

# **APPENDICES**

<b>Appendix A</b>	<b>(Pool of Model Conditions)</b>
<b>Appendix B</b>	<b>(Mandatory Conditions)</b>
<b>Appendix C</b>	<b>(Definitions)</b>
<b>Appendix D</b>	<b>Premises Licences/Club Premises Certificates (Factors for Consideration)</b>

# **APPENDIX A**

## **POOL OF MODEL CONDITIONS RELATING TO:**

**Annex A Part I  
Disorder**

**Prevention of Crime and**

**Annex A Part II**

**Public Safety**

**Annex A Part III**

**Prevention of Public Nuisance**

**Annex A Part IV**

**Protection of Children from Harm**

## **Annex A Part I [Conditions relating to the prevention of crime and disorder]**

**It should be noted in particular that it is unlawful under the 2003 Act:**

- **knowingly to sell or supply or attempt to sell or supply alcohol to a person who is drunk**
- **knowingly to allow disorderly conduct on licensed premises**
- **for the holder of a premises licence or a designated premises supervisor knowingly to keep or to allow to be kept on licensed premises any goods that have been imported without payment of duty or which have otherwise been unlawfully imported**
- **to allow the presence of children under 16 who are not accompanied by an adult between midnight and 5am at any premises licensed for the sale of alcohol for consumption on the premises, and at any time in premises used exclusively or primarily for the sale and consumption of alcohol**

**Conditions enforcing these arrangements are therefore unnecessary**

### **General**

When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, when responsible authorities are considering such applications and when licensing authorities are considering applications following the receipt of any relevant representations from a responsible authority or interested party, the following options should be considered as measures which, if necessary, would promote the prevention of crime and disorder.

Whether or not any risk assessment shows these options to be necessary in the individual circumstances of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved. It should also be borne in mind that club premises operate under codes of discipline to ensure the good order and behaviour of members.

Necessary conditions for the licence or certificate will also depend on local knowledge of the premises.

Under no circumstances should the following measures be regarded as standard conditions to be automatically imposed in all cases. They are designed to provide a range of possible conditions drawn from experience relating to differing situations and to offer guidance.

Any individual preparing an operating schedule is at liberty to volunteer any measure, such as those described below, as a step he or she intends to take to promote the licensing objectives. When incorporated into the licence or certificate as a condition, they become enforceable under the law and a breach of such a condition could give rise to prosecution.

## **Text/Radio pagers**

Text and radio pagers connecting premises licence holders, designated premises supervisors, managers of premises and clubs to the local police can provide for rapid response by the police to situations of disorder which may be endangering the customers and staff on the premises.

Such pagers provide two-way communication, both enabling licence holders, managers, designated premises supervisors and clubs to report incidents to the police, and enabling the police to warn those operating a large number of other premises of potential trouble-makers or individuals suspected of criminal behaviour who are about in a particular area. Pager systems can also be used by licence holders, door supervisors, managers, designated premises supervisors and clubs to warn each other of the presence in an area of such people.

The Secretary of State recommends that text or radio pagers should be considered appropriate necessary conditions for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. Following individual consideration of the particular circumstances of the venue, such conditions may also be appropriate and necessary in other areas for the prevention of crime and disorder.

It is recommended that a condition requiring the text/radio pager links to the police should include the following elements:

- **a requirement that the text/pager equipment is kept in working order at all times;**
- **a requirement that the pager link be activated, made available to and monitored by the designated premises supervisor or a responsible member of staff at all times that the premises are open to the public;**
- **a requirement that any police instructions/directions are complied with whenever given; and**
- **a requirement that all instances of crime or disorder are reported via the text/radio pager link by the designated premises supervisor or a responsible member of staff to an agreed police contact point.**

## **Door supervisors**

Conditions relating to the provision of door supervisors and security teams may be valuable in:

- **preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder;**
- **keeping out excluded individuals (subject to court bans or imposed by the licence holder);**
- **searching and excluding those suspected of carrying illegal drugs, or carrying offensive weapons; and**
- **maintaining orderly queuing outside of venues prone to such queuing.**

Where door supervisors conducting security activities are to be a condition of a licence, which means that they would have to be registered with the Security Industry Authority,

conditions may also need to deal with the number of such supervisors, the displaying of name badges, the carrying of proof of registration, where and at what times they should be stationed on the premises, and whether at least one female supervisor should be available (for example, if female customers are to be the subject of body searches). Door supervisors also have a role to play in ensuring public safety (see Annex A Part II).

## **Bottle bans**

Glass bottles may be used as weapons inflicting more serious harm during incidents of disorder. A condition can prevent sales of drinks in glass bottles for consumption on the premises.

It is recommended that a condition requiring that no sales of beverages in glass bottles for consumption on the premises should be expressed in clear terms and include the following elements:

- **no bottles containing beverages of any kind, whether open or sealed, shall be given to customers on the premises whether at the bar or by staff service away from the bar;**
- **no customers carrying open or sealed bottles shall be admitted to the premises at any time that the premises are open to the public (note: this needs to be carefully worded where off-sales also take place);**

In appropriate circumstances, the condition could include exceptions, for example, as follows:

- **but bottles containing wine may be sold for consumption with a table meal by customers who are seated in an area set aside from the main bar area for the consumption of food.**

## **Plastic containers and toughened glass**

Glasses containing drinks may be used as weapons during incidents of disorder and in untoughened form, can cause very serious injuries. Consideration could therefore be given to conditions requiring either the use of plastic containers or toughened glass which inflicts less severe injuries where considered necessary. Location and style of the venue and the activities carried on there would be particularly important in assessing whether a condition is necessary. For example, the use of glass containers on the terraces of some outdoor sports grounds may obviously be of concern, and similar concerns may also apply to indoor sports events such as boxing matches. Similarly, the use of such plastic containers or toughened glass during the televising of live sporting events, such as international football matches, when high states of excitement and emotion fuelled by alcohol might arise, may be a necessary condition.

It should be noted that the use of plastic or paper drinks containers and toughened glass may also be relevant as measures necessary to promote public safety (see Annex A Part II).

## **CCTV**

The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licensed premises. Conditions should not

just consider a requirement to have CCTV on the premises, but also the precise siting of each camera, the requirement to maintain cameras in working order, and to retain recordings for an appropriate period of time.

The police should provide individuals conducting risk assessments when preparing operating schedules with advice on the use of CCTV to prevent crime

### **Open containers not to be taken from the premises**

Drinks purchased in licensed premises or clubs may be taken from those premises for consumption elsewhere. Where premises are licensed for the sale of alcohol for consumption off the premises that would be entirely lawful. However, consideration should be given to a condition preventing the taking of alcoholic and other drinks from the premises in open containers (egg glasses and opened bottles). This may again be necessary to prevent the use of these containers as offensive weapons in surrounding streets after individuals have left the premises

### **Restrictions on drinking areas**

It may be necessary to restrict the areas where alcoholic drinks may be consumed in premises after they have been purchased from the bar. An example would be at a sports ground where the police consider it necessary to prevent the consumption of alcohol on the terracing of sports grounds during particular sports events. Such conditions should not only specify these areas, but indicate the circumstances in which the ban would apply and times at which it should be enforced.

