

A Guide to the Licensing Act 2003 Registered Clubs



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Ref: GN 4

This guidance relates mainly to Club Premises Certificates although there are certain situations where a Premises Licence may also be required. If you are considering applying for a premises licence please see separate guidance and consider taking independent advice.

What is the general effect of the Act?

The Licensing Act 2003 transfers responsibility for the registration of Clubs from the Magistrates Court to the Council.

What are the fees for the various licences?

The fees for the different types of licences and permissions have been set in regulations by Parliament. The fees and charges that will be made under the Licensing Act 2003 are shown at Appendix A.

What are Qualifying Clubs?

Qualifying clubs are organisations where Members have joined together for particular social, sporting or political purposes and have bought alcohol in bulk for members for supply in the context. They commonly include Labour, Conservative and Liberal Clubs, the Royal British Legion, other ex-services clubs, working men's clubs, miner's welfare institutions and social and sports clubs.

To be a Qualifying Club you must comply with the following rules:

- At least 48 hours must pass between people being admitted to membership, or as candidates for membership, and their admission to the Club;
- If Members are admitted without nomination, the Club rules must state they will not be admitted to the privileges of membership without an interval of at least 48 hours between their becoming members and their admission;
- The Club must be conducted in good faith (see below);
- The Club must have at least 25 members;
- You must not supply, or intend to supply, alcohol to members on the premises otherwise than by, or on behalf of, the Club.

Under the Licensing Act 1964, registered clubs could sell alcohol to minors. The sale or supply of alcohol to children in these clubs will now be unlawful under the new Act and cannot take place.

In order to supply alcohol on the premises, you must also meet the following conditions:

- ❑ Unless managed by the Club in general meetings or by a body of members, the purchase of alcohol for the Club, and supply of alcohol by the Club, must be managed by a Committee whose members are all members of the Club aged 18 or over, and who have been elected by the members of the Club. There is an exemption to this condition for industrial and provident societies, friendly societies and miner's welfare institutions;
- ❑ No person can receive, or be intended to receive, any commission, percentage or similar payment at the Club's expense on or concerning purchase of alcohol by the Club;
- ❑ No person can derive, or be intended to derive, a financial benefit from the supply of alcohol by or on behalf of the Club to guests or Members, except where:
 - ❑ The benefit accrues to the Club as a whole;
 - ❑ The benefit derived indirectly by a person from the supply producing or contributing to a general gain from the carrying on of the Club.

What does “conducted in good faith” mean?

The following factors must be considered when deciding whether a Club is conducted in good faith:

- ❑ Arrangements restricting the Club's freedom in purchasing alcohol;
- ❑ Any provision in the Club rules or arrangements concerning how money or property of the Club or any gain arising from the carrying on of the Club will be spent, unless it is for the benefit of the Club as a whole or for charitable, benevolent or political purposes;
- ❑ The arrangements for providing members with information about Club finances;
- ❑ The account books and other records ensuring the accuracy of that information;
- ❑ The nature of the premises occupied by the Club.

If the Council is not satisfied that your Club is being conducted in good faith, it must give you notice of its decision and the reason for it.

What are the benefits of being a Qualifying Club?

- ❑ Nobody needs to hold a Personal Licence to sell or supply alcohol;
- ❑ You do not need to appoint a Designated Premises Supervisor;
- ❑ The Police and authorised persons have limited powers of entry because the premises are considered private and not open to the public;
- ❑ The premises are not subject to powers of Police closure on grounds of disorder and noise nuisance (unless they are being used under a Temporary Event Notice or Premises Licence at the time) because they operate under strict rules of discipline and rules that are rigorously enforced;
- ❑ The premises are not subject to potential Magistrates Court orders to close all licensed premises in an area where disorder is happening or expected to happen.

What is a Personal Licence?

A Personal Licence permits the holder to authorise the sale of alcohol but is not required if you are operating solely under a Club Premises Certificate or Temporary Event Notice.

What do I need a Club Premises Certificate for?

You need to obtain a licence for the following activities:

- ❑ To supply alcohol to a club member, or to sell alcohol to a guest of a club member
- ❑ To provide regulated entertainment
- ❑ To sell hot food or hot drink between 11.00pm and 5.00am for consumption on or off the premises, unless you are a hotel, staff canteen or campsite. This does not apply to you if you are only selling alcohol to Club members and bona fide guests.

What is regulated entertainment?

The following kinds of entertainment are subject to regulation:

1. Plays
2. Film exhibitions
3. Indoor sporting events
4. Boxing or wrestling exhibitions
5. Live music (karaoke included)
6. Recorded music
7. Dancing by the public or performers
8. Any entertainment similar to that described in 5, 6 or 7 above.

