



West Wiltshire District Council

Licensing Act 2003

Licensing

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Important information about Licensing

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This document is dated 1 March 2007. Updated versions may be available on the Council's website.

Important information about Licensing

Keeping you up to date

From time to time we send out an email newsletter containing information and updates about licensing and other matters that might affect businesses such as yours. Updated versions of this document will be sent out this way. If you wish to subscribe to this newsletter send an email to licensing@westwiltshire.gov.uk with the title 'subscribe LA2003'. We won't share your email address with anyone else and you can unsubscribe at any time.

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1 Further information about Licensing

As well as contacting us on 01225 776655 you can email licensing@westwiltshire.gov.uk . Information and guidance together with some application forms are on our website www.westwiltshire.gov.uk

Further information is also available on the DCMS website www.culture.gov.uk in the 'tourism and leisure' section

2 What needs a licence?

The following activities are licensable under the Licensing Act 2003

- The retail sale of alcohol (including via the internet or mail order)
- The wholesale of alcohol to members of the public
- The supply of hot food or hot drink between 2300 and 0500 which include both premises and 'mobile traders'
- The provision of regulated entertainment in the presence of an audience
- Providing entertainment facilities for dancing or making music and similar activities

Regulated entertainment includes:

- Performance of a play
- Film exhibitions
- Indoor sporting events
- Boxing or wrestling events (indoor and outdoor)
- Performing live music
- Playing recorded music (except incidental music)
- Dance performances
- Entertainment of similar descriptions

The sale of alcohol includes giving alcohol away in return for a donation or where alcohol is included as part of another financial transaction, for instance an admission charge or the cost of a meal. Similarly alcohol cannot be offered as a prize in a lottery or raffle without a licence. Further guidance on this is given in '[12 Lotteries and Raffles](#)' and '[14 Alcohol at private charities and political events](#)'.

Note that indoor sporting events does not include pub type league games, for instance pool or darts unless there is an audience.

An extract of the Secretary of State's guidance is attached at the end of this document that provides more information about licensable entertainment activities and exemptions.

These activities can only be authorised as follows:

- Premises Licences for permanent authorisation

- Club Premises Certificates for bona-fide members clubs run for the benefit of their members
- Temporary Event Notices (TENS) for one-off events

Further details and guidance is available via our website, email and telephone as above.

3 Information for existing Premises Licence holders

Displaying the licence

The two-page summary of the licence must be displayed at the premises in a position where it can be read by the public. You must display the original, or a copy that has been certified by a solicitor.

The original of the full version of the licence including the plan, or a certified copy, must be kept on the premises and made available on request from the Police or Licensing Officer. You must display a notice saying who is responsible for keeping the licence at the premises.

The terms of the licence

You should read the licence carefully particularly in relation to the activities authorised, the permitted times and the conditions of the licence. It is an offence not to comply with the terms of the licence. If you have any questions about a licence contact the Licensing Team via email licensing@westwiltshire.gov.uk or telephone 01225 776655.

If the licence permits the sale of alcohol then each sale of alcohol must be authorised by someone who holds a Personal Licence. This does not mean that the Designated Premises Supervisor or another has to make the sale personally or even be on the premises. It simply means that the person making the sale is authorised by either the DPS or another Personal Licence holder, after satisfying themselves that all sales will be properly made. This authorisation should ideally be in writing. Note that this only applies to Premises Licences **not** Club Premises Certificates.

Remember that the licence is a legal document and you could be prosecuted if you do not comply with it

Access by children

Your Premises Licence contains some details of how access to your premises by children is controlled. There is a specific heading on the summary part of the licence and there may also be restrictions in the conditions of the full version of the licence. This will include complying with any age restrictions of any films being shown.

The Licensing Act 2003 however provides **additional** restrictions in relation to children, which are detailed in the '[7 Allowing children into premises](#)' section

Employing Door Supervisors

The law requires that any person carrying out the duties of a door supervisor

must be registered with the Security Industry Authority (SIA). In addition to this legal requirement it may be included as a specific condition in a Premises Licence.

Further information is provided in the '[5 Door supervisors](#)' section below.

