



LICENSING ACT 2003

**PERSONAL LICENCE APPLICATION
GUIDANCE BOOKLET**

DISCLAIMER

The purpose of this document is to give guidance to individuals and businesses regarding the requirements of the Licensing Act 2003. This guidance is provided on the understanding that the Licensing Authority cannot accept any responsibility or liability for the accuracy or otherwise of any statement, contention, error or omission contained herein. Applicants are strongly advised to seek their own legal and other advice as appropriate.

PERSONAL LICENCES

1. INTRODUCTION

- 1.1 A personal licence authorises the licence holder to supply alcohol, or authorise the supply of alcohol in accordance with the licence.
- 1.2 A personal licence remains valid unless it is surrendered, suspended or revoked.
- 1.3 A personal licence is portable i.e. a licence granted in one part of the country is valid in another part of the country.

2. APPLICATION REQUIREMENTS

- 2.1 Applications for a personal licence must be made to the licensing authority for the area where the applicant ordinarily resides.
- 2.2 New applicants for a personal licence must provide the following:
 - a completed and signed application form and declaration of convictions form;
 - 2 passport photographs, one to be certified (see Appendix A for details);
 - Original licensing qualification;
 - Fee of £37.00;
 - Original Basic Disclosure Scotland criminal record check which is less than one month old.
 - Proof of your Immigration Status (a list of acceptable documents can be found within the notes at the end of the application form)

3. RELEVANT CONSIDERATIONS

- 3.1 The Licensing Authority must grant a personal licence if:
 - the application is made in accordance with the requirements of the Act and Regulations.
 - the applicant is 18 or over; and
 - the applicant possesses a licensing qualification or is a person of a prescribed description;
 - the applicant has not had a personal licence forfeited in the past 5 years and;
 - the applicant has not been convicted of a relevant offence, under Schedule 4 of the Licensing Act 2003 or a foreign offence (see Appendix B.)
- 3.2 There is no discretion to refuse an application for a personal licence made in accordance with the Act, except where the applicant has been convicted of a relevant or foreign offence and a representation has been received from the Police. The list of relevant offences is maintained by the Secretary of State and a foreign offence will be taken into account if it is similar in nature to one of the specified

"relevant offences". Convictions which are "spent" under the Rehabilitation of Offenders Act 1974 cannot be taken into account.

3.3 The Licensing Authority will notify the Police of any application that has an unspent relevant conviction detailed on the criminal record check. The Police have 14 days to raise any objection to the on the grounds that the grant of the licence will undermine the crime and disorder licensing objective. The Licensing Authority rely on the Police to raise an objection in appropriate cases. The Licensing Authority would expect the police to object where the applicant has any relevant unspent conviction, unless the penalty on conviction was relatively minor or the conviction is due to become spent during the application period.

3.4 The applicant must notify the Licensing Authority of any conviction occurring within the application period so that this conviction, if relevant, can be taken into account by the Police when deciding whether to raise an objection to the grant of the licence.

4. DETERMINATION OF APPLICATION

4.1 Where no relevant representation has been received and the application for a personal licence has been properly made, the licence must be granted. A badge and paper licence will be issued to the licensee. Once the licence has been granted, the licence holder must comply with certain legal requirements. Please see the personal licence guidance document for more information.

4.2 If the Police make an objection to the grant of the licence on the grounds that the grant would undermine and the crime and disorder objective, the Licensing Authority will hold a hearing to determine the application. A hearing can be dispensed with if all parties agree that a hearing is unnecessary.

4.3 At the Licensing Sub-Committee, made up of 3 Members, the applicant and Police will have the right to present their case. The Licensing Sub-Committee will determine the application taking into account all representations made. The Licensing Sub-Committee have the option to refuse the licence if it will undermine the crime and disorder objective or they can grant the licence.

5. DESIGNATED PREMISES SUPERVISOR

5.1 Every premises licence needs to specify someone to act as the designated premises supervisor (DPS). That person must hold a current personal licence.

5.2 The designated premises supervisor may, but need not be, the person to whom the premises licence is granted.

5.3 The designated premises supervisor is not required to be personally present at the premises at all times. However, it is essential that the designated premises supervisor is contactable at all times.

5.4 In some instances, such as smaller pubs, it may be that there is only one person also holding a personal licence and that person would need to be recorded as the designated premises supervisor.

