - (d) a person to whom a provisional statement has been issued in respect of affected premises.
- (4) In subsection (2)(b)(ii) “interested party” means—
- (a) a person living in the vicinity of affected premises,
  - (b) a body representing persons who live in that vicinity,
  - (c) a person involved in a business in that vicinity,
  - (d) a body representing persons involved in such businesses, and
  - (e) a member of the licensing authority.
- (5) In subsection (2)(b)(iii) “responsible authority” means—
- (a) the chief officer of police for a police area any part of which is in the area specified in the order,

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- (b) the fire and rescue authority for an area any part of which is in the area specified in the order,
  - (c) the local weights and measures authority for any such area,
  - (d) the enforcing authority within the meaning given by section 18 of the Health and Safety at Work etc Act 1974 for any such area,
  - (e) the local planning authority within the meaning given by the Town and Country Planning Act 1990 for any such area,
  - (f) the local authority by which statutory functions are exercisable in the area specified in the order in relation to minimising or preventing the risk of pollution of the environment or of harm to human health,
  - (g) a body which—
    - (i) represents those who, in relation to the area specified in the order, are responsible for, or interested in, matters relating to the protection of children from harm, and
    - (ii) is recognised by the licensing authority for the purposes of this section as being competent to advise on such matters,
  - (h) any other licensing authority in whose area part of any affected premises is situated,
  - (i) where affected premises are a vessel—
    - (i) a navigation authority (within the meaning of section 221(1) of the Water Resources Act 1991) having functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is navigated at a time when it is used for licensable activities to which the proposed order relates,
    - (ii) the Environment Agency,
    - (iii) the British Waterways Board, and
    - (iv) the Secretary of State, and
  - (j) a prescribed person.
- (6) Where a licensing authority determines for the purposes of subsection (2)(e) that any representations are frivolous or vexatious, it must notify the person who made them of its reasons for its determination.
- (7) In this section—
- “affected premises”, in relation to a proposed order, means premises in respect of which it applies from the date specified in it;
  - “statutory function” means a function conferred by or under an enactment.

### **172C Making of early morning alcohol restriction order**

- (1) A licensing authority may not make an order under section 172A applying in relation to—
  - (a) an area not specified in the proposed order advertised under section 172B, or
  - (b) a day not specified in that proposed order.
- (2) After making an order under section 172A a licensing authority must publish it or otherwise make it available—
  - (a) in the prescribed form and manner, and
  - (b) within the prescribed period.

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#### **172D Variation and revocation of early morning alcohol restriction order**

- (1) A licensing authority may vary or revoke an order under section 172A.
- (2) Sections 172B and 172C apply in relation to the variation or revocation of an order under section 172A as in relation to the making of such an order.

#### **172E Exceptions from effect of early morning alcohol restriction order**

- (1) An order under section 172A does not apply in prescribed cases or circumstances.
- (2) The cases referred to in subsection (1) may in particular be defined by reference to—
  - (a) particular kinds of premises, or
  - (b) particular days.
- (3) An order under section 172A is subject to an order under section 172 (whether made before or afterwards), unless and to the extent that the order under section 172 provides otherwise.

*Exemptions etc.*

### **173 Activities in certain locations not licensable**

- (1) An activity is not a licensable activity if it is carried on—
  - (a) aboard an aircraft, hovercraft or railway vehicle engaged on a journey,
  - (b) aboard a vessel engaged on an international journey,
  - (c) at an approved wharf at a designated port or hoverport,
  - (d) at an examination station at a designated airport,
  - (e) at a royal palace,
  - (f) at premises which, at the time when the activity is carried on, are permanently or temporarily occupied for the purposes of the armed forces of the Crown,
  - (g) at premises in respect of which a certificate issued under section 174 (exemption for national security) has effect, or
  - (h) at such other place as may be prescribed.
- (2) For the purposes of subsection (1) the period during which an aircraft, hovercraft, railway vehicle or vessel is engaged on a journey includes—
  - (a) any period ending with its departure when preparations are being made for the journey, and
  - (b) any period after its arrival at its destination when it continues to be occupied by those (or any of those) who made the journey (or any part of it).
- (3) The Secretary of State may by order designate a port, hoverport or airport for the purposes of subsection (1), if it appears to him to be one at which there is a substantial amount of international passenger traffic.
- (4) Any port, airport or hoverport where section 86A or 87 of the Licensing Act 1964 (c. 26) is in operation immediately before the commencement of this section is, on and after that commencement, to be treated for the purposes of subsection (1) as if it were designated.