Making changes to the licence

You can apply to vary the existing licence (or apply for a new licence) in order to:

- Change the activities permitted
- Alter the time restrictions in the licence.
- Change the layout of the premises. Note that if the premises are to be extended then you will need to apply for a new Premises Licence, you cannot vary the existing licence.
- Remove or amend the existing licence conditions

Ask for our guidance and application pack reference LL102 or download it from our website www.westwiltshire.gov.uk

You will also need to advise us in order to change the:

- Designated Premises Supervisor (DPS) (Guidance ref LL103)
- Licence holder ('transfer') (Guidance ref LL104)
- Address of the licence holder (Guidance ref LL105)
- New name of the licence holder (for instance due to marriage) (Guidance ref LL105)

4 Information for existing Club Premises Certificate holders

Displaying the certificate

The two-page summary of the certificate must be displayed at the premises in a position where it can be read by the public. You must display the original, or a copy that has been certified by a solicitor.

The original of the full version of the certificate including the plan, or a certified copy, must be kept on the premises and made available on request from the Police or Licensing Officer. You must display a notice saying who is responsible for keeping the certificate at the premises.

The terms of the certificate

You should read the certificate carefully particularly in relation to the activities authorised, the permitted times and the conditions of the certificate. It is an offence not to comply with the terms of the certificate. If you have any questions about a certificate contact the Licensing Team via email licensing@westwiltshire.gov.uk or telephone 01225 776655.

Remember that the certificate is a legal document and you could be prosecuted if you do not comply with it

Access by children

Your Club Premises Certificate contains some details of how access to your premises by children is controlled. There is a specific heading on the

summary part of the certificate and there may also be restrictions in the conditions of the full version of the certificate. This will include complying with any age restrictions of any films being shown.

The Licensing Act 2003 however provides **additional** restrictions in relation to children, which are detailed in the '[7 Allowing children into premises](#)' section

Employing Door Supervisors

The law requires that any person carrying out the duties of a door supervisor must be registered with the Security Industry Authority (SIA). In addition to this legal requirement it may be included as a specific condition in a Club Premises Certificate.

Further information is provided in the '[5 Door supervisors](#)' section below.

Making changes to the certificate

You can apply to vary the existing certificate (or apply for a new certificate) in order to:

- Change the activities permitted
- Alter the time restrictions in the certificate.
- Change the layout of the premises. Note that if the premises are to be extended then you will need to apply for a new Premises Certificate, you cannot vary the existing certificate.
- Remove or amend the existing certificate conditions

You will also need to advise us if you wish to change the:

- Rules of the club
- Club secretary
- Address of the certificate holder
- New name of the existing certificate holder (note that the certificate cannot be transferred to another club)

5 Door Supervisors

The law requires that any person carrying out the duties of a door supervisor must be registered with the Security Industry Authority (SIA). In addition to this legal requirement it may be included as a specific condition in a Premises Licence or Club Premises Certificate.

If you employ and pay any door supervisors directly, rather than getting them through a registered security company, you **must** be registered yourself with the Security Industry Authority (SIA).

The exemption from registering with the SIA only applies where you obtain door supervisors directly from a security company registered with the SIA and you make all payments to that company.

It is your responsibility to ensure that your door supervisors are properly registered. Registered door supervisors should be able to show you their

licence badge, which contains a photograph and hologram, and must wear it prominently when working.

Persons who are simply checking tickets or membership at the door may not, depending on the circumstances, be classed as door supervisors. There are also some exemptions for volunteers at events.

The SIA can offer further advice and they can be contacted on 08702 430 100 or via their website www.the-sia.org.uk

6 Using Temporary Event Notices (TENS) to licence one off events or changes to existing licences

Temporary Event Notices can be used for licensable activities that:

- Involve fewer than 500 people
- Last no longer than 96 hours

Note that:

- At least 10 **WORKING** days must be given, without exception.
- Only 12 TENS can be used on each premises in each calendar year.
- The maximum number of days the TENS can cover in any year is 15. (Note that an event running from an evening to past midnight counts as 2 days)
- A Personal Licence Holder can apply for up to 50 TENS each calendar year while others can only apply for 5.
- There must be at least 24 hours between each TENS event

Ask for our guidance and application pack reference LL120 or download it from our website www.westwiltshire.gov.uk .

