

EXPLANATORY MEMORANDUM TO
THE LICENSING ACT 2003 (MISCELLANEOUS AMENDMENTS) REGULATIONS
2017

2017 No. 411

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 These Regulations amend certain of the prescribed forms and notices issued under the Licensing Act 2003, in order to reflect changes made by: the Deregulation Act 2015, Legal Aid, Sentencing and Punishment of Offenders Act 2012, the Immigration Act 2016 and the Legislative Reform (Entertainment Licensing) Order 2014.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 This entire instrument applies only to England and Wales.
- 3.3 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 The 2003 Act enables a regime under which premises are authorised to be used for certain activities (referred to as “licensable activities”), namely: the sale of alcohol by retail (for consumption on or off the premises); 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 (the provision of hot food and hot drink between 11pm and 5am). The grant of an authorisation by a licensing authority must be made with a view to promoting one or more of the four licensing objectives: the prevention of crime and disorder, the prevention of public nuisance, public safety and the protection of children from harm.
- 4.2 The Licensing Act 2003 contains powers to prescribe forms and notices and makes provision for what they must and may contain.
- 4.3 The prescribed forms and notices in these regulations have become out of date due to legislative changes. These regulations amend the Licensing Act 2003 (Personal Licences) Regulations 2005 (S.I. 2005/ 41) and the Licensing Act 2003 (Fees) Regulations 2005 (S.I. 2005/79) so as to remove references to the renewal of personal licences and the accompanying fee. Section 68 of the Deregulation Act 2015 removes the need for the holders of personal licences to apply to renew them. These Regulations also amend the Licensing Act 2003 (Premises Licences and Club

Premises Certificates) Regulations 2005 (S.I. 2005/42), the Licensing Act 2003 (Permitted Temporary Activities)(Notices) Regulations 2005 (S.I. 2005/2918) and Licensing Act 2003 (Persistent Selling of Alcohol to Children)(Prescribed Form of Closure Notice) Regulations 2012 (S.I. 2012/963) so as to replace certain forms in those Regulations in order to reflect the following changes in legislation. Section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 removes the limit on the amount of a fine that a magistrates' court can impose. The Immigration Act 2016 introduces measures to regulate the granting of personal licences to those convicted of certain immigration offences or who have been required to pay a civil immigration penalty, and to prevent those without an entitlement to live and work in the UK from holding a personal or premises licence. These changes are made by way of amendment to the Licensing Act 2003. The Legislative Reform (Entertainment Licensing) Order 2014 (S.I. 2014/3253) amends the Licensing Act 2003 so that in certain circumstances the provision of regulated entertainment no longer needs to be authorised under the 2003 Act.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is England and Wales.
- 5.2 The territorial application of this instrument is England and Wales.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

- 7.1 These Regulations bring the prescribed forms and notices issued under the Licensing Act 2003 up to date by amending them to reflect changes made by: the Deregulation Act 2015, Legal Aid, Sentencing and Punishment of Offenders Act 2012, the Immigration Act 2016 and the Legislative Reform (Entertainment Licensing) Order 2014.
- 7.2 These Regulations also make amendments consequent on the coming into force of section 68 of the Deregulation Act 2015 which removes the need for the holders of personal licences to apply to renew them.

Consolidation

- 7.3 Not applicable.

8. Consultation outcome

- 8.1 The changes made by these regulations have not been the subject of consultation.

9. Guidance

- 9.1 Statutory guidance is issued under section 182 of the Licensing Act 2003 to licensing authorities on the discharge of their functions under the 2003 Act. Some of the changes in process reflected in these forms are explained in that guidance.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is no impact on the public sector.
- 10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

- 11.1 The legislation applies to activities that are undertaken by small businesses.

12. Monitoring & review

- 12.1 There are no plans to review these regulations.

13. Contact

- 13.1 Sam Hardy at the Home Office Drugs and Alcohol Unit on 020 7035 1784 can answer any queries regarding the instrument.