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- (5) But provision may by order be made for subsection (4) to cease to have effect in relation to any port, airport or hoverport.
- (6) For the purposes of this section—
- “approved wharf” has the meaning given by section 20A of the Customs and Excise Management Act 1979 (c. 2);
  - “designated” means designated by an order under subsection (3);
  - “examination station” has the meaning given by section 22A of that Act;
  - “international journey” means—
    - (a) a journey from a place in the United Kingdom to an immediate destination outside the United Kingdom, or
    - (b) a journey from a place outside the United Kingdom to an immediate destination in the United Kingdom; and
  - “railway vehicle” has the meaning given by section 83 of the Railways Act 1993 (c. 43).

#### Commencement Information

- II** S. 173(1)(h)(3)(5) in force at 16.12.2003 by [S.I. 2003/3222](#), [art. 2](#), [Sch.](#); s. 173(1)(a)-(g)(2)(4)(6) in force at 24.11.2005 by [S.I. 2005/3056](#), [art. 2\(2\)](#) (with [Sch.](#))

VALID FROM 24/11/2005

#### 174 Certifying of premises on grounds of national security

- (1) A Minister of the Crown may issue a certificate under this section in respect of any premises, if he considers that it is appropriate to do so for the purposes of safeguarding national security.
- (2) A certificate under this section may identify the premises in question by means of a general description.
- (3) A document purporting to be a certificate under this section is to be received in evidence and treated as being a certificate under this section unless the contrary is proved.
- (4) A document which purports to be certified by or on behalf of a Minister of the Crown as a true copy of a certificate given by a Minister of the Crown under this section is evidence of that certificate.
- (5) A Minister of the Crown may cancel a certificate issued by him, or any other Minister of the Crown, under this section.
- (6) The powers conferred by this section on a Minister of the Crown may be exercised only by a Minister who is a member of the Cabinet or by the Attorney General.
- (7) In this section “Minister of the Crown” has the meaning given by the Ministers of the Crown Act 1975 (c. 26).

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VALID FROM 24/11/2005

### **175 Exemption for raffle, tombola, etc.**

- (1) The conduct of a lottery which, but for this subsection, would to any extent constitute a licensable activity by reason of one or more of the prizes in the lottery consisting of alcohol, is not (for that reason alone) to be treated as constituting a licensable activity if—
  - (a) the lottery is promoted as an incident of an exempt entertainment,
  - (b) after the deduction of all relevant expenses, the whole proceeds of the entertainment (including those of the lottery) are applied for purposes other than private gain, and
  - (c) subsection (2) does not apply.
- (2) This subsection applies if—
  - (a) the alcohol consists of or includes alcohol not in a sealed container,
  - (b) any prize in the lottery is a money prize,
  - (c) a ticket or chance in the lottery is sold or issued, or the result of the lottery is declared, other than at the premises where the entertainment takes place and during the entertainment, or
  - (d) the opportunity to participate in a lottery or in gaming is the only or main inducement to attend the entertainment.
- (3) For the purposes of subsection (1)(b), the following are relevant expenses—
  - (a) the expenses of the entertainment, excluding expenses incurred in connection with the lottery,
  - (b) the expenses incurred in printing tickets in the lottery,
  - (c) such reasonable and proper expenses as the promoters of the lottery appropriate on account of any expenses they incur in buying prizes in the lottery.
- (4) In this section—
  - “exempt entertainment” has the same meaning as in section 3(1) of the Lotteries and Amusements Act 1976 (c. 32);
  - “gaming” has the meaning given by section 52 of the Gaming Act 1968 (c. 65);
  - “money” and “ticket” have the meaning given by section 23 of the Lotteries and Amusements Act 1976; and
  - “private gain”, in relation to the proceeds of an entertainment, is to be construed in accordance with section 22 of that Act.

*Service areas and garages etc.*

### **176 Prohibition of alcohol sales at service areas, garages etc.**

- (1) No premises licence, club premises certificate or temporary event notice has effect to authorise the sale by retail or supply of alcohol on or from excluded premises.
- (2) In this section “excluded premises” means—

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- (a) premises situated on land acquired or appropriated by a special road authority, and for the time being used, for the provision of facilities to be used in connection with the use of a special road provided for the use of traffic of class I (with or without other classes); or
  - (b) premises used primarily as a garage or which form part of premises which are primarily so used.
- (3) The Secretary of State may by order amend the definition of excluded premises in subsection (2) so as to include or exclude premises of such description as may be specified in the order.
- (4) For the purposes of this section—
- (a) “special road” and “special road authority” have the same meaning as in the Highways Act 1980 (c. 66), except that “special road” includes a trunk road to which (by virtue of paragraph 3 of Schedule 23 to that Act) the provisions of that Act apply as if the road were a special road,
  - (b) “class I” means class I in Schedule 4 to the Highways Act 1980 as varied from time to time by an order under section 17 of that Act, but if that Schedule is amended by such an order so as to add to it a further class of traffic, the order may adapt the reference in subsection (2)(a) to traffic of class I so as to take account of the additional class, and
  - (c) premises are used as a garage if they are used for one or more of the following—
    - (i) the retailing of petrol,
    - (ii) the retailing of derv,
    - (iii) the sale of motor vehicles,
    - (iv) the maintenance of motor vehicles.