5.5 For larger operations, the designation as premises supervisor will indicate which of the team of personal licence holders in fact has the day-to-day responsibility for the running of the premises in accordance with the licence.

APPENDIX A

Photograph Requirements

Applications for a personal licence must include 2 photographs of the applicant and the regulations specify the following:

- The photographs must be 45mm x 35mm in size.
- The applicant must be viewed 'full face'.
- Do not wear sunglasses.
- Do not wear a hat or head covering, including face covering, unless for religious reasons.
- Photographs must be on photographic paper.
- Photographs must be against a light background so that the applicants' facial features are distinguishable and contrast against the background.
- One of the photographs must be endorsed as a true likeness of the applicant by a solicitor, notary, teacher, lecturer or other professional person.

In addition to the above, the Licensing Authority recommend applicants have regard to the following to ensure that photographs are acceptable:

- The two photographs should be as recent as possible i.e. within the past 6 months, and identical.
- 70% to 80% of the photograph should be a close up of the head and shoulders.
- The light background required by the regulations can be achieved by using plain white, cream or light grey background.
- The photograph should be in sharp focus and free of shadows.
- Digital or scanned photographs should be acceptable if printed on photographic paper with a resolution of 1200dsi or more.
- Adopt a natural expression with eyes open and do not include any objects or persons in the photograph.
- Photographs may be reflected from spectacles so care should be taken to ensure that the eyes remain visible.
- Suitable wording for an endorsed photograph is:

'I certify that this is a true likeness of (Miss, Mrs, Miss, Ms, Mr or other title followed by your full name)'. The endorsement should then be signed and dated by the signatory.

SCHEDULE 4 OF LICENSING ACT 2003

SECTION 113 PERSONAL LICENCE: RELEVANT OFFENCES

- 1 An offence under this Act.
- 2 An offence under any of the following enactments-
 - (a) Schedule 12 to the London Government Act 1963 (c. 33) (public entertainment licensing);
 - (b) the Licensing Act 1964 (c. 26);
 - (c) the Private Places of Entertainment (Licensing) Act 1967 (c. 19);
 - (d) section 13 of the Theatres Act 1968 (c. 54);
 - (e) the Late Night Refreshment Houses Act 1969 (c. 53);
 - (f) section 6 of, or Schedule 1 to, the Local Government (Miscellaneous Provisions) Act 1982 (c. 30);
 - (g) the Licensing (Occasional Permissions) Act 1983 (c. 24);
 - (h) the Cinemas Act 1985 (c. 13);
 - (i) the London Local Authorities Act 1990 (c. vii).
- 3 An offence under the Firearms Act 1968 (c. 27).
- 4 An offence under section 1 of the Trade Descriptions Act 1968 (c. 29) (false trade description of goods) in circumstances where the goods in question are or include alcohol.
- 5 An offence under any of the following provisions of the Theft Act 1968 (c. 60)-
 - (a) section 1 (theft);
 - (b) section 8 (robbery);
 - (c) section 9 (burglary);
 - (d) section 10 (aggravated burglary);
 - (e) section 11 (removal of articles from places open to the public);
 - (f) section 12A (aggravated vehicle-taking), in circumstances where subsection (2)(b) of that section applies and the accident caused the death of any person;
 - (g) section 13 (abstracting of electricity);
 - (h) section 15 (obtaining property by deception);
 - (i) section 15A (obtaining a money transfer by deception);