### **Capacity limits**

Although most commonly made a condition of a licence on public safety grounds, consideration should also be given to conditions which set capacity limits for licensed premises or clubs where it may be necessary to prevent overcrowding which can lead to disorder and violence. Where such a condition is considered necessary, consideration should also be given to whether door supervisors would be needed to ensure that the numbers are appropriately controlled.

### **Proof of age cards**

It is unlawful for children under 18 to attempt to buy alcohol just as it is unlawful to sell or supply alcohol to them. To prevent such crimes, it may be necessary to require a policy to be applied at certain licensed premises requiring the production of "proof of age" before such sales are made. This should not be limited to recognised "proof of age" cards, but allow for the production of other proof, such as photo-driving licences, student cards and passports. The Secretary of State strongly supports the PASS accreditation system (see paragraph 12.8 of the Guidance), which aims to approve and accredit various proof of age schemes that are in existence. This ensures that such schemes maintain high standards, particularly in the area of integrity and security, and where appropriate and necessary, conditions may refer directly to PASS accredited proof of age cards, photo-driving licences and passports.

It should be noted that many adults in England and Wales do not currently carry any proof of age. This means that the wording of any condition will require careful thought.

For example, the requirement might be to ensure sight of evidence of age from any person appearing to those selling or supplying alcohol to be under the age of 18 and who is attempting to buy alcohol. This would ensure that most minors – even those looking older – would need to produce proof of age appropriately before making such a purchase. Under such an arrangement only a minority of adults might be affected, but for the majority there would be no disruption to their normal activity, for example, when shopping in a supermarket.

### **Crime prevention notices**

It may be necessary at some premises for notices to be displayed, which warn customers of the prevalence of crime, which may target them. Some premises may be reluctant to volunteer the display of such notices for commercial reasons. For example, in certain areas, a condition attached to a premises licence or club premises certificate might require the displaying of notices at the premises which warn customers about the need to be aware of pickpockets or bag snatchers, and to guard their property. Similarly, it may be necessary for notices to be displayed, which advise customers not to leave bags unattended because of concerns about terrorism. Consideration could be given to a condition requiring a notice to display the name of a contact for customers if they wish to report concerns

### **Drinks promotions**

Standardised conditions should not be attached to premises licences or club premises certificates, which promote fixed prices for alcoholic drinks. It is also likely to be unlawful for licensing authorities or police officers to promote voluntary arrangements of this kind. This can risk creating cartels. Using conditions to control the prices of alcoholic drinks in an area may also breach competition law. Conditions tailored to the individual circumstances of particular premises which address irresponsible drinks promotions may be permissible provided they are necessary for the promotion of the licensing objectives, but licensing authorities should take their own legal advice before a licence or certificate is granted in that form. Judgments may be subjective, and on occasions, there will be a very fine line between responsible and irresponsible promotions but an even greater distinction to whether the promotion in question can be subject to the imposition of a condition. It is therefore vital that such matters are considered objectively in the context of the licensing objectives and with the benefit of appropriate legal advice. In addition, when considering any relevant representations which demonstrate a clear causal link between sales promotions or discounting and levels of crime and disorder on or in the vicinity of the premises, it would be appropriate for the licensing authority to consider whether the imposition of a new condition prohibiting irresponsible sales promotions or discounting of prices of alcoholic beverages is necessary at those premises. However, before pursuing any form of restrictions at all, licensing authorities should take their own legal advice.

## **Signage**

It may be necessary for the normal hours under the terms of the premises licence or club premises certificate at which licensable activities are permitted to take place to be

displayed on or immediately outside the premises so that it is clear if breaches of the terms of the licence or certificate are taking place. Similarly, it may be necessary for any restrictions on the admission of children to be displayed on or immediately outside the premises so that the consequences of breaches of these conditions would also be clear and to deter those who might seek admission in breach of those conditions.

## **Large capacity venues used exclusively or primarily for the “vertical” consumption of alcohol (HVVDs)**

Large capacity “vertical drinking” premises, sometimes called High Volume Vertical Drinking establishments (HVVDs), are premises with exceptionally high capacities, used primarily or exclusively for the sale and consumption of alcohol, and have little or no seating for patrons.

Where necessary and appropriate, conditions can be attached to premises licences for the promotion of the prevention of crime and disorder at such premises (if not volunteered by the venue operator and following representations on such grounds), which require adherence to:

- **a prescribed capacity;**
- **an appropriate ratio of tables and chairs to customers based on the capacity; and**
- **the presence of SIA registered security teams to control entry for the purpose of compliance with the capacity limit.**

## **Annex A Part II [Conditions relating to public safety including fire safety]**

It should be noted that conditions relating to public safety should be those which are necessary, in the particular circumstances of any individual premises or club premises, and should not duplicate other requirements of the law. Equally, the attachment of conditions to a premises licence or club premises certificate will not in any way relieve employers of the statutory duty to comply with the requirements of other legislation including the Health and Safety at Work etc Act 1974, associated regulations and especially the requirements under the Management of Health and Safety at Work Regulations 1999 and the Fire Precautions (Workplace) Regulations 1997 to undertake risk assessments. Employers should assess the risks, including risks from fire, and take measures necessary to avoid and control these risks. Conditions enforcing those requirements would therefore be unnecessary.

## **General**

When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, responsible authorities are considering such applications and licensing authorities are considering applications

following the receipt of relevant representations from a responsible authority or interested party, the following options should be considered as measures that, if necessary, would promote public safety. Additional matters relating to cinemas and theatres are considered in this Annex. It should also be recognised that special issues may arise in connection with outdoor and large scale events.

Whether or not any risk assessment shows any of the measures to be necessary in the individual circumstances of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved.

Necessary conditions for the licence or certificate will also depend on local knowledge of the premises.

In addition, to considering the points made in this Annex, those preparing operating schedules or club operating schedules, licensing authorities and responsible authorities should consider:

- **Model National and Standard Conditions for Places of Public Entertainment and Associated Guidance ISBN 1 904031 11 0 (Entertainment Technology Press – ABTT Publications)**
- **The Event Safety Guide – A guide to health, safety and welfare at music and similar events (HSE 1999)(“The Purple Book”) ISBN 0 7176 2453 6**
- **Managing Crowds Safely (HSE 2000) ISBN 0 7176 1834 X**
- **5 Steps to Risk Assessment: Case Studies (HSE 1998) ISBN 07176 15804**
- **The Guide to Safety at Sports Grounds (The Stationery Office, 1997) (“The Green Guide”) ISBN 0 11 300095 2**
- **Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by the Independent Street Arts Network, copies of which may be obtained through: [www.streetartsnetwork.org/pages/publications](http://www.streetartsnetwork.org/pages/publications)**
- **The London District Surveyors Association’s “Technical Standards for Places of Public Entertainment” ISBN 0 9531229 2 1**

The following British Standards should also be considered:

- BS 5588 Part 6 (regarding places of assembly)
- BS 5588 Part 9 (regarding ventilation and air conditioning systems)
- BS 5588 Part 9 (regarding means of escape for disabled people)
- BS 5839 (fire detection, fire alarm systems and buildings)
- BS 5266 (emergency lighting systems)

However, in consulting these texts, which were prepared prior to the coming into force of the Licensing Act 2003, those creating operating schedules or club operating schedules, licensing authorities and responsible authorities should again note that under no circumstances should any conditions be regarded as standard for all premises.

