

LIVE MUSIC ACT 2012

EXPLANATORY NOTES

BACKGROUND

4. The 2003 Act makes the following activities “licensable activities”:
 - 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.

Schedule 1 to the 2003 Act

5. Schedule 1 to the 2003 Act sets out what amounts to the provision of regulated entertainment.
6. Paragraph 1(1) defines provision of regulated entertainment by reference to the descriptions of entertainment contained in paragraph 2 and entertainment facilities falling within paragraph 3. The entertainment is, or entertainment facilities are, licensable to the extent that they are provided for members of the public, members of a club, or (in any other case) for payment and with a view to profit.
7. Paragraph 2 contains a list of descriptions of entertainment which are regulated under the 2003 Act if they take place in the presence of an audience. These include a performance of live music (paragraph 2(1)(e)) and a performance of dance (paragraph 2(1)(g)).
8. Paragraph 3 defines entertainment facilities as meaning facilities for enabling persons to take part in making music or dancing (or entertainment of a similar description) for the purpose of being entertained.
9. Part 2 contains various exemptions where, if the requirements set out are satisfied, entertainment and entertainment facilities are not to be regarded as the provision of regulated entertainment for the purposes of the 2003 Act.
10. Part 3 contains interpretation provisions pertaining to the Schedule, including that “music” includes vocal or instrumental music or any combination of the two.

Section 177 of the 2003 Act

11. Section 177 of the 2003 Act contains provisions about dancing and live music in small premises. It applies in two different situations:
 - Firstly, where a premises licence authorises both the supply of alcohol for consumption on the premises and the provision of “music entertainment”¹.

¹ Music entertainment is defined in section 177(8) by reference to paragraphs 2(1)(e) or (g) of Schedule 1 (performance of live music and dance respectively).

*These notes refer to the Live Music Act 2012 (c.2)
which received Royal Assent on 8th March 2012*

Provided that the premises: (1) are used primarily for the supply of alcohol for consumption on the premises; and (2) have a permitted capacity of not more than 200 persons, then conditions imposed by a licensing authority relating to the provision of live music do not have effect at any time when the premises are open for the supply of alcohol and are being used for music entertainment. However any such conditions will have effect if the licensing authority considers that imposition of a condition is necessary on the grounds of either prevention of crime and disorder or public safety; or if they are altered or added as a result of a review of premises licence² and include a statement that section 177 does not apply.

- Secondly, where a premises licence authorises the provision of music entertainment and the premises have a permitted capacity of not more than 200 persons. If such premises are being used between 8am and midnight for the performance of unamplified live music or the provision of facilities for enabling persons to take part in such a performance, and are not being used for the provision of any other description of regulated entertainment, then conditions imposed by the licensing authority relating to music entertainment do not have effect. However any such conditions will have effect if they are altered or added as a result of a review of the premises licence and include a statement that section 177 does not apply.
12. As well as applying to premises licences, section 177 also applies to club premises certificates³, with the modifications set out in subsection (7).
 13. The Act:
 - amends section 177, so that that section would apply only to dancing;
 - adds a new section 177A dealing with live music; and
 - makes amendments to Schedule 1.
 14. Further detail about the effect of the Act is contained in the section below headed “Commentary on Sections”.

² Sections 51-53 of the 2003 Act deal with review of premises licences.

³ Club premises certificates are dealt with in Part 4 of the 2003 Act.