#### **Commencement Information**

**I2** S. 176(3) in force at 16.12.2003 by S.I. 2003/3222, art. 2, Sch.; s. 176(1)(2)(4) in force at 24.11.2005 by S.I. 2005/3056, art. 2 (with Sch.)

VALID FROM 24/11/2005

### *Small premises*

#### **177 Dancing and live music in certain small premises**

- (1) Subsection (2) applies where—
- (a) a premises licence authorises—
    - (i) the supply of alcohol for consumption on the premises, and
    - (ii) the provision of music entertainment, and
  - (b) the premises—
    - (i) are used primarily for the supply of alcohol for consumption on the premises, and
    - (ii) have a permitted capacity of not more than 200 persons.
- (2) At any time when—



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- (a) the premises—
- (i) are open for the purposes of being used for the supply of alcohol for consumption on the premises, and
  - (ii) are being used for the provision of music entertainment, and
- (b) subsection (4) does not apply,
- any licensing authority imposed condition of the premises licence which relates to the provision of music entertainment does not have effect, in relation to the provision of that entertainment, unless it falls within subsection (5) or (6).
- (3) Subsection (4) applies where—
- (a) a premises licence authorises the provision of music entertainment, and
  - (b) the premises have a permitted capacity of not more than 200 persons.
- (4) At any time between the hours of 8 a.m. and midnight when the premises—
- (a) are being used for the provision of music entertainment which consists of—
    - (i) the performance of unamplified, live music, or
    - (ii) facilities for enabling persons to take part in entertainment within sub-paragraph (i), but
  - (b) are not being used for the provision of any other description of regulated entertainment,
- any licensing authority imposed condition of the premises licence which relates to the provision of the music entertainment does not have effect, in relation to the provision of that entertainment, unless it falls within subsection (6).
- (5) A condition falls within this subsection if the premises licence specifies that the licensing authority which granted the licence considers the imposition of the condition necessary on one or both of the following grounds—
- (a) the prevention of crime and disorder,
  - (b) public safety.
- (6) A condition falls within this subsection if, on a review of the premises licence—
- (a) it is altered so as to include a statement that this section does not apply to it, or
  - (b) it is added to the licence and includes such a statement.
- (7) This section applies in relation to a club premises certificate as it applies in relation to a premises licence except that, in the application of this section in relation to such a certificate, the definition of “licensing authority imposed condition” in subsection (8) has effect as if for “section 18(3)(b)” to the end there were substituted “section 72(3)(b) (but is not referred to in section 72(2)) or which is imposed by virtue of section 85(3)(b) or 88(3)”.
- (8) In this section—
- “licensing authority imposed condition” means a condition which is imposed by virtue of section 18(3)(b) (but is not referred to in section 18(2)(a)) or which is imposed by virtue of 35(3)(b), 52(3) or 167(5)(b) or in accordance with section 21;
- “music entertainment” means—
- (a) entertainment of a description falling within, or of a similar description to that falling within, paragraph 2(1)(e) or (g) of Schedule 1, or
  - (b) facilities enabling persons to take part in entertainment within paragraph (a);

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“permitted capacity”, in relation to any premises, means—

- (a) where a fire certificate issued under the Fire Precautions Act 1971 (c. 40) is in force in respect of the premises and that certificate imposes a requirement under section 6(2)(d) of that Act, the limit on the number of persons who, in accordance with that requirement, may be on the premises at any one time, and
- (b) in any other case, the limit on the number of persons who may be on the premises at any one time in accordance with a recommendation made by, or on behalf of, the [<sup>F2</sup>fire and rescue authority] for the area in which the premises are situated (or, if the premises are situated in the area of more than one [<sup>F2</sup>fire and rescue authority], those authorities); and

“supply of alcohol” means—

- (a) the sale by retail of alcohol, or
- (b) the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club.

#### Textual Amendments

- F2** S. 177(8): words in definition of "permitted capacity" substituted (7.9.2004 for E. for certain purposes and 1.10.2004 otherwise and 10.11.2004 for W.) by [Fire and Rescue Services Act 2004](#) (c. 21), ss. 53, 61, [Sch. 1 para. 98\(2\)\(3\)\(d\)](#); S.I. 2004/2304, [art. 2\(1\)](#){(2)}; S.I. 2004/2917, [art. 2](#)

