



OPERATING POLICY AFTER SECOND APPOINTED DAY – 24 NOV 2005

November 2005

The following is a check list of activity and procedures that operators should have in place from after midnight on 23 November 2005.

PREMISES LICENCE

- The holder of a Premises Licence must keep the Licence **or** a certified copy of it at the premises **and** must display a summary of the licence prominently.
- The summary is produced by the licensing authority and must contain information including:
 - the licensable activities and hours authorised
 - the identity of the licence holder
 - the name of the designated premises supervisor.
- The Premises Licence holder must ensure that the licence is kept at the premises under the control of either the holder of the licence, **or** they may nominate someone who works at the premises to hold the licence there.
- Therefore a company holding the Licence will ensure that the certified copy licence will be kept at the premises by some nominated person.
- A notice must be displayed at the premises along with the summary of the licence, giving the identity and position of the person nominated. This would normally be the Designated Premises Supervisor.
- Failure to comply with these requirements is a criminal offence punishable by a fine of £500. A constable or authorised person such as an environmental health officer has the power to require the licence to be produced for examination.
- In the absence of the Licence document itself, yet to be issued by the local authority, then a written statement of the terms of that licence should be temporarily displayed. **(See ALMR Brief – 11 Nov 05)**

TEMPORARY EVENT NOTICES

(See ALMR Brief – 11 Oct 05)

PERSONAL LICENCES

- Sale and supply of alcohol must be authorised by an individual who is the holder of a Personal Licence. A Personal Licence holder must be able to produce the licence
- The supply and sale of alcohol should always abide by the conditions of the Premises Licence.
- Staff need to be generally authorised to sell and supply alcohol (not every sale, obviously!) and operators should consider:
 - An appropriate clause in staff contracts.



- A signed and updated record held on the premises as follows;

FORM OF DELEGATION FOR RETAIL SALE AND SUPPLY OF ALCOHOL
I, [full name of DPS] as Designated Premises Supervisor of the premises known as [pub name and address] am responsible for the authorisation of sales of alcohol under the Licensing Act 2003. I hereby authorise the sale of alcohol by such staff who are employed full time or part time, throughout licensed hours, whether or not I am present on the premises at the time of such sales.
The following named are the members of staff currently so authorised.....
Etc
Etc
Signed..... Date.....

DESIGNATED PREMISES SUPERVISOR (DPS)

- The Premises Licence holder must ensure that there is one specified individual, among personal licence holders at the premises, who can be readily identified as the person with day-to-day responsibility for the running of the premises. This person is the DPS.
- The DPS may be the Premises Licence holder.
- The DPS must be named on the Premises Licence and the name displayed within the premises.
- A DPS has the primary responsibility to ensure that alcohol is sold legally, in line with the terms of the licence granted for the premises and without harm to the four licensing objectives.
- Offences which are most likely to cause a DPS's own personal licence to be put at risk, or lead to a fine, or lead to the matter being reported to the licensing officer with a view to review of the premises licence.
 - Operating a licensable activity without a licence. This could take a number of forms
 - a. Selling alcohol to the public at premises that have neither licence nor TEN
 - b. Selling outside of licensed hours
 - c. Conducting public entertainment on premises where its license does not include it (primarily a premises licensee offence as it does not cover alcohol)
 - d. Continuing to sell alcohol when there is no valid DPS (mainly premises licensee)
 - e. Breach of licence conditions
 - Holding alcohol for unauthorised sale
 - Disorderly conduct of premises
 - Selling alcohol to someone who is drunk, or permitting the sale
 - Sale of alcohol to under 18s or permitting the sale
 - Allowing an unaccompanied child to come onto alcohol premises or allowing alcohol to be bought for a minor (except for 16-18 having beer wine or cider with a meal)
 - Keeping smuggled goods on the premises
 - failing to keep the DPS records up to date, including notifying all changes of address



- It is strongly recommended that the DPS is employed at the premises. It is however possible for another qualified individual (an area manager for example) to be appointed as DPS provided:
 - He/she holds a Personal Licence.
 - Can be demonstrably shown to have day-to-day supervision of the premises.
- Holidays and other absences. Some local authorities and police indicate that they insist on the DPS being present or available at all times the premises are open. In some cases this may not be possible because of holidays or other unavoidable periods. This situation remains to be decided in law but in the meantime we recommend that every premises considers the merits of employing another Personal Licence holder

REGULATED ENTERTAINMENTS – & EXEMPTIONS

- In normal circumstances the Premises Licence will specify any permission for Regulated Entertainment and we recommend that operators work to their licence (or, occasionally, under a Temporary Event Notice), but these entertainments are ONLY licensable if they are for the public. Anything that happens at a private event is outside the Act, whether it happens at home or in a hired hall or at premises that are otherwise licensed for alcohol and entertainment to the public.
- General exemptions from Regulated Entertainment are
 - Background music, whether live or recorded. The general definition of “background” is that it is ancillary to some other activity to create atmosphere, for instance a pub pianist, a CD player behind or even a jukebox (according to Guidance). Another way EHOs look at the definition is that music is background when customers can hold a normal level of conversation over it.
 - Live TV broadcasts
 - Morris dancing and the like
 - Spontaneous music and dancing. The licensee does not need to act in any way to prevent customers from singing or playing instruments they have brought along, if the song or dance has not been organised by the licensee. Neither is there any problem with customers spontaneously starting to dance along to a tune on the jukebox or live music.

APPLICATIONS

Application forms are available at the DCMS website www.culture.gov.uk/alcohol_and_entertainment/licensing_appforms.htm