



Stop Press

Licensing Reform and Renewals

The Licensing Act 2003 received Royal Assent last July. The First Appointed Date ("FAD") cannot be announced until the Draft Guidance has been approved by Parliament. This is supposed to happen this month (although further delays would not be a surprise!) which would mean the FAD would be sometime around July this year. Councils are likely to encourage a staged application process to avoid all applications being submitted on the FAD.

To recap, the new Act promises more flexibility for operators although Councils are required to have policies. Westminster and Camden Councils in particular are certain to have policies against new licences although the Government seems determined to allow more discretion in respect of trading hours. Whether the Councils pay due regard to Parliament's Guidance is another matter! It is therefore very important to make appropriate representations to the Council when they publish their draft policy for consultation.

At the FAD, the holders of a Justices Licence will need to make two applications. Firstly, for a Personal Licence. Secondly, for a Premises Licence. Davenport Lyons are developing a streamlined system for submitting your applications for making the transition as painless as possible. However, there are sure to be debates with certain Councils about the terms and conditions of existing licences. Details of the application procedure, forms and fees are also yet to be announced which is worrying bearing in mind the Act could take effect in six months time. What can be done now:

1. locate any plans you have of the Premises
2. locate the original licence (or let us know if a copy is required)
3. decide what you want in the way of conditions and trading hours
4. each Premises will need to have a Designated Premises Supervisor - decide who this will be
5. transfer as many individuals onto the Justices' Licence as possible (only the holders of a licence at the FAD will be able to apply for a Personal Licence without doing the new training course)
6. If a licensee is likely to leave before he can be transferred off his licence, obtain his written consent to the transfer
7. Get as much as you can now to obtain the benefits of the "grandfather rights"

Whereas, under the current regime, premises licensed to sell alcohol were allowed to have up to two performers or recorded music, the new Act requires that a permission is required unless the entertainment is incidental, the premises have a capacity of less than 200 or the entertainment is "live". Therefore, in some cases, a variation may need to be submitted at the same time as the conversion application to offer what you are currently providing. Private entertainment will now be licensable if made with a view to profit.

It appears likely that the requirements of Special Hours Certificates etc. will be implied, by way of condition, onto the new licence. Should licensees wish to alter conditions on the licence or extend the hours, an application for variation will be required. Existing Provisional Licences will carry limited weight unless declared final before the FAD. Until the Second Appointed Day, existing licences will remain in force and will require renewal.

We will keep you informed of developments leading up to the FAD but you should not hesitate to contact us should you have any queries in the meantime.

JUSTICES' LICENCE RENEWALS - A REMINDER

All liquor licences (not generally club registration certificates) are due for renewal in February 2004. Whilst there is no standard application form for renewals it is usual practice for the clerk to licensing justices to send out reminders. If you have not received a renewal form from your local magistrates' court by the time you receive this circular you should immediately telephone the court or the licensing team here.

There is no provision for the holder of a protection order, interim authority or the owner of the premises to make the renewal application unless that person is also the licensee. It may be necessary to transfer the licence at the same time if one or more of the licensees has left. Any licence transferred after the 4 January 2004 is renewed automatically. Provisional licences does not need to be renewed but may be time limited.

Unless the license has been granted or transferred after 4 January 2003, if an application for renewal is not made, the licence will lapse on 5 April 2004. If the deadline is missed, it is still possible to renew the licence after the February Transfer sessions either by transferring the licence or asking for a "late renewal". Please contact a member of the Team for further details.

Media, Entertainment and much, much more...

DAVENPORT LYONS

This Bulletin is designed to provide a summary of the subject matter. It does not purport to be comprehensive or a substitute for specialist legal advice in individual circumstances.

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