### *Rights of freeholders etc.*

#### **178 Right of freeholder etc. to be notified of licensing matters**

- (1) This section applies where—
  - (a) a person with a property interest in any premises situated in the area of a licensing authority gives notice of his interest to that authority, and
  - (b) the notice is in the prescribed form and accompanied by the prescribed fee.
- (2) The notice has effect for a period of 12 months beginning with the day it is received by the licensing authority.
- (3) If a change relating to the premises to which the notice relates is made to the register at a time when the notice has effect, the licensing authority must forthwith notify the person who gave the notice—
  - (a) of the application, notice or other matter to which the change relates, and
  - (b) of his right under section 8 to request a copy of the information contained in any entry in the register.
- (4) For the purposes of this section a person has a property interest in premises if—
  - (a) he has a legal interest in the premises as freeholder or leaseholder,
  - (b) he is a legal mortgagee (within the meaning of the Law of Property Act 1925 (c. 20)) in respect of the premises,
  - (c) he is in occupation of the premises, or
  - (d) he has a prescribed interest in the premises.
- (5) In this section—

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- (a) a reference to premises situated in the area of a licensing authority includes a reference to premises partly so situated, and
- (b) “register” means the register kept under section 8 by the licensing authority mentioned in subsection (1)(a).

#### Commencement Information

**I3** S. 178(1)(b)(4)(d) in force at 16.12.2003 by [S.I. 2003/3222](#), [art. 2](#), [Sch.](#); s. 178 otherwise in force at 7.2.2005 by [S.I. 2004/2360](#), [art. 2](#), [Sch.](#)

VALID FROM 24/11/2005

### *Rights of entry*

#### **179 Rights of entry to investigate licensable activities**

- (1) Where a constable or an authorised person has reason to believe that any premises are being, or are about to be, used for a licensable activity, he may enter the premises with a view to seeing whether the activity is being, or is to be, carried on under and in accordance with an authorisation.
- (2) An authorised person exercising the power conferred by this section must, if so requested, produce evidence of his authority to exercise the power.
- (3) A person exercising the power conferred by this section may, if necessary, use reasonable force.
- (4) A person commits an offence if he intentionally obstructs an authorised person exercising a power conferred by this section.
- (5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (6) In this section—
  - “authorisation” means—
    - (a) a premises licence,
    - (b) a club premises certificate, or
    - (c) a temporary event notice in respect of which the conditions of section 98(2) to (4) are satisfied; and
  - “authorised person” means an authorised person within the meaning of Part 3 or 4 or an authorised officer within the meaning of section 108(5).
- (7) Nothing in this section applies in relation to premises in respect of which there is a club premises certificate but no other authorisation.

#### **180 Right of entry to investigate offences**

- (1) A constable may enter and search any premises in respect of which he has reason to believe that an offence under this Act has been, is being or is about to be committed.

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- (2) A constable exercising a power conferred by this section may, if necessary, use reasonable force.

**Modifications etc. (not altering text)**

- C1** S. 180 extended (1.1.2006) by 2002 c. 30, Sch. 4 para. 8A (as inserted by Serious Organised Crime and Police Act 2005 (c. 15), ss. 122, 178, Sch. 8 para. 9); S.I. 2005/3495, art. 2(1) (subject to art. 2(2))

*Appeals*

**181 Appeals against decisions of licensing authorities**

- (1) Schedule 5 (which makes provision for appeals against decisions of licensing authorities) has effect.
- (2) On an appeal in accordance with that Schedule against a decision of a licensing authority, a magistrates' court may—
- (a) dismiss the appeal,
  - (b) substitute for the decision appealed against any other decision which could have been made by the licensing authority, or
  - (c) remit the case to the licensing authority to dispose of it in accordance with the direction of the court,
- and may make such order as to costs as it thinks fit.

**Commencement Information**

- I4** S. 181 in force for certain purposes at 7.2.2005 and for certain further purposes at 7.8.2005 and 24.11.2005 otherwise by S.I. 2004/2360, art. 2, Sch.; S.I. 2005/2090, art. 2, Sch.; S.I. 2005/3056, art. 2 (with Sch.)

*Guidance, hearings etc.*

**182 Guidance**

- (1) The Secretary of State must issue guidance (“the licensing guidance”) to licensing authorities on the discharge of their functions under this Act.
- (2) But the Secretary of State may not issue the licensing guidance unless a draft of it has been laid before, and approved by resolution of, each House of Parliament.
- (3) The Secretary of State may, from time to time, revise the licensing guidance.
- (4) A revised version of the licensing guidance does not come into force until the Secretary of State lays it before Parliament.
- (5) Where either House, before the end of the period of 40 days beginning with the day on which a revised version of the licensing guidance is laid before it, by resolution disapproves that version—

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- (a) the Secretary of State must, under subsection (3), make such further revisions to the licensing guidance as appear to him to be required in the circumstances, and
  - (b) before the end of the period of 40 days beginning with the date on which the resolution is made, lay a further revised version of the licensing guidance before Parliament.
- (6) In reckoning any period of 40 days for the purposes of subsection (5), no account is to be taken of any time during which—
- (a) Parliament is dissolved or prorogued, or
  - (b) both Houses are adjourned for more than four days.
- (7) The Secretary of State must arrange for any guidance issued or revised under this section to be published in such manner as he considers appropriate.