7 Allowing children into premises

The Licensing Act 2003 contains some specific restrictions on access to premises by children. These are In addition to any restrictions specifically stated in Premises Licences and Club Premises Certificates and also apply to Temporary Event Notices.

In summary these additional restrictions are:

- For premises used mainly or exclusively for the sale of alcohol for consumption on the premises:
 - Children under 18 must be accompanied by a person aged 18 or over.
- For other premises selling alcohol for consumption on the premises:
 - Between midnight and 0500hrs children under 18 must be accompanied by a person aged 18 or over
- For premises not selling alcohol for consumption on the premises:
 - No additional restrictions

8 Restrictions on sales of alcohol

Alcohol cannot be sold to people under 18 under any circumstances. It is also an offence for anyone to buy alcohol for a person under 18. The exception is where a person aged 18 or over purchases alcohol for a 16 or 17 year old to consume with a table meal, accompanied by an adult. Note that 'table meal' would not include a bar snack.

Sales of alcohol can be made by staff under 18 but each sale must be individually authorised by a Personal Licence Holder.

Although the sale of Liqueur Chocolates does not in itself require a licence they can only be sold to those aged at least 16.

9 Personal Licences

Personal Licences are required to authorise the sale of alcohol on premises holding Premises Licences. They are not required to sell alcohol where a Temporary Event Notice is in force or where a premises is using a Club Premises Certificate.

Personal Licences last for 10 years.

10 Annual fee

An annual fee is payable where a Premises Licence and Club Registration Certificate is in force. The charge is due on the anniversary of the date on which the licence was given, not the date of any subsequent variation. Village halls and other similar community buildings are exempt from this annual charge unless the sale of alcohol is included on the licence.

This charge will be due even if the licence is not being used. The only way to avoid the charge is for the holder to return the licence and advise us in writing that they wish to surrender the licence. This **must** be done **before** the date the charge is due. This date will usually be before an invoice is sent out

There is no annual fee for Personal Licences

11 Gaming machines

Separate permissions are required for any gaming machines on premises, before they are installed. Contact us for further information.

12 Lotteries and raffles

Lotteries and raffles generally need a separate licence, and cannot be for the purpose of private gain. Contact us for further information.

The exception is where a raffle is held on one day only at one premises.

Where alcohol is being offered as a raffle prize this would also usually be classed as a sale, and require a licensing under the Licensing Act 2003 unless:

Section 175 of the Act refers, but in summary, it seems that **bottles of wine** can be offered as **raffle prizes**, without a licence being required, if the raffle is:

- incidental to another entertainment that is not licensable;
- the whole event is not for private gain;
- all the alcohol is in sealed containers;
- there are no money prizes;
- all tickets are sold; and the result of the raffle is declared at the premises where the entertainment takes place;
- the raffle is not the main inducement for people attending the event

If any of these criteria aren't met, then a licence would be required.

13 Don't forget!

Any licensable activity must be authorised before it takes place.

Licence holders must advise of any changes, for instance addresses, that are relevant to the licence.

14 Alcohol at private charities and political events

Sometimes alcohol is given to guests as part of an entrance ticket. For this not to be licensable organisers would need to make sure that a sale was not taking place. This means they must ensure that:

- the public are not invited
- the charge is made solely and genuinely just to cover the cost of buying the drink, and there is no intention to make a profit; and
- there is no requirement for the guests to give any money to charity or a political party.

On the second bullet here, organisers need to ensure that the alcohol is either genuinely being given away for free or that people are being asked to just cover the cost of it (for example, this might be what happens at an office Xmas party where everyone contributes to buy the alcohol they will drink that night. However, if there is a charge of say £30 for a ticket, which includes alcohol, but it is intended that some or all of the remainder of the money will be given to charity, then this would effectively be a sale which would therefore require a licence).

The Act does not exempt charitable events, and if there is any intent to made a profit to give to charity, then a licence or Temporary Event Notice would be required.

15	Lost, stolen or damaged licences
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Summaries of premises type licences must be displayed on the premises and the full version of these licences must be available for inspection by Police Officers and Licensing staff. Failure to comply with this is an offence.

You must request a replacement if it is lost, stolen or damaged.

