

LICENSING ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

PART 5: Permitted temporary activities

163. **Part 5** makes provision for a system that would allow individuals – “premises users” – to carry out licensable activities on a temporary basis (for a period not exceeding 96 hours), subject to various conditions and limits attaching to the number of events which may be permitted. Different limits apply depending on whether or not the person carrying out licensable activities holds a personal licence (see Part 6) and the frequency of use of the premises.
164. Examples of circumstances under which an individual might make use of the arrangements could include:
- where a **personal licence holder** wishes to carry out one or more licensable activities at premises not covered by a premises licence relating to those activities. For example, a publican may be engaged to run a temporary bar for a wedding at a venue not licensed for the sale of alcohol, or may wish to provide a temporary disco in premises licensed for the sale of alcohol but not for the provision of regulated entertainment. For personal licence holders, the number of occasions which could be covered by these arrangements in any one year would be subject to a limit of 50.
 - where **an individual who does not hold a personal licence** wishes to carry out one or more licensable activities at any premises, regardless of whether they are covered by a premises licence relating to those activities. For example, an individual may wish to run a bar and provide a band at a party to celebrate a 50th wedding anniversary. This may be done by the same person on no more than five occasions in any one calendar year.

In both cases, the arrangements would only apply where the number of attendees at the event is lower than 500. In addition, no premises may be used more than 12 times in any one calendar year by virtue of this Part, with an overall maximum of 15 days in any one year on which temporary events may take place at any particular premises.

Section 98 – Meaning of ‘permitted temporary activity’

165. This section provides that a ‘permitted temporary activity’ is one that is carried on in accordance with a temporary event notice given to the relevant licensing authority (see section 99 paragraph 166 below) and which satisfies the following conditions:
- a) the temporary event notice has been duly acknowledged by the licensing authority (see section 102, paragraph 172 below) and notified to the police (see section 104, paragraph 174 below)
 - b) the temporary event notice has not been subsequently withdrawn by the individual giving the notice and

- c) the licensing authority has not issued a counter-notice. A counter-notice would be issued, if necessary, following a hearing of any objections raised by the police to the effect that the crime prevention objective would be undermined by allowing the activity to go ahead (see section 105, paragraph 175 below) or if the permitted limits attaching to the person giving the notice or the premises would be exceeded (see section 107, paragraph 177 below)

Section 99– The relevant licensing authority

166. This section defines the licensing authority for the purposes of this Part and as a consequence determines the authority, or authorities if the premises straddles more than one licensing authority area, to which a temporary event notice must be given.

Section 100 – Temporary event notice

167. This section provides that an individual, known as a premises user, who proposes to carry on a licensable activity for a temporary period of not more than 96 hours may submit a notice to the relevant licensing authority of the proposal for the event. Such notice is defined as a temporary event notice. The premises user must be at least 18 years old.
168. Subsections (4) and (5) provide that the notice must be in a form prescribed in regulations by the Secretary of State and set out certain details about the proposed event:
- a) the licensable activities that are to be carried out
 - b) the total length of the event – which must not exceed 96 hours
 - c) the times during the event that the licensable activities are to be carried out (for example, where an individual wishes to organise an event that covers 36 hours and where the bar will be open for two evenings within that time).
 - d) the maximum number of people to be allowed on to the premises at any one time – which must be less than 500
 - e) whether any alcohol sales are to be made for consumption on or off the premises (or both)
 - f) any other information that may be prescribed by regulations.
169. Subsection (6) requires that if the licensable activities proposed in the notice include the supply of alcohol, the notice must include a condition that all such supplies will be made by, or under the authority of, the premises user. The temporary event notice must be given to the licensing authority at least ten working days before the event. Before the time of the event the licensing authority must acknowledge the notice, the police must consider the notice and decide whether to give notice of objection and if the police object, the authority must, if necessary, convene a hearing, to decide whether to serve a counter notice. Although ten working days is the minimum specified, it is anticipated that in most circumstances greater notice will be given. The temporary event notice must be submitted in duplicate and accompanied by any fee prescribed in regulations made by the Secretary of State
170. Subsection (8) provides that the Secretary of State may by order (subject to affirmative resolution procedure) amend the limits as to the length of time permissible for any single temporary event and the number of people who may attend an event. This will enable the Secretary of State to change the limits in response to experience of the working of the new regime.