### 183 Hearings

- (1) Regulations may prescribe the procedure to be followed in relation to a hearing held by a licensing authority under this Act and, in particular, may—
- (a) require a licensing authority to give notice of hearings to such persons as may be prescribed;
  - (b) make provision for expedited procedures in urgent cases;
  - (c) make provision about the rules of evidence which are to apply to hearings;
  - (d) make provision about the legal representation at hearings of the parties to it;
  - (e) prescribe the period within which an application, in relation to which a hearing has been held, must be determined or any other step in the procedure must be taken.
- (2) But a licensing authority may not make any order as to the costs incurred by a party in connection with a hearing under this Act.

#### Commencement Information

**I5** S. 183(1) in force at 16.12.2003 by [S.I. 2003/3222](#), [art. 2](#), [Sch.](#); s. 183(2) in force at 7.2.2005 by [S.I. 2004/2360](#), [art. 2](#), [Sch.](#)

### 184 Giving of notices, etc.

- (1) This section has effect in relation to any document required or authorised by or under this Act to be given to any person (“relevant document”).
- (2) Where that person is a licensing authority, the relevant document must be given by addressing it to the authority and leaving it at or sending it by post to—
- (a) the principal office of the authority, or
  - (b) any other office of the authority specified by it as one at which it will accept documents of the same description as that document.
- (3) In any other case the relevant document may be given to the person in question by delivering it to him, or by leaving it at his proper address, or by sending it by post to him at that address.
- (4) A relevant document may—

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- (a) in the case of a body corporate (other than a licensing authority), be given to the secretary or clerk of that body;
  - (b) in the case of a partnership, be given to a partner or a person having the control or management of the partnership business;
  - (c) in the case of an unincorporated association (other than a partnership), be given to an officer of the association.
- (5) For the purposes of this section and section 7 of the Interpretation Act 1978 (c. 30) (service of documents by post) in its application to this section, the proper address of any person to whom a relevant document is to be given is his last known address, except that—
- (a) in the case of a body corporate or its secretary or clerk, it is the address of the registered office of that body or its principal office in the United Kingdom,
  - (b) in the case of a partnership, a partner or a person having control or management of the partnership business, it is that of the principal office of the partnership in the United Kingdom, and
  - (c) in the case of an unincorporated association (other than a partnership) or any officer of the association, it is that of its principal office in the United Kingdom.
- (6) But if a relevant document is given to a person in his capacity as the holder of a premises licence, club premises certificate or personal licence, or as the designated premises supervisor under a premises licence, his relevant registered address is also to be treated, for the purposes of this section and section 7 of the Interpretation Act 1978 (c. 30), as his proper address.
- (7) In subsection (6) “relevant registered address”, in relation to such a person, means the address given for that person in the record for the licence or certificate (as the case may be) which is contained in the register kept under section 8 by the licensing authority which granted the licence or certificate.
- (8) The following provisions of the Local Government Act 1972 (c. 70) do not apply in relation to the service of a relevant document—
- (a) section 231 (service of notices on local authorities etc.),
  - (b) section 233 (service of notices by local authorities).

## **185 Provision of information**

- (1) This section applies to information which is held by or on behalf of a licensing authority or a responsible authority (including information obtained by or on behalf of the authority before the coming into force of this section).
- (2) Information to which this section applies may be supplied—
- (a) to a licensing authority, or
  - (b) to a responsible authority,
- for the purposes of facilitating the exercise of the authority’s functions under this Act.
- (3) Information obtained by virtue of this section must not be further disclosed except to a licensing authority or responsible authority for the purposes mentioned in subsection (2).
- (4) In this section “responsible authority” means a responsible authority within the meaning of Part 3 or 4.

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### *General provisions about offences*

#### **186 Proceedings for offences**

- (1) In this section “offence” means an offence under this Act.
- (2) Proceedings for an offence may be instituted—
  - (a) by a licensing authority,
  - (b) by the Director of Public Prosecutions, or
  - (c) in the case of an offence under section 146 or 147 (sale of alcohol to children), by a local weights and measures authority (within the meaning of section 69 of the Weights and Measures Act 1985 (c. 72)).
- (3) In relation to any offence, section 127(1) of the Magistrates' Courts Act 1980 (information to be laid within six months of offence) is to have effect as if for the reference to six months there were substituted a reference to 12 months.