- (j) section 16 (obtaining pecuniary advantage by deception);
 - (k) section 17 (false accounting);
 - (l) section 19 (false statements by company directors etc.);
 - (m) section 20 (suppression, etc. of documents);
 - (n) section 21 (blackmail);
 - (o) section 22 (handling stolen goods);
 - (p) section 24A (dishonestly retaining a wrongful credit);
 - (q) section 25 (going equipped for stealing etc.).
- 6 An offence under section 7(2) of the Gaming Act 1968 (c. 65) (allowing child to take part in gaming on premises licensed for the sale of alcohol).
- 7 An offence under any of the following provisions of the Misuse of Drugs Act 1971 (c. 38)-
- (a) section 4(2) (production of a controlled drug);
 - (b) section 4(3) (supply of a controlled drug);
 - (c) section 5(3) (possession of a controlled drug with intent to supply);
 - (d) section 8 (permitting activities to take place on premises).
- 8 An offence under either of the following provisions of the Theft Act 1978 (c. 31)-
- (a) section 1 (obtaining services by deception);
 - (b) section 2 (evasion of liability by deception).
- 9 An offence under either of the following provisions of the Customs and Excise Management Act 1979 (c. 2)-
- (a) section 170 (disregarding subsection (1)(a)) (fraudulent evasion of duty etc.);
 - (b) section 170B (taking preparatory steps for evasion of duty).
- 10 An offence under either of the following provisions of the Tobacco Products Duty Act 1979 (c.7)-
- (a) section 8G (possession and sale of unmarked tobacco);
 - (b) section 8H (use of premises for sale of unmarked tobacco).
- 11 An offence under the Forgery and Counterfeiting Act 1981 (c. 45) (other than an offence under section 18 or 19 of that Act).
- 12 An offence under the Firearms (Amendment) Act 1988 (c. 45).

- 13 An offence under any of the following provisions of the Copyright, Designs and Patents Act 1988 (c. 48)-
- (a) section 107(1)(d)(iii) (public exhibition in the course of a business of article infringing copyright);
 - (b) section 107(3) (infringement of copyright by public performance of work etc.);
 - (c) section 198(2) (broadcast etc. of recording of performance made without sufficient consent);
 - (d) section 297(1) (fraudulent reception of transmission);
 - (e) section 297A(1) (supply etc. of unauthorised decoder).
- 14 An offence under any of the following provisions of the Road Traffic Act 1988 (c. 52)-
- (a) section 3A (causing death by careless driving while under the influence of drink or drugs);
 - (b) section 4 (driving etc. a vehicle when under the influence of drink or drugs);
 - (c) section 5 (driving etc. a vehicle with alcohol concentration above prescribed limit).
 - (d) Section 6(6) (failing to co-operate with a preliminary test)
- 15 An offence under either of the following provisions of the Food Safety Act 1990 (c. 16) in circumstances where the food in question is or includes alcohol-
- (a) section 14 (selling food or drink not of the nature, substance or quality demanded);
 - (b) section 15 (falsely describing or presenting food or drink).
- 16 An offence under section 92(1) or (2) of the Trade Marks Act 1994 (c. 26) (unauthorised use of trade mark, etc. in relation to goods) in circumstances where the goods in question are or include alcohol.
- 17 An offence under the Firearms (Amendment) Act 1997 (c. 5).
- 18 A sexual offence, being an offence —
- (a) listed in Part 2 of Schedule 15 to the Criminal Justice Act 2003^[2], other than the offence mentioned in paragraph 95 (an offence under section 4 of the Sexual Offences Act 1967 (procuring others to commit homosexual acts));
 - (b) an offence under section 8 of the Sexual Offences Act 1956 (intercourse with a defective);
 - (c) an offence under section 18 of the Sexual Offences Act 1956 (fraudulent abduction of an heiress).
- 19 A violent offence, being any offence which leads, or is intended or likely to lead, to a person's death or to physical injury to a person, including an offence which is required to be charged as arson (whether or not it would otherwise fall within this definition).

- 20 An offence under section 3 of the Private Security Industry Act 2001 (c. 12) (engaging in certain activities relating to security without a licence).
- 21 An offence under section 46 of the Gambling Act 2005 if the child or young person was invited, caused or permitted to gamble on premises in respect of which a premises licence under this Act had effect.
- 22 An offence under the Fraud Act 2006
- 22A An offence under regulation 6 of the Business Protection from Misleading Marketing Regulations 2008 (offence of misleading advertising) in circumstances where the advertising in question relates to alcohol or to goods that include alcohol.
- 23 An offence under regulation 8,9,10,11 or 12 of the Consumer Protection from Unfair Trading Regulations 2008 (offences relating to unfair commercial practices) in circumstances where the commercial practice in question is directly connected with the promotion, sale or supply of alcohol or of a product that includes alcohol.
- 24 An offence under section 1 of the Criminal Attempts Act 1981 of attempting to commit an offence that is a relevant offence.
- 25 An offence under section 1 of the Criminal Law Act 1977 of conspiracy to commit an offence that is a relevant offence.
- 26 The offence at common law of conspiracy to defraud.

Contact Details

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