Any individual preparing an operating schedule or club operating schedule is at liberty to volunteer any measure, such as those described below, as a step he or she intends to take to promote the licensing objectives. When incorporated into the

licence or certificate as a condition, they become enforceable under the law and a breach of such a condition could give rise to prosecution.

### **Disabled people**

In certain premises where existing legislation does not provide adequately for the safety of the public, consideration might also be given to conditions that ensure that:

- **when disabled people are present, adequate arrangements exist to enable their safe evacuation in the event of an emergency; and**
- **disabled people on the premises are made aware of those arrangements.**

### **Escape routes**

It may be necessary to include conditions relating to the maintenance of all escape routes and exits including external exits. These might be expressed in terms of the need to ensure that such exits are kept unobstructed, in good order with non-slippery and even surfaces, free of trip hazards and clearly identified. In restaurants and other premises where chairs and tables are provided this might also include ensuring that internal gangways are kept unobstructed.

In certain premises where existing legislation does not provide adequately for the safety of the public, consideration might also be given to conditions that ensure that:

- **all exits doors are easily openable without the use of a key, card, code or similar means;**
- **doors at such exits are regularly checked to ensure that they function satisfactorily and a record of the check kept;**
- **any removable security fastenings are removed whenever the premises are open to the public or occupied by staff;**
- **all fire doors are maintained effectively self-closing and shall not be held open other than by approved devices (for example, electromagnetic releases operated by smoke detectors);**
- **fire resisting doors to ducts, service shafts, and cupboards shall be kept locked shut; and**
- **the edges of the treads of steps and stairways are maintained so as to be conspicuous.**

### **Safety checks**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- **safety checks are carried out before the admission of the public; and**
- **details of such checks are kept in a Log-book.**

### **Curtains, hangings, decorations and upholstery**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- hangings, curtains and temporary decorations are maintained in a flame-retardant condition;
- any upholstered seating meets on a continuous basis the pass criteria for smouldering ignition source 0, flaming ignition source 1 and crib ignition source 5 when tested in accordance with section 5 of BS 5852:1990;
- curtains, hangings and temporary decorations are arranged so as not to obstruct exits, fire safety signs or fire-fighting equipment; and
- temporary decorations are not used without prior notification to the licensing authority/fire authority.

### **Accommodation limits**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- **arrangements are made to ensure that any capacity limit imposed under the premises licence or club premises certificate are not exceeded; and**
- **the licence holder, a club official, manager or designated premises supervisor should be aware of the number of people on the premises and required to inform any authorised person on request.**

### **Fire action notices**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- **notices detailing the actions to be taken in the event of fire or other emergencies, including how the fire brigade should be summoned, are prominently displayed and protected from damage and deterioration.**

### **Outbreaks of fire**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- **the fire brigade must be called at once to any outbreak of fire, however slight, and the details recorded in a Fire Log-book.**

### **Loss of water**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- **the local Fire Control Centre are notified as soon as possible if the water supply to any hydrant, hose reel, sprinkler, drencher or other fire extinguishing installation is cut off or restricted.**

## **Access for emergency vehicles**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- **access for emergency vehicles is kept clear and free from obstruction.**

## **First aid**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- **adequate and appropriate supply of first aid equipment and materials is available on the premises;**
- **if necessary, at least one suitably trained first-aider shall be on duty when the public are present; and if more than one suitably trained first-aider that their respective duties are clearly defined.**

## **Lighting**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- **in the absence of adequate daylight, the lighting in any area accessible to the public, members or guests shall be fully in operation when they are present;**
- **fire safety signs are adequately illuminated;**
- **emergency lighting is not altered;**
- **emergency lighting batteries are fully charged before the admission of the public, members or guests; and**
- **in the event of the failure of normal lighting, where the emergency lighting battery has a capacity of one hour, arrangements are in place to ensure that the public, members or guests leave the premises within 20 minutes unless within that time normal lighting has been restored and the battery is being re-charged; and, if the emergency lighting battery has a capacity of three hours, the appropriate period by the end of which the public should have left the premises is one hour.**

## **Temporary electrical installations**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- **temporary electrical wiring and distribution systems are not provided without [notification to the licensing authority at least ten days before commencement of the work] [prior inspection by a suitable qualified electrician];**
- **temporary electrical wiring and distribution systems shall comply with the recommendations of BS 7671 or where applicable BS 7909; and**

- **where they have not been installed by a competent person, temporary electrical wiring and distribution systems are inspected and certified by a competent person before they are put to use.**

With regard to the first bullet above, it should be recognised that ten days notice may not be possible where performances are supported by outside technical teams. For example, where temporary electrical installations are made in theatres for television show performances. In such circumstances, the key requirement is that conditions where necessary should ensure that temporary electrical installations are only undertaken by competent qualified persons, for example, employed by the television company.

### **Indoor sports entertainments**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- **if necessary, an appropriately qualified medical practitioner is present throughout a sports entertainment involving boxing, wrestling, judo, karate or other sports entertainment of a similar nature;**
- **where a ring is involved, it is constructed and supported by a competent person and inspected by a competent authority and any material used to form the skirt around the ring is flame-retardant;**
- **at any wrestling or other entertainments of a similar nature members of the public do not occupy any seat within 2.5 metres of the ring; and**
- **at water sports entertainments, staff adequately trained in rescue and life safety procedures are stationed and remain within the vicinity of the water at all material times (see also Managing Health and Safety in Swimming Pools issued jointly by the Health and Safety Commission and Sport England).**

### **Alterations to the premises**

Premises should not be altered in such a way as to make it impossible to comply with an existing licence condition without first seeking a variation of the premises licence proposing the deletion of the condition relating to public safety in question. The applicant will need to propose in a new operating schedule reflecting the proposed alteration to the premises how he or she intends to take alternative steps to promote the public safety objective. The application for variation will enable the responsible authorities with expertise in safety matters to consider whether the proposal is acceptable

### **Special effects**

The use of special effects in venues of all kinds being used for regulated entertainment is increasingly common and can present significant risks. Any special effects or mechanical installation should be arranged and stored so as to minimise any risk to the safety of the audience, the performers and staff.

Specials effects which should be considered include:

- **dry ice machines and cryogenic fog;**

- **smoke machines and fog generators;**
- **pyrotechnics, including fireworks;**
- **real flame;**
- **firearms;**
- **motor vehicles;**
- **strobe lighting;**
- **lasers (see HSE Guide The Radiation Safety of lasers used for display purposes [HS(G) 95] and BS EN 60825: Safety of laser products);**
- **explosives and highly flammable substances.**

In certain circumstances, it may be necessary to require that certain special effects are only used with the prior notification of the licensing authority or [inspection by] the fire authority.

### **Theatres, cinemas, concert halls and similar places (promotion of public safety)**

In addition to the points made above, there are particular matters in the context of public safety and fire safety which should be considered in connection with theatres and cinemas. The principle remains that conditions must be necessary and should be established through risk assessment and standardised conditions should be avoided. The points which follow are for consideration and do not represent a mandatory list.

