
EXPLANATORY NOTE

(This note is not part of the Order)

This Order inserts new provisions into the Licensing Act 2003 (c. 17) in exercise of the powers conferred by section 1 of the Legislative and Regulatory Reform Act 2006 (c. 51).

The new provisions establish procedures for the variation of premises licences and club premises certificates in cases where the licensing authority considers that none of the variations proposed by the holder of the licence or certificate could have an adverse effect on the promotion of any of the licensing objectives set out in section 4(2) of the 2003 Act.

The purpose of the Order is to save time, money and regulatory resources by allowing variations that could not impair the promotion of the licensing objectives to be made to premises licences and club premises certificates through a simplified and less costly procedure.

The holder of a premises licence or club premises certificate may apply to the relevant licensing authority (as defined in section 12 or 68 of the 2003 Act) for variation of the licence or certificate under the new provisions (the new sections 41A and 86A respectively). Applications will be subject to regulations made in the exercise of the Secretary of State's powers under sections 54, 55, 91 and 92 to prescribe the form and manner of making applications, the information and documents that must accompany them, and the fee to be paid to the relevant licensing authority. They will also be subject to regulations made by the Secretary of State under sections 17(5)(a) and 71(6)(a) requiring the applicant to advertise the application.

In determining an application the authority must consult such of the responsible authorities mentioned in section 13 or 69 of the 2003 Act as it considers appropriate. The authority must take into account any relevant representations made concerning the application by those authorities or by an interested party (as defined in section 13(3) or 69(3) of the 2003 Act), provided in the case of the latter that the comments are made in writing within ten working days following the date of receipt of the application by the authority. Relevant representations must be about the likely effect of the grant of the application on the promotion of the licensing objectives.

The relevant licensing authority must grant an application under the new provisions only if it considers that none of the variations proposed in the application could have an adverse effect on the promotion of any of the licensing objectives in section 4(2) of the 2003 Act. In any other case the authority must reject the application.

This procedure is in contrast to the normal procedure for the variation of a premises licence or club premises certificate, where the applicant must give notice of the application to each responsible authority, and where the application must be referred to an oral hearing in the event that an authority or interested party makes a relevant representation (see sections 34 to 40 and 84 to 86 of the 2003 Act).

An application may not be made under the new provisions if the effect of the variations proposed in it would be to extend the period for which a premises licence has effect; to vary substantially the premises to which a premises licence or club premises certificate relates; to specify (in a premises licence) an individual as the premises supervisor; to authorise the sale or supply of alcohol or to authorise the sale by retail or supply of alcohol at any time between 11pm and 7am or increase in the amount of time on any day during which alcohol may be sold by retail or otherwise supplied; or to disapply the mandatory conditions concerning the supervision of alcohol sales by a personal licence holder and the need for a Designated Premises Supervisor who holds a personal licence at community premises. Variations of these kinds must be made through the normal variations

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procedure set out in sections 34 to 40 (premises licences), 84 to 86 (club premises certificates), or section 41D (community premises) of the 2003 Act.

If the relevant licensing authority grants an application under the new provisions it must notify the applicant in writing, specifying the variations which are to have effect as a result and the time when they are to have effect. If an application is refused, the authority must notify the applicant in writing, giving its reasons for the refusal. The authority is required to reach its determination within a period of fifteen working days starting on the first working day after the authority receives the application, otherwise the application is rejected and the authority must return the application fee. The authority and the applicant may agree to treat the application or the fee or both as rejected, returned and resubmitted as a new application.