But only where:

- ❑ The entertainment is provided in front of an audience or spectators and is for the purpose of entertaining those persons AND
- ❑ The entertainment is:
 - ❑ To any extent to members of the public OR
 - ❑ Exclusively to members of a qualifying club and their guests; OR
 - ❑ For consideration and with a view to profit. The charge must be made by or on behalf of the entertainment organisers or management or the premises management, and must be paid for by or on behalf of some or all of the persons attending the event. This would include, for example, letting out a room in your premises for people to use for wedding receptions.

What about providing entertainment facilities?

You still need a club premises certificate for regulated entertainment, even if you are just providing facilities for making music, dancing, or entertainment of a similar description.

This means, for example, that you require a club premises certificate for:

- ❑ Having a piano on the premises for the use of customers or performers;
- ❑ Having a dance floor on the premises;
- ❑ Providing a video jukebox.

If you are a qualifying club the following do not have to be declared.

- ❑ Films which are solely or mainly to demonstrate a product, advertise goods or services, or provide information, education or instruction;
- ❑ Films as part of an exhibition in a museum or gallery;
- ❑ TV and radio broadcasts, providing they are shown “live” and not recorded;
- ❑ Religious meetings or services;
- ❑ Entertainment in places of public religious worship;
- ❑ Garden fetes (unless held for private gain);
- ❑ Entertainment provided in a moving vehicle;
- ❑ Morris dancing;
- ❑ Incidental entertainment.

What is “incidental entertainment”?

Incidental entertainment is entertainment provided not as the main purpose of the event. This is sometimes a difficult area and if you are unsure you should contact us for advice. Examples of “incidental” entertainment are:

- ❑ music during keep fit classes (people are there to exercise);
- ❑ salsa dance classes (people are there to learn to dance);
- ❑ a club jukebox playing in the background (people are there to drink, the music is not an influencing factor).

What about one off events and special occasions?

If you are holding a licensable activity that falls into one of the following categories:

- ❑ Less than 500 people attending
- ❑ Lasting for not more than 96 hours, with a break of at least 24 hours thereafter

You can hold your event by submitting a Temporary Event Notice (TEN) to the Licensing Authority.

This notice allows you to hold a licensable activity on premises that are not currently licensed, or to hold activities your existing certificate does not permit. This would include for example:

- ❑ Selling alcohol at a fete
- ❑ Providing regulated entertainment at a club where the current certificate does not permit this
- ❑ Staying open to sell hot food in to the night on a special occasion (e.g. New Years Eve)
- ❑ Selling alcohol after the hours your normal certificate permits, e.g. for a special occasion
- ❑ An amateur dramatics group putting on a play in your club.

Are there any restrictions on TENs?

- ❑ You can only have up to five TENs a year if you are not a Personal Licence Holder;
- ❑ You can only have up to 50 TENs a year if you are a Personal Licence Holder (see section below on Personal Licences);
- ❑ You must be aged 18 or over;
- ❑ Restrictions apply where the applicant is an “associated person” of someone who has already given a TEN, including spouses, close relations, agents and employees, and their spouses. The word “spouse” also includes someone living with the notice giver;
- ❑ You can only have a maximum of 12 TENs a year for any particular premises, subject to an overall limit of no more than 15 days in total (where the TEN lasts for more than one day). This means a club building can only have 12 TENs in any twelve months

If your event/activity falls outside these restrictions, you will require a full premises licence.

If the number of TENs you seek in a year exceeds the limits above, the Licensing Authority must serve a counter notice prohibiting the event from going ahead. This must be served at least 24 hours before the event.

We will consult the Police on your application. They can only object if they feel your event would undermine the Crime Prevention Objective. If they do object, we will hold a public hearing in front of a Licensing Sub Committee to determine your application (unless all parties can agree a hearing is unnecessary). The Sub Committee will listen to evidence from both sides before deciding if the event can go ahead. However, Government guidance requires that we refuse permission for the event in these circumstances unless there are exceptional reasons not to.

What about outdoor events? (e.g. a fete held on a sports club field)

An outdoor space is still regarded as “premises” under the Act and you must obtain consent for any licensable activities you hold in the open air. If the event is for more than 499 persons, you will require a Premises Licence. You can apply for the Premises Licence to have effect for a limited duration, e.g. for a one-day festival.

Small outdoor events of less than 500 persons can be dealt with by way of a Temporary Event Notice.

What about if I let out a room for private hire?

You cannot let out a room for private hire for licensable activities to non-members under the terms of your Club Premises Certificate, if you make a profit either by way of a hire charge or by bar takings.

If you wish to do this, you will need to submit a Temporary Event Notice (provided you comply with the limits on these given above) or apply for a Premises Licence.

The rest of the premises would operate under your Club Premises Certificate (for the times you are operating as a Qualifying Club). The function room would operate under a Premises Licence, which you would only use on those occasions when the room was let out. You would therefore only need to have a DPS and (Personal Licence Holders) on the premises for the times when you are hiring out the room to non-members.

If your premises are used in this way, you can contact the Licensing Section for guidance and advice on what application to submit.