### **Premises used for closely seated audiences**

#### **Attendants**

- (a) The number of attendants on each floor in a closely seated auditorium should be as set out on the table below:

Number of members of the audience present on a floor	Minimum number of attendants required to be present on that floor
1 - 100	One
101 - 250	Two
251 - 500	Three
501 - 750	Four
751 -1000	Five
And one additional attendant for each additional 250 persons (or part thereof)	

- (b) Attendants shall not be engaged in any duties that would hinder the prompt discharge of their duties in the event of an emergency or entail their absence from that floor or auditorium where they are on duty.
- (c) Any attendant shall be readily identifiable to the audience (but this need not entail the wearing of a uniform).
- (d) The premises shall not be used for a closely seated audience except in accordance with seating plan(s), a copy of which is available at the premises and shall be shown to any authorised person on request.

- (e) No article shall be attached to the back of any seat which would reduce the clear width of seatways or cause a tripping hazard or obstruction.
- (f) A copy of any certificate relating to the design, construction and loading of any temporary seating shall be kept available at the premises and shall be shown to any authorised person on request.

### **Standing and sitting in gangways etc**

- (a) Sitting on floors shall not be permitted except where authorised in the premises licence or club premises certificate.
- (b) Waiting or standing shall not be permitted except in areas designated in the premises licence or club premises certificate.
- (c) In no circumstances shall anyone be permitted to-
  - (i) sit in any gangway;
  - (ii) stand or sit in front of any exit; or
  - (iii) stand or sit on any staircase including any landings.

### **Drinks**

Except as authorised by the premises licence or club premises certificate, no drinks shall be sold to or be consumed by a closely seated audience except in plastic and paper containers.

### **Balcony Fronts**

Clothing or other objects shall not be placed over balcony rails or upon balcony fronts.

### **Special effects**

Any special effects or mechanical installation should be arranged and stored so as to minimise any risk to the safety of the audience, the performers and staff.

Special effects include:

- **dry ice machines and cryogenic fog;**
- **smoke machines and fog generators;**
- **pyrotechnics, including fireworks;**
- **real flame;**
- **firearms;**
- **motor vehicles;**
- **strobe lighting;**
- **lasers (see HSE Guide The Radiation Safety of lasers used for display purposes [HS(G) 95] and BS EN 60825: Safety of laser products);**
- **explosives and highly flammable substances.**

In certain circumstances, it may be necessary to require that certain special effects are only used with the prior notification of the licensing authority or [inspection by] fire authority

## Scenery

Any scenery should be maintained flame-retardant

## Safety curtain

Where a safety curtain is provided, it should be arranged so as to protect the audience from the effects of a fire or smoke on stage for sufficient time to enable the safe evacuation of the auditorium.

Where a stage with a proscenium arch is not equipped with a safety curtain, any curtains provided between the stage and the auditorium should be heavyweight and be made of non-combustible material or inherently or durably treated flame-retarded fabric

## Ceilings

All ceilings in those parts of the premises to which the audience are admitted should be inspected by a suitably qualified person who will decide when a further inspection would be necessary and a certificate concerning the condition of the ceilings forwarded to the licensing authority.

## Seating

Where the potential audience exceeds 250 all seats in the auditorium should, except in boxes accommodating not more than 8 persons, be either securely fixed to the floor or battened together in lengths of not fewer than four or more than twelve

## Premises used for film exhibitions

### Attendants-premises without a staff alerting system

Where the premises are not equipped with a staff alerting system the number of attendants present should be as set out in the table below:

Number of members of the audience present on the premises	Minimum number of attendants required to be on duty
1 - 250	Two
And one additional attendant for each additional 250 members of the audience present (or part thereof)	
Where there are more than 150 members of an audience in any auditorium or on any floor	At least one attendant shall be present in any auditorium or on any floor

### Attendants – premises with a staff alerting system

(a) Where premises are equipped with a staff alerting system the number of attendants present should be as set out in the table below:

Number of members of the audience present on the premises	Minimum number of attendants required to be on duty	Minimum number of other staff on the premises who are available to assist in the event of an emergency
1 - 500	Two	One
501 - 1000	Three	Two
1001 - 1500	Four	Four
1501 or more	Five plus one for every 500 (or part thereof) persons over 2000 on the premises	Five plus one for every 500 (or part thereof) persons over 2000 on the premises

- (b) Staff shall not be considered as being available to assist in the event of an emergency if they are:
- (i) the holder of the premises licence or the manager on duty at the premises; or
  - (ii) a member of staff whose normal duties or responsibilities are likely to significantly affect or delay his response in an emergency situation; or
  - (iii) a member of staff whose usual location when on duty is more than 60 metres from the location to which he is required to go on being alerted to an emergency situation.
- (c) Attendants shall as far as reasonably practicable be evenly distributed throughout all parts of the premises to which the public have access and keep under observation all parts of the premises to which the audience have access.
- (d) The staff alerting system shall be maintained in working order.

### **Minimum lighting**

The level of lighting in the auditorium should be as great as possible consistent with the effective presentation of the film; and the level of illumination maintained in the auditorium during the showing of films would normally be regarded as satisfactory if it complies with the standards specified in BS CP 1007 (Maintained Lighting for Cinemas)

### **Flammable films**

No flammable films should be allowed on the premises without the prior notification of the licensing authority/fire authority

### **Annex A Part III [Conditions relating to the prevention of public nuisance]**

**It should be noted that provisions of the Environmental Protection Act 1990 and the Noise Act 1996 provide some protection to the general public from the effects of noise nuisance. In addition, the provisions in Part 8 of the Licensing Act 2003 enable a senior police officer to close down instantly for up to 24 hours licensed premises and premises carrying on temporary permitted**

**activities that are causing nuisance resulting from noise emanating from the premises. These matters should be considered before deciding whether or not conditions are necessary for the prevention of public nuisance**

## **General**

When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, responsible authorities are considering such applications and licensing authorities are considering applications following the receipt of relevant representations from a responsible authority or interested party, the following options should be considered as measures that, if necessary, would promote the prevention of public nuisance.

Whether or not any risk assessment shows them to be necessary in the individual circumstances of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved.

Necessary conditions for licences and certificates will also depend on local knowledge of the premises

## **Hours**

The hours during which the premises are permitted to be open to the public or to members and their guests can be restricted (other than where they are protected by the transitional provisions of the Licensing Act 2003) by the conditions of a premises licence or a club premises certificate for the prevention of public nuisance. But this must be balanced by the potential impact on disorder, which results from artificially early fixed closing times.

Restrictions could be necessary on the times when certain licensable activities take place even though the premises may be open to the public as such times. For example, the playing of recorded music after a certain time might be prohibited, even though other licensable activities are permitted to continue.

Restrictions might be necessary on the parts of premises that might be used for certain licensable activities at certain times. For example, while the provision of regulated entertainment might be permitted while the premises is open to the public or members and their guests, regulated entertainment might not be permitted in garden areas of the premises after a certain time.

