



West Wiltshire District Council

Licensing Act 2003

Licensable activities and exemptions

LL201

Guidance on licensable activities and those that are exempt

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Guidance on licensable activities and those that are exempt

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Licensing Act 2003

A1	Licensable activities
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The Licensing Act 2003 defines the following activities as licensable:

Alcohol

- the sale by retail of alcohol;
- the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club;
- the provision of regulated entertainment; and
- the provision of late night refreshment.

Entertainment and entertainment facilities

- The descriptions of entertainment that require a licence 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) above.
- An entertainment is only licensable where it 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. Note that the term 'audience' includes spectators
- In addition providing facilities to enable persons to take part in entertainment for the purpose of entertaining, or for purposes which include the purpose, of entertaining an audience, is licensable. This relates to providing facilities for:
 - (a) making music,
 - (b) dancing,
 - (c) entertainment of a similar description to that falling within paragraph (a) or (b) above.

Late night refreshment

- The sale of hot food or hot drink is licensable if it takes place between 2300 and 0500hrs.

B1	Pub games
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Games commonly played in pubs and social and youth clubs like pool, darts, table tennis and billiards may fall within the definition of indoor sports. Normally they would not be played for the entertainment of spectators but for the private enjoyment of the participants. As such, they would not normally be licensable even if a pub provides them with a view to profit.

It is only when such games take place in the presence of an audience and are provided to, at least in part, entertain that audience, for example, a darts championship competition, that the activity would become licensable.

B2	Late night refreshment
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This only covers hot food or hot drink sales made between 2300 and 0500hrs.

The following exemptions apply:

Premises providing hot **drink** by means of a vending machine where the machine is one to which the public have access and it is operated by members of the public without any involvement of the staff on the premises. The payment must be inserted in the machine and the exemption does not apply to hot food.

The supply of hot food or hot drink free of any charge is not a licensable activity. However, where any charge is made for either admission to the premises or for some other item in order to obtain the hot food or hot drink, this will not be regarded as “free of charge”.

Supplies by a registered charity or anyone authorised by a registered charity are exempt.

Supplies made on vehicles – other than when they are permanently or temporarily parked are exempt.

Supplies of hot food or hot drink exempt from the provisions of the 2003 Act if there is no admission to the public to the premises involved and they are made to:

- a member of a recognised club and supplied by the club;
- persons staying overnight in a hotel, guest house, lodging house, hostel, a caravan or camping site or any other premises whose main purpose is providing overnight accommodation;
- an employee supplied by a particular employer (e.g. a staff canteen);
- a person who is engaged in a particular profession or who follows a particular vocation (e.g. a tradesman carrying out work at particular premises);
- a guest of any of the above.

B3	Liqueur confectionery
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There is no requirement to hold a licence to sell liqueur confectionery.

It is however an offence to sell (or in the case of a club, supply) liqueur confectionery to a child under 16.

Liqueur confectionery is defined as 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.

B4	Alcohol as raffle prizes
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Bottles of wine etc can be offered as raffle prizes, without a Licensing Act licence being required, but only 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.

In addition a licence for the lottery itself may be required under the provisions of the Gambling Act 2005. A small lottery where all the tickets are sold and the draw made on a single day in one place would not require a lottery licence.

B5	Private charitable or political events - where alcohol is given to guests as part of an entrance ticket
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For this not to be licensable, no sale can take place. It is essential 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, it is essential that the alcohol is either genuinely being given away free of charge or that people are being asked to just cover the cost of it. For example, this might be what happens at an office Christmas party where everyone contributes to buy the alcohol they will drink that night.

However if there is a charge, say £30 for a ticket, which includes alcohol, but there is an intention that some or all of the remainder of the money is to be given to charity, then this would effectively be a sale. This is because there is a profit, and would therefore need a licence.

The Act does not exempt charitable events, and if there is any intent to make a profit to give to charity, then a licence or temporary event notice would be required.

B6	Private events
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Private events are not automatically exempt.

Private events can involve licensable activities where certain conditions pertain. Entertainment at a private event to which the public are not admitted becomes regulated entertainment, and therefore licensable, only if it is provided for consideration **and** with a view to profit.

Therefore a mere charge to those attending a private event intended to cover the costs of the entertainment, and for no other purpose, would not make the entertainment licensable as this would not be with a view to profit.

However as soon as a person involved in managing or organising the entertainment makes a charge or receives payment with the intention to make a profit then a licence would be required.

In summary in order not to be licensable:

The event must be private, and;

The person running a commercial venue must not be involved in managing or organising the entertainment, and;

The event is not intended to provide a profit to the person managing or organising the entertainment.

The following **would not** be licensable:

- A party organised in a private house by and for friends at which music and dancing is provided and a charge or contribution is made solely to cover the costs of the entertainment. The party organiser must not make a profit, even if that profit is to be given to charity.
- A wedding reception in a hotel where a room is hired but the groom organises the live band and disco himself without the assistance of the hotel. Any charge made to guests must not be more than the cost of the entertainment.

The following **would** be licensable:

- A private party where the pub venue arranges the disco or live band. This is irrespective of whether a charge is made as it would no doubt be done with a view to a profit.

B7	Incidental music
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The performance of live music and the playing of recorded music is not licensable where it is incidental to another activity which is not itself licensable entertainment.

A juke box played in a public house at moderate levels would normally be regarded as incidental to the other activities there, but one played at high volume would not benefit from this exemption.

Standup comedy is not regulated entertainment and musical accompaniment incidental to the main performance would not make it a licensable activity.

There are likely to be some circumstances which occupy a greyer area. In cases of doubt, operators should seek further advice from the Licensing Team.

B8	Films and videos
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Film exhibitions are not regarded as as licensable entertainment if it's main purpose is to:

- Demonstrate any product,
- Advertise any goods or services, or
- Provide information, education or instruction.

In addition films forming part of an exhibit at an art gallery or museum is not licensable.

The showing of television programmes, which includes sports matches, are licensable unless shown at the time of transmission ('live'). Showing of any programmes that have been recorded require licensing.

B9	Religious services and places of worship
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Entertainment as part of a religious meeting or service, or at a place of worship does not require a licence.

Note that the sale of alcohol, or provision of alcohol for a donation is always licensable.

B10	Garden fetes etc
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Any entertainment or entertainment facilities at a garden fête, or at a function or event of a similar character, is not regarded as licensable. This exemption does not apply where the event is run for private gain.

Note that the sale of alcohol, or provision of alcohol for a donation is always licensable

B11	Morris dancing etc
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Morris dancing and any dancing of any similar nature together with any accompanying unamplified music is not a licensable activity.

B12	Vehicles in motion
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Entertainment or entertainment facilities on moving vehicles are exempt. Note however that the exemption does not apply when the vehicle is temporarily or permanently parked.

The sale of alcohol on moving vehicles is specifically prohibited by the Licensing Act 2003.