The following guidance notes are available on request or downloaded from our website www.westwiltshire.gov.uk

LL107 Lost, stolen or damaged Premises Licence

LL108 Lost, stolen or damaged club Premises Certificate

LL143 Lost, stolen or damaged Personal Licence

Please contact us in relation to Temporary Event Notices (TENS)

A	Secretary of State's guidance on licensable entertainment activities
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See next page.

Annex A

Extract from the Licensing Act 2003: Regulated Entertainment

SCHEDULE 1

Section 1

PROVISION OF REGULATED ENTERTAINMENT

PART 1

GENERAL DEFINITIONS

The provision of regulated entertainment

- 1 (1) For the purposes of this Act the “provision of regulated entertainment” means the provision of —
 - (a) entertainment of a description falling within paragraph 2, or
 - (b) entertainment facilities falling within paragraph 3, where the conditions in sub-paragraphs (2) and (3) are satisfied.
- (2) The first condition is that the entertainment is, or entertainment facilities are, provided —
 - (a) to any extent for members of the public or a section of the public,
 - (b) exclusively for members of a club which is a qualifying club in relation to the provision of regulated entertainment, or for members of such a club and their guests, or
 - (c) in any case not falling within paragraph (a) or (b), for consideration and with a view to profit.
- (3) The second condition is that the premises on which the entertainment is, or entertainment facilities are, provided are made available for the purpose, or for purposes which include the purpose, of enabling the entertainment concerned (whether of a description falling within paragraph 2(1) or paragraph 3(2)) to take place.

To the extent that the provision of entertainment facilities consists of making premises available, the premises are to be regarded for the purposes of this sub-paragraph as premises “on which” entertainment facilities are provided.
- (4) For the purposes of sub-paragraph (2)(c), entertainment is, or entertainment facilities are, to be regarded as provided for consideration only if any charge —
 - (a) is made by or on behalf of —
 - (i) any person concerned in the organisation or management of that entertainment, or
 - (ii) any person concerned in the organisation or management of those facilities who is also concerned in the organisation or management of the entertainment within paragraph 3(2) in which those facilities enable persons to take part, and
 - (b) is paid by or on behalf of some or all of the persons for whom that entertainment is, or those facilities are, provided.
- (5) In sub-paragraph (4), “charge” includes any charge for the provision of goods or services.

- (6) For the purposes of sub-paragraph (4)(a), where the entertainment consists of the performance of live music or the playing of recorded music, a person performing or playing the music is not concerned in the organisation or management of the entertainment by reason only that he does one or more of the following —
- (a) chooses the music to be performed or played,
 - (b) determines the manner in which he performs or plays it,
 - (c) provides any facilities for the purposes of his performance or playing of the music.
- (7) This paragraph is subject to Part 2 of this Schedule (exemptions).

Entertainment

- 2 (1) The descriptions of entertainment are —
- (a) a performance of a play,
 - (b) an exhibition of a film,
 - (c) an indoor sporting event,
 - (d) a boxing or wrestling entertainment,
 - (e) a performance of live music,
 - (f) any playing of recorded music,
 - (g) a performance of dance,
 - (h) entertainment of a similar description to that falling within paragraph (e), (f) or (g),
- where the entertainment takes place in the presence of an audience and is provided for the purpose, or for purposes which include the purpose, of entertaining that audience.
- (2) Any reference in sub-paragraph (1) to an audience includes a reference to spectators.
- (3) This paragraph is subject to Part 3 of this Schedule (interpretation).

Entertainment facilities

- 3 (1) In this Schedule, “entertainment facilities” means facilities for enabling persons to take part in entertainment of a description falling within sub-paragraph (2) for the purpose, or for purposes which include the purpose, of being entertained.
- (2) The descriptions of entertainment are —
- (a) making music,
 - (b) dancing,
 - (c) entertainment of a similar description to that falling within paragraph (a) or (b).
- (3) This paragraph is subject to Part 3 of this Schedule (interpretation).

Power to amend Schedule

- 4 The Secretary of State may by order amend this Schedule for the purpose of modifying —
- (a) the descriptions of entertainment specified in paragraph 2, or
 - (b) the descriptions of entertainment specified in paragraph 3,
- and for this purpose “modify” includes adding, varying or removing any description.