## **Noise and vibration**

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to conditions that ensure that:

- **noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties. This might be achieved by a simple requirement to keep doors and windows at the premises closed, or to use noise limiters on amplification equipment used at the premises;**

- prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly;
- the use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in surrounding areas are restricted; and
- the placing of refuse – such as bottles - into receptacles outside the premises takes place at times that will minimise the disturbance to nearby properties.

### **Noxious smells**

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to conditions that ensure that:

- noxious smells from licensed premises are not permitted so as to cause a nuisance to nearby properties and the premises are properly vented.

### **Light pollution**

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to conditions that ensure that:

- flashing or particularly bright lights on or outside licensed premises do not cause a nuisance to nearby properties. Any such condition needs to be balanced against the benefits to the prevention of crime and disorder of bright lighting in certain places

## **Annex A Part IV [Conditions relating to the protection of children from harm]**

It should be noted that it is unlawful under the 2003 Act to permit unaccompanied children under the age of 16 to be present on premises exclusively or primarily used for supply of alcohol for consumption on those premises under the authorisation of a premises licence, club premises certificate or a temporary event notice when open for the purposes of being used for the supply of alcohol for consumption there. In addition, it is an offence to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5am at all premises supplying alcohol for consumption on those premises under the authorisation of any premises licence, club premises certificate or temporary event notice. Conditions duplicating these provisions are, therefore, unnecessary.

### **Access for children to licensed premises - in general**

Restrictions on the access of children under 18 to premises where licensable activities are being carried on should be made where it is necessary to protect children from harm. Precise policy and details will be a matter for individual licensing authorities. Conditions attached to premises licences and club premises certificates may reflect the concerns of responsible authorities and interested parties who have made representations but only where the licensing authority considers it necessary

to protect children from harm. Whilst applications in relation to premises licences and club premises certificates must be judged by licensing authorities on their individual merits and characteristics, the Secretary of State recommends (unless there are circumstances justifying the contrary) that:

- **for any premises with known associations (having been presented with evidence) with or likely to give rise to heavy or binge or underage drinking, drugs, significant gambling, or any activity or entertainment (whether regulated entertainment or not) of a clearly adult or sexual nature, there should be a strong presumption against permitting any access at all for children under 18 years. Applicants wishing to allow access for children to premises where these associations may be relevant, when preparing operating schedules or club operating schedules or variations of those schedules for the purposes of obtaining or varying a premises licence or club premises certificate should:**
  - **explain their reasons; and**
  - **outline in detail the steps that they intend to take to protect children from harm on such premises.**
  - **for any premises, not serving alcohol for consumption on the premises, but where the public are allowed on the premises after 11.00pm in the evening, there should be a presumption against the presence of children under the age of 12 unaccompanied by adults after that time. Applicants wishing to allow access when preparing operating schedules or variations of those schedules or club operating schedules for the purposes of obtaining or varying a premises licence or club premises certificate should:**
    - **explain their reasons; and**
    - **outline in detail the steps that they intend to take to protect children from harm on such premises.**
    - **in any other case, subject to the premises licence holder's or club's discretion, the expectation would be for unrestricted access for children subject to the terms of the 2003 Act. An operating schedule or club operating schedule should indicate any decision for the premises to exclude children completely, which would mean there would be no need to detail in the operating schedule steps that the applicant proposes to take to promote the protection of children from harm. Otherwise, where entry is to be permitted, the operating schedule should outline the steps to be taken to promote the protection of children from harm while on the premises.**

### **Age Restrictions – specific**

Under the 2003 Act a wide variety of licensable activities could take place at various types of premises and at different times of the day and night. Whilst it may be appropriate to allow children unrestricted access at particular times and when certain activities are not taking place, licensing authorities following relevant representations made by responsible authorities and interested parties will need to consider a range of conditions that are to be tailored to the particular premises and their activities where these are necessary. Licensing authorities are expected to consider:

- the hours of day during which age restrictions should and should not apply. For example, the fact that adult entertainment may be presented at premises after 8.00pm does not mean that it would be necessary to impose age restrictions for earlier parts of the day;
- types of event or activity in respect of which no age restrictions may be needed, for example;
  - family entertainment; or
  - non-alcohol events for young age groups, such as under 18s dances,
- similarly, types of event or activity which give rise to a more acute need for age restrictions than normal, for example;
  - during “Happy Hours” or on drinks promotion nights;
  - during activities outlined in paragraph 1 above.

### **Age restrictions – cinemas**

The Secretary of State considers that, in addition to the mandatory condition imposed by virtue of section 20, requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 or by the licensing authority itself, conditions restricting the admission of children to film exhibitions should include:

- a condition that where the licensing authority itself is to make recommendations on the admission of children to films, the cinema or venue operator must submit any film to the authority that it intends to exhibit 28 days before it is proposed to show it. This is to allow the authority time to classify it so that the premises licence holder is able to adhere to any age restrictions then imposed;
- a condition that when films are classified, by either the film classification body as specified in the licence or the licensing authority, they should be classified in the following way:
  - U Universal – suitable for audiences aged four years and over
  - PG – Parental Guidance. Some scenes may be unsuitable for young children.
  - 12A – Passed only for viewing by persons aged 12 years or older or persons younger than 12 when accompanied by an adult.
  - 15 – Passed only for viewing by persons aged 15 years and over.
  - 18 – Passed only for viewing by persons aged 18 years and over.
- that conditions specify that immediately before each exhibition at the premises of a film passed by the British Board of Film Classification there shall be exhibited on screen for at least five seconds in such a manner as to be easily read by all persons in the auditorium a reproduction of the certificate of the Board or, as regards a trailer advertising a film, of the statement approved by the Board indicating the classification of the film;
- a condition that when a licensing authority has made a recommendation on the restriction of admission of children to a film, notices are required to be displayed both inside and outside the premises so that persons entering can readily be made aware of the classification attached to any film or trailer. Such a condition might be expressed in the following terms:

“Where a programme includes a film recommended by the licensing authority as falling into the 12A, 15 or 18 category no person appearing to be under the age of 12 and unaccompanied, or under 15 or 18 as appropriate, shall be admitted to any part of the programme; and the licence holder shall display in a conspicuous position a notice in the following terms

–

**PERSONS UNDER THE AGE OF [INSERT APPROPRIATE AGE] CANNOT BE ADMITTED TO ANY PART OF THE PROGRAMME**

Where films of different categories form part of the same programme, the notice shall refer to the oldest age restriction.

This condition does not apply to members of staff under the relevant age while on-duty provided that the prior written consent of the person’s parent or legal guardian has first been obtained.”

## **Theatres**

The admission of children to theatres, as with other licensed premises, is not normally expected to be restricted unless it is necessary to promote the licensing objective of the protection of children from harm. However, theatres may be the venue for a wide range of activities. The admission of children to the performance of a play is normally expected to be left to the discretion of the licence holder and no condition restricting the access of children to plays should be attached. However, theatres may also present entertainment including, for example, variety shows, incorporating adult entertainment. A condition restricting the admission of children in such circumstances may be necessary. Entertainment may also be presented at theatres specifically for children (see below).