#### **187 Offences by bodies corporate etc.**

- (1) If an offence committed by a body corporate is shown—
  - (a) to have been committed with the consent or connivance of an officer, or
  - (b) to be attributable to any neglect on his part,the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.
- (2) If the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body.
- (3) In subsection (1) “officer”, in relation to a body corporate, means—
  - (a) a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity, or
  - (b) an individual who is a controller of the body.
- (4) If an offence committed by a partnership is shown—
  - (a) to have been committed with the consent or connivance of a partner, or
  - (b) to be attributable to any neglect on his part,the partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.
- (5) In subsection (4) “partner” includes a person purporting to act as a partner.
- (6) If an offence committed by an unincorporated association (other than a partnership) is shown—
  - (a) to have been committed with the consent or connivance of an officer of the association or a member of its governing body, or
  - (b) to be attributable to any neglect on the part of such an officer or member,that officer or member as well as the association is guilty of the offence and liable to be proceeded against and punished accordingly.
- (7) Regulations may provide for the application of any provision of this section, with such modifications as the Secretary of State considers appropriate, to a body corporate or

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unincorporated association formed or recognised under the law of a territory outside the United Kingdom.

(8) In this section “offence” means an offence under this Act.

#### Commencement Information

**I6** S. 187(7) in force at 16.12.2003 by S.I. 2003/3222, art. 2, Sch.; s. 187(1)-(6)(8) in force at 7.2.2005 by S.I. 2004/2360, art. 2, Sch.

### 188 Jurisdiction and procedure in respect of offences

- (1) A fine imposed on an unincorporated association on its conviction for an offence is to be paid out of the funds of the association.
- (2) Proceedings for an offence alleged to have been committed by an unincorporated association must be brought in the name of the association (and not in that of any of its members).
- (3) Rules of court relating to the service of documents are to have effect as if the association were a body corporate.
- (4) In proceedings for an offence brought against an unincorporated association, section 33 of the Criminal Justice Act 1925 (c. 86) and Schedule 3 to the Magistrates' Courts Act 1980 (c. 43) (procedure) apply as they do in relation to a body corporate.
- (5) Proceedings for an offence may be taken—
  - (a) against a body corporate or unincorporated association at any place at which it has a place of business;
  - (b) against an individual at any place where he is for the time being.
- (6) Subsection (5) does not affect any jurisdiction exercisable apart from this section.
- (7) In this section “offence” means an offence under this Act.

#### *Vessels, vehicles and moveable structures*

### 189 Vessels, vehicles and moveable structures

- (1) This Act applies in relation to a vessel which is not permanently moored or berthed as if it were premises situated in the place where it is usually moored or berthed.
- (2) Where a vehicle which is not permanently situated in the same place is, or is proposed to be, used for one or more licensable activities while parked at a particular place, the vehicle is to be treated for the purposes of this Act as if it were premises situated at that place.
- (3) Where a moveable structure which is not permanently situated in the same place is, or is proposed to be, used for one or more licensable activities while set in a particular place, the structure is to be treated for the purposes of this Act as if it were premises situated at that place.
- (4) Where subsection (2) applies in relation to the same vehicle, or subsection (3) applies in relation to the same structure, in respect of more than one place, the premises which



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by virtue of that subsection are situated at each such place are to be treated as separate premises.

- (5) Sections 29 to 31 (which make provision in respect of provisional statements relating to premises licences) do not apply in relation to a vessel, vehicle or structure to which this section applies.

### *Interpretation*

#### **190 Location of sales**

- (1) This section applies where the place where a contract for the sale of alcohol is made is different from the place where the alcohol is appropriated to the contract.
- (2) For the purposes of this Act the sale of alcohol is to be treated as taking place where the alcohol is appropriated to the contract.

#### **191 Meaning of “alcohol”**

- (1) In this Act, “alcohol” means spirits, wine, beer, cider or any other fermented, distilled or spirituous liquor, but does not include—
- (a) alcohol which is of a strength not exceeding 0.5% at the time of the sale or supply in question,
  - (b) perfume,
  - (c) flavouring essences recognised by the Commissioners of Customs and Excise as not being intended for consumption as or with dutiable alcoholic liquor,
  - (d) the aromatic flavouring essence commonly known as Angostura bitters,
  - (e) alcohol which is, or is included in, a medicinal product,
  - (f) denatured alcohol,
  - (g) methyl alcohol,
  - (h) naphtha, or
  - (i) alcohol contained in liqueur confectionery.
- (2) In this section—
- “denatured alcohol” has the same meaning as in section 5 of the Finance Act 1995 (c. 4);
  - “dutiable alcoholic liquor” has the same meaning as in the Alcoholic Liquor Duties Act 1979 (c. 4);
  - “liqueur confectionery” means confectionery which—
    - (a) contains alcohol in a proportion not greater than 0.2 litres of alcohol (of a strength not exceeding 57%) per kilogram of the confectionery, and
    - (b) either consists of separate pieces weighing not more than 42g or is designed to be broken into such pieces for the purpose of consumption;
  - “medicinal product” has the same meaning as in section 130 of the Medicines Act 1968 (c. 67); and
  - “strength” is to be construed in accordance with section 2 of the Alcoholic Liquor Duties Act 1979.