Do I need a licence to offer alcohol as a prize in raffles and tombolas?

These are exempt provided that:

- They are promoted as part of an exempt entertainment;
- Proceeds after relevant expenses are not for private gain;
- The alcohol must be in a sealed container;
- No money prizes must be offered; and
- Tickets are sold only at the place where the entertainment is occurring.

So what happens with my application and how do I fill the form in?

See the separate guidance for full details of the application process.

This guidance note has been made as comprehensive as possible. However, in attempting to simplify the law, certain requirements have been omitted. Full details of what you must do are in the legislation itself. The information in this guidance was accurate when produced but you are always advised to seek your own legal advice should you have any queries.

The contents of these pages are provided as an information guide only. They are not a full and authoritative statement of the law and do not constitute professional or legal advice. Any statements on these pages do not replace, extend, amend or alter in any way the statutory provisions of the Licensing Act 2003 or any subordinate legislation made under it or statutory guidance issued in relation to it. East Devon District Council accepts no responsibility for any errors, omissions or misleading statements on these pages, or any site to which these pages refer. In particular, it must be noted that, although East Devon District Council has made every effort to ensure that the information in these pages is correct, changes in the law and the nature of implementation mean that the information in these pages cannot be guaranteed as accurate.

LICENSING ACT 2003 CHARGES

Rateable values and Bands (Non Domestic Rateable Values)

Table 1

Band	Rateable Value
A	£0 - £4,300
B	£4301 - £33,000
C	£33,001 - £87,000
D	£87,001 - £125,000
E	£125001 and above

Information on non-domestic rateable values (Business Rates) can be obtained from the Valuation Office Agency at their website: www.voa.gov.uk

Club Premises Certificates (new and conversions) [there is no additional variation fee in the case of a simultaneous conversion and variation of a Club Premises Certificate]

(Based on the rateable value of the premises as detailed in the table above)

Table 2

Band	Fee
A	£100
B	£190
C	£315
D*	£450
E*	£635

Annual Fee for Premises Licences and Club Premises Certificates

Table 3

Band	Fee
A	£70
B	£180
C	£295
D	£320
E	£350

Miscellaneous Fees

Table 4

Application or notice	Fee
Theft, loss etc, of a premises licence or summary	£10.50
Application for a provisional statement where a premises is being built	£315.00
Notification of change of name or address	£10.50
Application to vary licence to specify individual as premises supervisor	£23.00
Application for transfer of premises licence	£23.00
Interim authority notice following death etc. of licence holder	£23.00
Theft, loss etc. of certificate or summary	£10.50
Notification of change of name or alteration of rules of club	£10.50
Change of relevant registered address of club	£10.50
Temporary event notice	£21.00
Theft, loss etc. of temporary event notice	£10.50
Application for a grant or renewal of personal licence	£37.00
Theft, loss of a personal licence	£10.50
Notification of the change of a name and address	£10.50
Notification of a freeholder of licensing matters	£21.00

Additional Fees

Additional fee to be paid for premises where there are 5000 or more persons specified on the licence

Table 5

Number	Additional Fee (new)	Additional Fee (annual charge)
5,000 – 9,999	£1,000	£500
10,000 – 14,999	£2,000	£1,000
15,000 – 19,999	£4,000	£2,000
20,000 – 29,999	£8,000	£4,000
30,000 – 39,999	£16,000	£8,000
40,000 – 49,999	£24,000	£12,000
50,000 – 59,999	£32,000	£16,000
60,000 – 69,999	£40,000	£20,000
70,000 – 79,999	£48,000	£24,000
80,000 – 89,999	£56,000	£28,000
90,000 and over	£64,000	£32,000

Notes

1. The preferred method of payment is by cheque, made payable to East Devon District Council.
2. Premises fees are calculated by firstly determining the non-domestic rateable value for the premises or business (NDRV) (Table 1). This determines the fee band for the premises or business. Reference to table 2 will show the licence fee payable for the conversion of the licence.
3. Premises seeking a licence with a capacity of 5000 or more persons will be required to pay an additional fee as indicated in Table 5.
4. The annual fees shown at Table 3 will become due and payable each year on the anniversary of the date of the grant of the club premises certificate by the Licensing Authority.
5. For premises or businesses without a non-domestic rateable value, the following applies:
 - ❑ Premises with no NDRV – will be allocated to Band A
 - ❑ Premises under construction – will be allocated to Band C
 - ❑ Licensed areas that form part of a larger premises – the NDRV for the whole premises will be used for licence fee calculation purposes
 - ❑ Premises which are part of two or more premises with separate NDRV's – the higher NDRV will be used for licence fee calculation purposes
6. Fee exemptions are available, but only in relation to schools and community buildings that are licensed for regulated entertainment. If the licence includes alcohol sales, no fee exemptions can be given.
7. The miscellaneous fees and charges under the Licensing Act 2003 are shown at Table 4.