Licensing authorities are also expected to consider whether a condition should be attached to a premises licence which requires the presence of a sufficient number of adult staff on the premises to ensure the well being of children present on the premises during any emergency (See Annex A Part II)

## **Performances especially for children**

Where performances are presented especially for unaccompanied children in theatres and cinemas, conditions are anticipated to be needed which require:

- **an attendant to be stationed in the area(s) occupied by the children, in the vicinity of each exit, provided that on each level occupied by children the minimum number of attendants on duty should be one attendant per 50 children or part thereof.**

Licensing authorities are expected, having regard to any representations made by responsible authorities on the issue, to also consider whether or not standing should be allowed. For example, there may be reduced risk for children in the stalls than at other levels or areas in the building

## **Children in performances**

There are many productions each year that are one-off shows where the cast is made up almost entirely of children. They may be taking part as individuals or as part

of a drama club, stage school or school group. The age of those involved may range from 5 to 18. The Children (Performances) Regulations 1968 as amended set out requirements for children performing in a show. Licensing authorities should familiarise themselves with the requirements of these Regulations and not duplicate any of these requirements. However, if it is necessary to consider imposing conditions, in addition to these requirements, for the promotion of the protection of children from harm then the licensing authority should consider the matters outlined below.

- **Venue** – the backstage facilities should be large enough to accommodate safely the number of children taking part in any performance.
- **Fire safety** – all chaperones and production crew on the show should receive instruction on the fire procedures applicable to the venue prior to the arrival of the children.
- **Special effects** – it may be inappropriate to use certain special effects, including smoke, dry ice, rapid pulsating or flashing lights, which may trigger adverse reactions especially with regard to children.
- **Care of children** – theatres, concert halls and similar places are places of work and may contain a lot of potentially dangerous equipment. It is therefore important that children performing at such premises are kept under adult supervision at all times including transfer from stage to dressing room and anywhere else on the premises. It is also important that the children can be accounted for at all times in case of an evacuation or emergency.

### **The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks**

The Portman Group operates, on behalf of the alcohol industry, a Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older. Complaints about products under the Code are considered by an Independent Complaints Panel and the Panel's decisions are published on the Portman Group's website, in the trade press and in an annual report. If a product's packaging or point-of-sale advertising is found to be in breach of the Code, the Portman Group may issue a Retailer Alert Bulletin to notify retailers of the decision and ask them not to replenish stocks of any such product or to display such point-of-sale material, until the decision has been complied with. The Code is an important mechanism in protecting children from harm because it addresses the naming, marketing and promotion of alcohol products sold in licensed premises in a manner which may appeal to or attract minors.

Where appropriate and necessary, consideration can be given to attaching conditions to premises licences and club premises certificates that require compliance with the Portman Group's Retailer Alert Bulletins.

### **Proof of Age Cards**

Proof of age cards are discussed under Annex A Part I in connection with the prevention of crime and disorder. However; where necessary and appropriate, a requirement for the production of proof of age cards before any sale of alcohol is

made could be attached to any premises or club premises certificate for the protection of children from harm. Any such requirement should not be limited to recognised “proof of age” cards, but allow for the production of other proof, such as photo-driving licences and passports. The Secretary of State strongly supports the PASS accreditation system (see paragraph 12.8 of the Guidance) which aims to approve and accredit various proof of age schemes that are in existence. This ensures that such schemes maintain high standards, particularly in the area of integrity and security, and where appropriate and necessary, conditions may refer directly to PASS accredited proof of age cards, photo-driving licences, student cards and passports. As for conditions relating to crime and disorder, it should be noted that many adults in England and Wales do not currently carry any proof of age. This means that the wording of any condition will require careful thought. For example, the requirement might be to ensure sight of evidence of age from any person appearing to those engaged in selling or supplying alcohol to be under the age of 18 and who is attempting to buy alcohol. This would ensure that most minors – even those looking older – would need to produce proof of age appropriately before making such a purchase. Under such an arrangement only a minority of adults might be affected, but for the majority there would be no disruption to their normal activity, for example, when shopping in a supermarket.

Proof of age cards can also ensure that appropriate checks are made where the presence of children is restricted by age at certain times, such as 16.

# **APPENDIX B**

**MANDATORY CONDITIONS THAT WILL  
BE ATTACHED TO LICENCES**

## **MANDATORY CONDITIONS THAT MUST BE ATTACHED TO LICENCES**

### **WHERE A PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL (Section 19 Licensing Act 2003)**

1. That no supply of alcohol may be made under the Premises Licence:
  - (a) at a time when there is no Designated Premises Supervisor in respect of the Premises Licence; or
  - (b) at a time when the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence is suspended.
2. That every supply of alcohol under the Premises Licence must be made or authorised by a person who holds a Personal Licence.

### **EXHIBITION OF FILMS (Section 20 Licensing Act 2003)**

1. Where a Premises Licence or Club Premise Certificate authorises the exhibition of films, the licence or certificate must include a condition requiring the admission of children to the exhibition at any film to be restricted in accordance with these paragraphs.
2. Where a film classification body is specified in the licence or certificate, unless paragraph 3 (b) below applies, admission of children must be restricted in accordance with any recommendation by that body.
3. Where:
  - (a) the film classification body is not specified in the Licence or Certificate; or
  - (b) the Licensing Authority has notified the holder of the Licence or the Club which holds the Certificate that this paragraph applies to the film in question, admission of children must be restricted in accordance with any recommendation made by the Licensing Authority.
4. In these paragraphs "children" means persons aged under 18 and "film classification body" means the person or persons designated as the authority under Section 4 of the Video Recordings Act 1984 (authority to determine suitability of video works for classification).

### **DOOR SUPERVISION (Section 21 Licensing Act 2003)**

1. Where a Premises Licence includes a condition that at specified times one or more individuals must be at the premises to carry out security activity, the licence must include a condition that each such individual must be licensed by the Security Industry Authority.

# **APPENDIX C**

## **DEFINITIONS**

**In this Policy the following definitions are included to provide an explanation of certain terms included in the Act and therefore in the Policy. In some cases they are abbreviations of what is stated in the Licensing Act 2003 or an interpretation of these terms. For a full definition of the terms used, the reader must refer to the Licensing Act 2003.**

## **APPOINTED DAYS**

The dates when different provisions of the Act come into force. On the First Appointed Day (7 February 2005), applications can be made to local authorities for new licences. On the Second Appointed Day (still to be announced) the old law will cease to have effect, all the new licences will come into force and the responsibilities of the existing magistrates court licensing committees will end.

## **APPEALS**

Appeals against decisions of the licensing authority are made to the magistrate's court for the area in which the premises are situated. The appeal must be lodged within 21 days of being notified of The Licensing Authority's decision. On appeal a magistrate's court may dismiss the appeal, substitute its own decision; remit the case to the licensing authority with directions; and make an order for costs.

## **AUTHORISED PERSONS**

"Authorised Persons" are specified people who have statutory duties in relation to the inspection of premises e.g. licensing officers, fire, health and safety and environmental health officers.

## **CLOSURE ORDER**

New powers for the police and courts to close premises. The 2003 Act significantly extends the existing powers of the police, seek court orders in a geographical area that is experiencing or likely to experience disorder or to close down instantly individual licensed premises that are disorderly, likely to become disorderly or are causing noise nuisance.

