

Licensing Act 2003

Advice for Club Secretaries

Ref: GN 10



Secretary's Duties – Section 94 LA 2003

If the club premises certificate authorises a qualifying club activity then the club secretary must ensure that the certificate, or a certified copy, is kept at the premises to which it relates and that a nominated person is responsible for it.

The nominated person must be nominated by the secretary in writing and the licensing authority must be notified of the identity of the nominated person.

A 'nominated person' must be either:

- (a) the secretary of the club;
- (b) any member of the club;
- (c) any person who works at the premises for the purposes of the club.

The nominated person must ensure that both a summary of the certificate, or a certified copy, and a notice specifying the position that the nominated person holds at the club are prominently displayed at the premises. A constable or an authorised person may require the nominated person to produce the club premises certificate, or a certified copy, for examination.

The club secretary commits an offence if he fails, without reasonable excuse, to ensure that the certificate, or a certified copy, is held at the premises under the control of a nominated person. The nominated person commits an offence if he fails, without reasonable excuse, to display a summary of the certificate, or a certified copy, or a notice. The nominated person also commits an offence if he fails, without reasonable excuse, to produce the certificate, or certified copy, on demand. These offences carry a maximum level 2 fine on summary conviction.

Duty to notify certain changes – Clubs – Section 82 LA 2003

Section 82 - Notification of change of name or alteration of rules

- (1) Where a club
 - (a) holds a club premises certificate, or
 - (b) has made an application for a club premises certificate which has not been determined by the relevant licensing authority, the secretary of the club must give the relevant licensing authority notice of any change in the name, or alteration made to the rules, of the club.
- (2) Subsection (1) is subject to regulations under section 92(1) (power to prescribe fee to accompany application).
- (3) A notice under subsection (1) by a club which holds a club premises certificate must be accompanied by the certificate or, if that is not practicable, by a statement of the reasons for the failure to produce the certificate.
- (4) An authority notified under this section of a change in the name, or alteration to the rules, of a club must amend the club premises certificate accordingly.
- (5) But nothing in subsection (4) requires or authorises the making of any amendment to a club premises certificate so as to change the premises to

- which the certificate relates (and no amendment made under that subsection to a club premises certificate has effect so as to change those premises).
- (6) If a notice required by this section is not given within the 28 days following the day on which the change of name or alteration to the rules is made, the secretary of the club commits an offence.
 - (7) A person guilty of an offence under subsection (6) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Note. The Licensing Authority will make a charge for notification of the change of name or alteration of rules. This is set by central government. To check the current charge please see the fees information on the Polices and Guidance page in the Licensing part of the District Council's website or check with the Licensing Office's help line on 01395 517410.

General Information

The detailed provisions for club registrations have been simplified under the new Licensing Act 2003, but basic requirements for a new Club Premises Certificate still remains the same. A Club Premises Certificate is granted to a qualifying club by the Licensing Authority rather than the magistrates and may be granted to premises that are occupied by, and habitually used for the purposes of a club.

To be a qualifying club for the grant of a certificate the club must be conducted in good faith as a club. There must be a two-day interval between nomination or proposal and election or grant of membership. The members must manage the supply of alcohol under arrangements that do not allow for a particular individual or individuals to make a profit from the supply or receive any commission or similar benefit on purchases made by the club.

The old Licensing Act 1964 allowed club rules to provide admission to a club to persons other than members and their bona fide guests and would allow the sale of intoxicating liquor to such persons for consumption on the premises.

The new Licensing Act 2003 has tightened up the rules on the type of persons allowed admission to the club and who are allowed to purchase and consume alcohol. The act states that apart from members and their guests the **only** other persons who may be sold alcohol are 'associate members' and their guests (these guests are to be treated as 'guests of a member' under the act).

An associate member is to be defined as – someone admitted under the rules of the club as being a member of another club which is a recognised club (this means a club as defined as a qualifying club under the new act as described above)

The impact this has on registered clubs in the East Devon area is that the clubs who have taken advantage of the relaxation under the Licensing Act 1964 to make provision in their rules for various types of visitors to use the club and to hire their club out on a regular basis will **no longer** be able to do so.

This will effect local clubs who have rules that allow non-members into their clubs – for example –

- 'The Little Ship Rule' this rule allows the club to be hired out to non-member for events up to twelve times in any twelve months.

- Various sporting clubs that have varying worded rules that allow visiting sporting teams, officials and their supporters to use the club bar on the day of the event/match.
- 'Temporary' members' rules that allows short-term membership for various time periods to non-members who then have access to the bar on the same basis as ordinary club members.

None of these is permitted under the new legislation.

Clubs should also be aware that the 'provision of entertainment', which was allowed under the old act, now becomes a licensable activity.

The effect on clubs is that such activities as live music, dancing, indoor sporting events, provision of late night refreshment etc. which were allowed to take place in registered clubs without the need for a licence now become licensable activities. If clubs wish to retain these activities they will have to apply to vary their certificate to include these extra licensable activities.

If club committees consider that, the tighter restrictions under the new act too restrictive then they should consider changing their licence to a new Premises Licence.

As always if you require any further information you may contact the District Council's Licensing Service by telephoning our helpline on 01395 517410. Should you intend making a personal trip to the Council Offices please telephone for an appointment to ensure an officer is available to see you. Further information can be found in the Licensing Pages of the District Council's website:

http://www.eastdevon.gov.uk/index/council_services/licensing.htm

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