PART 2

EXEMPTIONS

Film exhibitions for the purposes of advertisement, information, education, etc.

- 5 The provision of entertainment consisting of the exhibition of a film is not to be regarded as the provision of regulated entertainment for the purposes of this Act if its sole or main purpose is to —
- (a) demonstrate any product,
 - (b) advertise any goods or services, or
 - (c) provide information, education or instruction.

Film exhibitions: museums and art galleries

- 6 The provision of entertainment consisting of the exhibition of a film is not to be regarded as the provision of regulated entertainment for the purposes of this Act if it consists of or forms part of an exhibit put on show for any purposes of a museum or art gallery.

Music incidental to certain other activities

- 7 The provision of entertainment consisting of the performance of live music or the playing of recorded music is not to be regarded as the provision of regulated entertainment for the purposes of this Act to the extent that it is incidental to some other activity which is not itself —
- (a) a description of entertainment falling within paragraph 2, or
 - (b) the provision of entertainment facilities.

Use of television or radio receivers

- 8 The provision of any entertainment or entertainment facilities is not to be regarded as the provision of regulated entertainment for the purposes of this Act to the extent that it consists of the simultaneous reception and playing of a programme included in a programme service within the meaning of the Broadcasting Act 1990 (c. 42).

Religious services, places of worship etc.

- 9 The provision of any entertainment or entertainment facilities —
- (a) for the purposes of, or for purposes incidental to, a religious meeting or service, or
 - (b) at a place of public religious worship,
- is not to be regarded as the provision of regulated entertainment for the purposes of this Act.

Garden fêtes, etc.

- 10 (1) The provision of any entertainment or entertainment facilities at a garden fête, or at a function or event of a similar character, is not to be regarded as the provision of regulated entertainment for the purposes of this Act.
- (2) But sub-paragraph (1) does not apply if the fête, function or event is promoted with a view to applying the whole or part of its proceeds for purposes of private gain.
 - (3) In sub-paragraph (2) “private gain”, in relation to the proceeds of a fête, function or event, is to be construed in accordance with section 22 of the Lotteries and Amusements Act 1976 (c. 32).

Morris dancing etc.

- 11 The provision of any entertainment or entertainment facilities is not to be regarded as the provision of regulated entertainment for the purposes of this Act to the extent that it consists of the provision of —
- (a) a performance of morris dancing or any dancing of a similar nature or a performance of unamplified, live music as an integral part of such a performance, or
 - (b) facilities for enabling persons to take part in entertainment of a description falling within paragraph (a).

Vehicles in motion

- 12 The provision of any entertainment or entertainment facilities —
- (a) on premises consisting of or forming part of a vehicle, and
 - (b) at a time when the vehicle is not permanently or temporarily parked,
- is not to be regarded as the provision of regulated entertainment for the purposes of this Act.

PART 3

INTERPRETATION

General

- 13 This Part has effect for the purposes of this Schedule.

Plays

- 14 (1) A “performance of a play” means a performance of any dramatic piece, whether involving improvisation or not, —
- (a) which is given wholly or in part by one or more persons actually present and performing, and
 - (b) in which the whole or a major proportion of what is done by the person or persons performing, whether by way of speech, singing or action, involves the playing of a role.
- (2) In this paragraph, “performance” includes rehearsal (and “performing” is to be construed accordingly).

Film exhibitions

- 15 An “exhibition of a film” means any exhibition of moving pictures.

Indoor sporting events

- 16 (1) An “indoor sporting event” is a sporting event —
- (a) which takes place wholly inside a building, and
 - (b) at which the spectators present at the event are accommodated wholly inside that building.
- (2) In this paragraph —
- “building” means any roofed structure (other than a structure with a roof which may be opened or closed) and includes a vehicle, vessel or moveable structure,
 - “sporting event” means any contest, exhibition or display of any sport, and
 - “sport” includes —

- (a) any game in which physical skill is the predominant factor, and
- (b) any form of physical recreation which is also engaged in for purposes of competition or display.

Boxing or wrestling entertainments

- 17 A “boxing or wrestling entertainment” is any contest, exhibition or display of boxing or wrestling.

Music

- 18 “Music” includes vocal or instrumental music or any combination of the two.