Section 101 – Minimum of 24 hours between event periods

171. This section provides that there must be a minimum period of 24 hours between temporary events held on the same premises by a premises user, or held by that user and another person who is related to, associated with or in business with that user. This prevents a premises user holding numerous consecutive temporary events as a means of avoiding an application for a premises licence. If a temporary event takes place on premises that are included within or include other premises where another temporary event takes place, then the two events are deemed to take place on the same premises.

Section 102 – Acknowledgement of notice

172. Under this section, the licensing authority must acknowledge the temporary event notice given to it by a premises user by returning the duplicate notice to the premises user within a specified period. However, subsection (3) provides that an acknowledgement is not to be given if the licensing authority has already served a counter notice on the premises user under section 107 to the effect that the permitted number of events would be exceeded if the notified event took place.

Section 103– Withdrawal of notice

173. This section provides that a premises user can withdraw a temporary event notice up to 24 hours before the event is scheduled to take place. Once withdrawn, the notice does not count towards the limits on the number of temporary event notices that may be submitted during a calendar year.

Section 104 – Objection to notice by police

Section 105 - Counter notice following police objection and

Section 106 - Modification of notice following police objection

174. **Section 104** provides that no later than ten working days before the beginning of the event period proposed in the temporary event notice, the premises user must give a copy of the notice to the chief officer of police in the relevant area. If the police are of the view that allowing the event to proceed would undermine the crime prevention objective, they must notify (an objection notice) the premises user and the relevant licensing authority, stating their reasons, no later than 48 hours after receipt of the copy of the notice.
175. **Section 105** provides that, if the police object, the licensing authority must hold a hearing to consider the objection notice unless all parties agree that a hearing is unnecessary. If the authority accepts the police objection it must issue a counter-notice to the premises user in which case the event cannot proceed. If the authority does not accept the police objection it must inform the police. Any decision or counter-notice must be issued to the premises user at least 24 hours before the specified event period. A failure to do so will result in the premises user being able to proceed with the event.
176. **Section 106** provides that, in cases where the police have given an objection notice, at any point between notification and the hearing the police and premises user may agree to modify the temporary event notice in order that it no longer undermines the promotion of the crime prevention objective. When temporary event notices are modified, the notice of objection by the police is withdrawn, and the modified temporary event notice has effect.

Section 107 - Counter notice where permitted limits exceeded

177. Subsection (1) requires a licensing authority to issue a counter-notice on receipt of a temporary event notice where

*These notes refer to the Licensing Act 2003 (c.17)
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- the premises user is a personal licence holder who has already given 50 temporary event notices within the same calendar year as the specified event period, or
 - when the premises user does not hold a personal licence, but has already given five temporary event notices in that year, or
 - where twelve temporary event notices have been given in respect of the same premises in that year, or
 - where temporary event notices are given for events at the same premises falling on more than 15 days in a year.
178. Subsection (12) gives the Secretary of State power by order to amend the limits in this section as to the numbers of temporary event notices that can be given by any person or in respect of any premises, or the number of days in any year when temporary events can take place at any premises. Again the orders are subject to the affirmative resolution procedure.
179. The effect of giving such a counter notice is that the proposed event is not a permitted temporary activity and is not authorised to proceed.

Section 108 – Right of entry where temporary event notice given and

Section 109 – Duty to keep and produce temporary event notice

180. Constables and officers of a licensing authority will be able to enter premises to assess the likely impact of a temporary event notice on the promotion of the crime prevention objective. The officer of a licensing authority must, if requested, produce evidence of his authority. It is an offence to obstruct such an officer exercising his powers under this section. It is already an offence to obstruct a constable in the exercise of his duty (see Police Act 1996).
181. The premises user must ensure that the notice is displayed at the premises or is kept there under his control or the control of a person nominated by him. In the latter case, a notice to that effect must be displayed at the premises. It is an offence for the premises user to fail to comply with this requirement. It is also an offence for a person who holds the premises licence under such arrangements to fail to produce it to a constable or an officer of a licensing authority when requested to do so.

Section 110 – Theft, loss etc. of temporary event notice

182. This section provides that premises users may apply to the licensing authority that acknowledged the temporary event notice for a copy of that notice if the notice has been lost, stolen, damaged or destroyed. If lost or stolen, the premises user is obliged to notify the police before a copy will be issued. There may be a fee prescribed for the issue of replacement documents. By virtue of subsection (2) an application for a copy of the notice cannot be made later than one month after the event. Subsection (6) provides that the copy of the notice will have effect as if it were the original.