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## 192 Meaning of “sale by retail”

- (1) For the purposes of this Act “sale by retail”, in relation to any alcohol, means a sale of alcohol to any person, other than a sale of alcohol that—
- (a) is within subsection (2),
  - (b) is made from premises owned by the person making the sale, or occupied by him under a lease to which the provisions of Part 2 of the Landlord and Tenant Act 1954 (c. 56) (security of tenure) apply, and
  - (c) is made for consumption off the premises.
- (2) A sale of alcohol is within this subsection if it is—
- (a) to a trader for the purposes of his trade,
  - (b) to a club, which holds a club premises certificate, for the purposes of that club,
  - (c) to the holder of a personal licence for the purpose of making sales authorised by a premises licence,
  - (d) to the holder of a premises licence for the purpose of making sales authorised by that licence, or
  - (e) to the premises user in relation to a temporary event notice for the purpose of making sales authorised by that notice.

## 193 Other definitions

In this Act—

“beer” has the same meaning as in the Alcoholic Liquor Duties Act 1979 (c. 4);

“cider” has the same meaning as in that Act;

“crime prevention objective” means the licensing objective mentioned in section 4(2)(a) (prevention of crime and disorder);

“licensed premises” means premises in respect of which a premises licence has effect;

“licensing functions” is to be construed in accordance with section 4(1);

“order”, except so far as the contrary intention appears, means an order made by the Secretary of State;

“premises” means any place and includes a vehicle, vessel or moveable structure;

“prescribed” means prescribed by regulations;

“recognised club” means a club which satisfies conditions 1 to 3 of the general conditions in section 62;

“regulations” means regulations made by the Secretary of State;

“vehicle” means a vehicle intended or adapted for use on roads;

“vessel” includes a ship, boat, raft or other apparatus constructed or adapted for floating on water;

“wine” means—

- (a) “wine” within the meaning of the Alcoholic Liquor Duties Act 1979, and
- (b) “made-wine” within the meaning of that Act;

“working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 (c. 80) in England and Wales.

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## 194 Index of defined expressions

In this Act the following expressions are defined or otherwise explained by the provisions indicated—

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<i>Expression</i>	<i>Interpretation provision</i>
alcohol	section 191
associate member	section 67(2)
authorised person, in Part 3	section 13
authorised person, in Part 4	section 69
beer	section 193
cider	section 193
club premises certificate	section 60
conviction, in Part 6	section 114
crime prevention objective	section 193
designated premises supervisor	section 15
foreign offence, in Part 6	section 113
given, in relation to a notice, etc.	section 184
guest	section 67(1)
interested party, in Part 3	section 13
interested party, in Part 4	section 69
interim authority notice	section 47
late night refreshment	Schedule 2
licensable activity	section 1(1)
licensed premises	section 193
licensing authority	section 3(1)
licensing authority's area	section 3(2)
licensing functions	sections 4(1) and 193
licensing objectives	section 4(2)
order	section 193
permitted temporary activity	section 98
personal licence	section 111(1)
premises	section 193
premises licence	section 11
premises user, in relation to a temporary event notice	section 100(2)
prescribed	section 193

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provisional statement	section 29(3)
qualifying club	section 61
qualifying club activity	section 1(2)
recognised club	section 193
regulated entertainment	Schedule 1
regulations	section 193
relevant licensing authority, in Part 3	section 12
relevant licensing authority, in Part 4	section 68
relevant licensing authority, in Part 5	section 99
relevant licensing authority, in Part 6	section 112
relevant offence, in Part 6	section 113
responsible authority, in Part 3	section 13
responsible authority, in Part 4	section 69
sale by retail, in relation to alcohol	section 192
secretary, in Part 4	section 70
supply of alcohol, in Part 3	section 14
supply of alcohol to members or guests, in relation to a club, in Part 4	section 70
temporary event notice	section 100(1)
vehicle	section 193
vessel	section 193
wine	section 193
working day	section 193

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### *Supplementary and general*

#### **195 Crown application**

- (1) This Act binds the Crown and has effect in relation to land in which there is—
  - (a) an interest belonging to Her Majesty in right of the Crown,
  - (b) an interest belonging to a government department, or
  - (c) an interest held in trust for Her Majesty for the purposes of such a department.
- (2) This Act also applies to—
  - (a) land which is vested in, but not occupied by, Her Majesty in right of the Duchy of Lancaster, and
  - (b) land which is vested in, but not occupied by, the possessor for the time being of the Duchy of Cornwall.

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- (3) No contravention by the Crown of any provision made by or under this Act makes the Crown criminally liable; but the High Court may declare unlawful any act or omission of the Crown which constitutes such a contravention.
- (4) Provision made by or under this Act applies to persons in the public service of the Crown as it applies to other persons.
- (5) But nothing in this Act affects Her Majesty in Her private capacity.