## **CLUB PREMISES CERTIFICATE**

A certificate, which licences a qualifying club for the sale/supply of alcohol. It can be granted to members of clubs which comply with specific conditions e.g. membership rules, run by club committee, profits go to members not an owner etc. Club Premises Certificates replace registration under the Licensing Act 1964. The law for members clubs has changed relatively little under the 2003 Act. There is no time limit on the duration for the Certificate but it may be withdrawn, surrendered or suspended.

## **CONDITIONS**

A Premises Licence/Club Premises Certificate may be granted subject to conditions and these may be in respect of different parts of the premises and different licensable activities. There is no power to impose conditions on a Personal Licence. Secretary of States guidance provides, apart from mandatory conditions (Appendix B), the only conditions, which should be imposed on a Premises Licence or Club Premises

Certificate are those which are necessary for the promotion of the licensing objectives. Accordingly, if the existing law already places certain statutory responsibilities on an employer or operator of premises, it cannot be necessary to impose the same or similar duties on the Premises Licence holder. Conditions must be proportional and tailored to the size, style, character and activities taking place at the premises concerned.

## **DESIGNATED PREMISES SUPERVISOR**

The person in the case of a premise selling alcohol, who will normally have been given the day to day responsibility for running the premises by the holder of the Premises Licence or will be the Premises Licence holder themselves. They must also be a Personal Licence holder. Any premises licence where alcohol is supplied as a licensable activity **must have a Designated Premises Supervisor.**

## **FACTORS FOR CONSIDERATION**

These are a further list of conditions that The Licensing Authority will/may attach to specific types of licensable activities in order to promote the licensing objectives. They are to be read in conjunction with Appendix A (Pool of model conditions relating to the 4 licensing objectives). The Licensing Authority expects all applicants to take notice of and have regard to the list of factors for consideration when preparing their Operating Schedules.

## **GRANDFATHER RIGHTS**

The term used to describe the transitional provisions contained in the 2003 Act by which applicants for Premises and Personal Licences who are already licensed are entitled to be granted new licences authorising the same activities and with the same restrictions and conditions as they have already.

## **INTERESTED PARTIES**

Interested Parties are persons living in the vicinity of the premises; a body representing such person; a person involved in business in the vicinity; or a body representing businesses in the vicinity.

## **INTERIM AUTHORITY NOTICES**

Where a Premises Licence lapses due to death, incapacity or insolvency etc. of the holder, specified persons can within 7 days serve an interim authority notice on the licensing authority. This revives the licence, subject to police objection for a period of up to 2 months so that the premises can continue trading. This is the equivalent to "interim authorities" and "protection orders" under the Licensing Act 1964.

## **LATE NIGHT REFRESHMENT**

The supply of hot food and/or drink to members of the public (whether for consumption on or off the premise) between the hours of 11.00 pm and 5.00 am (see Appendix D).

## **LICENSABLE ACTIVITIES**

These are:

- **the sale by retail of alcohol;**
- **the supply of alcohol by or on behalf of a club, or to the order of a member of the club;**
- **the provision of Regulated Entertainment;**
- **the provision of Late Night Refreshment.**

## **LICENSING AUTHORITY**

Is Selby District Council

## **LICENSING OBJECTIVES**

The objectives of the Licensing Act are:

- **prevention of crime and disorder;**
- **public safety;**
- **prevention of public nuisance; and**
- **the protection of children from harm.**

The licensing authority must carry out its functions under the Act with a view to promoting the licensing objectives.

## **LICENSED PREMISES**

Includes club premises and events unless the context otherwise requires.

## **MANDATORY CONDITIONS**

Conditions that the Act requires are imposed on a Premises Licence and Club Premises Certificate (see Appendix B).

## **OBJECTION NOTICE**

A procedure whereby the police can object to the grant of a Personal Licence on the grounds that where having regard to the conviction of the applicant for relevant offences (see Appendix E), the grant would undermine the crime prevention objective.

## **OPERATING SCHEDULE**

A document containing a statement of the following matters (and any others that may be prescribed):-

- **steps taken by the licence holder to tackle the four Licensing Objectives;**
- **the times during which the licensable activities are to take place and any other times when premises are open to the public;**
- **the licensable activities to be conducted on the premises;**
- **where the licence is required only for a limited period that period;**
- **where the licensable activities include the supply of alcohol, the name and address of the individual to be specified as the Designated Premises Supervisor.**

## **PERSONAL LICENCE**

A licence granted to an individual and authorises that person to supply alcohol or authorise the supply of alcohol in accordance with a Premises Licence. The licence lasts for 10 years and can be renewed. It ceases to have effect when revoked, forfeited, surrendered or suspended. A Personal Licence holder is not required where the premises concerned does not supply alcohol as one of its licensable activities. A Personal Licence holder is also not required for the supply of alcohol in a club which holds a Club Premises Certificate. Only the police can object to the grant of a Personal Licence (there is no equivalent to relevant representations as for Premises Licences).

## **PREMISES LICENCE**

A licence granted in respect of any premises, which authorises the premises to be used for one or more licensable activities, has effect until revoked, surrendered or on the death, insolvency etc. of the holder. Applications are dealt with by the Local Authority Licensing Department in the area where the premises are situated.

## **PROVISIONAL STATEMENTS**

A procedure by which the licensing authority can give a statement approving for licensing purposes proposals for a premises being built or in the course of being constructed. Equivalent to a "provisional grant" under the Licensing Act 1964. Where a Provisional Statement is made, subject to limited exceptions the full licence must normally be granted once the premises are completed.

## **QUALIFYING CLUB**

Club Premises Certificates will be issued to **QUALIFYING CLUBS** formerly Registered Members Clubs. To be eligible for a Club Premises Certificate the club/organisation members must have joined together for a particular social, sporting or political purpose and then have combined to purchase alcohol in bulk as members of an organisation for supply to members and their guests. Qualifying conditions are specified in Section 61 of the Act and The Licensing Authority must be satisfied that these conditions have been met, including evidence to support that the club is non-profit making and that there is a minimum of 48 hours delay between application and acceptance of new members. The club must be established and conducted in 'good faith' (this involves consideration of details such as club finances).

## **REGULATED ENTERTAINMENT**

This includes:

- **a performance of a play;**
- **an exhibition of a film;**
- **an indoor sporting event;**
- **a boxing or wrestling event;**
- **a performance of live music;**
- **any playing of recorded music;**
- **a performance of dance;**
- **entertainment of a similar description to that falling within the performances of live music, the playing of recorded music and the performance of dance.**

Where the entertainment takes place in the presence of and for the purposes of entertaining that audience or spectators.

## **RELEVANT REPRESENTATIONS**

The 2003 Act does not use the term "objections". Instead interested parties and responsible authorities may be able to make relevant representations about an application for a review of a licence. Relevant representations are representations:

- (a) about the effect of the Premises Licence on the promotion of the licensing objectives;
- (b) one made by an interested party or a responsible authority (see above and below), have not been withdrawn and, in the case of representations made by an interested party are not in The Licensing Authority's opinion frivolous or vexatious. When considering an application, the local authority need only consider relevant representations. The making of relevant representations engages the licensing authorities discretion to take "steps" consistent with the licensing objectives when considering the application.