VALID FROM 24/11/2005

#### **196 Removal of privileges and exemptions**

No privilege or exemption mentioned in section 199(a) or (b) of the Licensing Act 1964 (c. 26) (University of Cambridge and the Vintners of the City of London) operates to exempt any person from the requirements of this Act.

#### **197 Regulations and orders**

- (1) Any power of the Secretary of State to make regulations or an order under this Act is exercisable by statutory instrument.
- (2) Regulations or an order under this Act—
  - (a) may include incidental, supplementary, consequential or transitional provision or savings;
  - (b) may make provision generally or only in relation to specified cases;
  - (c) may make different provision for different purposes.
- (3) A statutory instrument containing regulations or an order under this Act, other than one containing—
  - (a) an order under section 5(2) (order appointing start of first period for which statement of licensing policy to be prepared),
  - (b) an order under section 100(8) (alteration of maximum temporary event period),
  - (c) an order under section 107(12) (alteration of limit on number of temporary event notices),
  - (d) an order under section 172 (relaxation of opening hours for special occasions),
  - (e) an order under section 176(3) (order amending definition of “excluded premises” where alcohol sales are prohibited),
  - (f) an order under section 201 (commencement), or
  - (g) an order under paragraph 4 of Schedule 1 (power to amend meaning of regulated entertainment),is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) A statutory instrument containing an order within subsection (3)(b), (c), (d), (e) or (g) is not to be made unless a draft of the instrument containing the order has been laid before and approved by a resolution of each House of Parliament.

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- (5) If a draft of an order within subsection (3)(d) would, apart from this subsection, be treated for the purposes of the Standing Orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not such an instrument.

## 198 Minor and consequential amendments

- (1) Schedule 6 (which makes minor and consequential amendments) has effect.
- (2) The Secretary of State may, in consequence of any provision of this Act or of any instrument made under it, by order make such amendments (including repeals or revocations) as appear to him to be appropriate in—
- (a) any Act passed, or
  - (b) any subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30) made,
- before that provision comes into force.

### Commencement Information

- 17** S. 198(2) in force at 16.12.2003 by [S.I. 2003/3222](#), [art. 2](#), [Sch.](#); s. 198(1) in force at 24.11.2005 by [S.I. 2004/3056](#), [art. 2](#) (with [art. 3](#))

## 199 Repeals

The enactments mentioned in Schedule 7 (which include provisions that are spent) are repealed to the extent specified.

### Commencement Information

- 18** S. 199 in force for certain purposes at 17.7.2003 by [S.I. 2003/1911](#), [art. 2](#); s. 199 in force for certain further purposes at 10.9.2003 by [S.I. 2003/2100](#), [art. 2](#); s. 199 in force for certain further purposes at 24.11.2005 by [S.I. 2005/3056](#), [art. 2](#) (with [art. 4](#))

## 200 Transitional provision etc.

Schedule 8 (which makes transitional and transitory provision and savings) has effect.

### Commencement Information

- 19** S. 200 in force for certain purposes at 16.12.2003 by [S.I. 2003/3222](#), [art. 2](#), [Sch.](#); s. 200 in force for certain further purposes at 7.7.2004 by [S.I. 2004/1738](#), [art. 2](#); s. 200 in force for certain further purposes at 7.2.2005 by [S.I. 2004/2360](#), [art. 2\(1\)](#), [Sch.](#); s. 200 otherwise in force at 24.11.2005 by [S.I. 2005/3056](#), [art. 2\(2\)](#) (with [Sch.](#))

## 201 Short title, commencement and extent

- (1) This Act may be cited as the Licensing Act 2003.
- (2) The preceding provisions (and the Schedules) come into force in accordance with provision made by order.

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- (3) Subject to subsections (4) and (5), this Act extends to England and Wales only.
- (4) Section 155(1) also extends to Northern Ireland.
- (5) An amendment or repeal contained in Schedule 6 or 7 has the same extent as the enactment to which it relates.

#### **Subordinate Legislation Made**

- P1** S. 200(2) power partly exercised: 17.7.2003 appointed for specified provisions by {S.I. 2003/1911}, art. 2
- S. 200(2) power partly exercised: 10.9.2003 appointed for specified provisions by {S.I. 2003/2100}, art. 2
- S. 200(2) power partly exercised: 16.12.2003 appointed for specified provisions by {S.I. 2003/3222}, art. 2, Sch.
- S. 200(2) power partly exercised: 17.7.2004 appointed for specified provisions by {S.I. 2004/1738}, art. 2
- S. 200(2) power partly exercised: 7.2.2005 appointed for specified provisions by {S.I. 2004/2360}, art. 2
- S. 200(2) power partly exercised: 7.8.2005 appointed for specified provisions by {S.I. 2005/2090}, art. 2, Sch.
- S. 200(2) power partly exercised: 10.11.2005 and 24.11.2005 appointed for specified provisions by {S.I. 2005/3056}, art. 2 (with art. 3, Sch.)

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**Changes to legislation:**

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