## **RESPONSIBLE AUTHORITIES**

These are:

- **the chief officer of police in the area where the premises are situated;**
- **the fire authority in the area where the premises are situated;**
- **the enforcing authority for health and safety at work.**

- the local planning authority;
- the local authority responsible for minimising or preventing the risk of pollution of the environment or of harm to human health;
- the body representing matters relating to the protection of children from harm;
- in relation to a vessel a navigation authority, the Environment Agency or the British Waterways Board.

## REVIEW OF LICENCE

Where a Premises Licence is in force an interested party or responsible authority may apply to The Licensing Authority for it to be reviewed. Before determining an application for a review, The Licensing Authority must hold a hearing to consider the relevant representations (see above). If a relevant representation is made, having held a hearing The Licensing Authority can take such steps, if any, as it considers necessary for the promotion of the licensing objectives. The steps could be modification of conditions, exclusion of licensable activities, removal of premises supervisor, suspension of the licence for up to three months or the revocation of the licence.

However, The Licensing Authority can reject any grounds for review of a licence if it is satisfied:

- that the ground is not relevant to one or any of the licensing objectives; or
- in the case of an application for review made by a person other than a responsible authority that the ground is frivolous or vexatious or the ground is a repetition. (See Sections 51, 52 and 53 of the 2003 Act).

## STATEMENT OF LICENSING POLICY

Each licensing authority must every three years determine and publish a statement of licensing policy. There is a requirement to consult on the policy and keep it under review.

## TEMPORARY EVENT NOTICE

A permitted temporary activity involving one or more licensable activities subject to the following various conditions and limitations:

- **duration** - they are limited to events lasting for up to 96 hours;
- **scale** - they cannot involve the presence of more than 499 people at any one time;
- **use of the same premises** - the same premises cannot be used more than 12 occasions in a calendar year, but are subject to the overall aggregate of 15 days irrespective of the number of occasions on which they have been used.

- **the number of notices given by one individual within a given period to time - a Personal Licence holder is limited to 50 notices in one year and any other person to 5 notices in a similar period;**
- **if these conditions are not fulfilled, the Temporary Event would require a Premises Licence if it were currently unlicensed for the activity involved.**

## **TRANSFER**

A procedure where an application can be made to transfer the Premises Licence into a new name e.g. if a Premises Licence holder sells his premises an application may be made to transfer the Premises Licence to the new owner.

## **APPENDIX D**

### **PREMISES LICENCES/CLUB PREMISES CERTIFICATES - FACTORS FOR CONSIDERATION**

- 1. General licensing or premises for sale/supply of alcohol**
- 2. Premises selling alcohol**
- 3. Premises selling alcohol for consumption 'off' the premises**
- 4. Premises selling alcohol for consumption on the premises**
- 5. Premises providing regulated entertainment:**
  - (a) music, singing and dancing;**
  - (b) night clubs and similar venues;**
  - (c) adult nature (striptease, lap dancing etc.);**
  - (d) sporting entertainment;**
  - (e) hypnotism.**
- 6. Authorised access to licensed premises**
- 7. Premise providing late night entertainment**

# **PREMISE LICENCES/CLUB PREMISES CERTIFICATES**

## **FACTORS FOR CONSIDERATION**

### **INTRODUCTION**

In determining applications for Premises Licences The Licensing Authority expects all applicants to consider and identify in their Operating Schedules how licensees will ensure the four licensing objectives of the Act are to be achieved.

Whilst the Council (acting as the Licensing Authority) will not seek to impose standard licensing conditions, it will, where appropriate, impose conditions on a licence necessary to promote the licensing objectives. In attaching such conditions to a licence The Licensing Authority may attach one or more of those conditions referred to within this document. (Pool of Conditions contained in Appendix A) or other conditions specifically tailored to the circumstances that The Licensing Authority feels are appropriate.

The Council expects all applicants to take notice of and have regard to the list of factors for consideration when preparing their Operating Schedules and expects all applicants to undertake a thorough risk assessment of their premises to ensure public safety.

### **GENERAL**

1. In general terms it is unlawful to sell or supply alcohol to children under the age of 18 years. The Licensing Authority expects licensees to prevent the sale or supply of alcohol to persons under 18 years of age. Licensees should put in place measures intended to control and prevent the sale or supply of alcohol to under age persons and encourage the use of the various methods of proof of age available e.g. proof of age cards, Portman Group prove it, passports etc.
2. Where it is proposed to hold age related entertainment on licensed premises, The Licensing Authority expects licensees to protect children from harm by controlling and preventing access to that entertainment by under aged persons through the use of one or more of the methods listed above.
3. At premises where persons wait in queues for admission, The Licensing Authority expects the licensee to take all reasonable steps to ensure that such persons do not obstruct exits, passageways, stairways and ramps leading to the outside of the premises, or footpaths and other parts of the highway adjacent to those premises. Also where queues of people exist, the likelihood is for increased noise (nuisance) and unruly behaviour (may lead to crime and disorder), the use of licensed door supervisors may be an option in such circumstances.

### **PREMISES SELLING ALCOHOL**

1. There will be a presumption against the grant of a licence authorising the supply of alcohol on licensed premises:

- (a) at any time when there is no Designated Premises Supervisor in respect of the Premises Licence; or
  - (b) at a time when the Designated Premises Supervisor does not hold a Personal Licence or that licence is suspended.
2. Every supply of alcohol made under the Premises Licence must be made or authorised by a person who holds a Personal Licence.
  3. The Licensing Authority also recognises that there will be occasions where licensed premises are run by a person or persons (i.e. small family run pubs and convenience shops etc) who are the only holder(s) of Personal Licences associated with that premises and that there will be times when it is necessary for business purposes for those licence holders to be away from the premises at a time when it would normally be open for the sale or supply alcohol. The Licensing Authority also recognises that such persons must be able to establish a correct work/life balance by having periods of time for rest and recreation away from their establishment.
  4. The Licensing Authority expects all sales or supply of alcohol to be made or authorised by a Personal Licence holder present on the premises at the time such sale or supply is made. In particular the Licensing Authority will expect that, other than in unforeseen and unavoidable circumstances, a holder of a Personal Licence will be on the licensed premises when the premises are open for the sale of alcohol.

#### **PREMISES SELLING ALCOHOL FOR CONSUMPTION OFF THE PREMISES**

1. Shops, stores and supermarkets selling alcohol will normally be permitted to match their normal trading hours with the hours during which other sales take place unless there are exceptional reasons relating to disorder or anti-social behaviour.
2. In general terms it is unlawful to sell or supply alcohol to children under the age of 18 years. The Licensing Authority expects licensees selling alcohol for consumption off premises to promote the licensing objective by preventing the sale of alcohol to persons under 18 years of age and supporting the control and prevention of off sales to under age persons through encouraging the use of the various methods of proof of age available e.g. passport, photo-driving licences, proof of age cards etc.

#### **PREMISES SELLING ALCOHOL FOR CONSUMPTION ON THE PREMISES**

1. Customers who are drunk should not be served further alcohol.
2. The Licensing Authority will scrutinise particularly closely any applications which appear to be for premises operated in such a manner as to encourage excessive and/or binge drinking e.g. those offering 'as much as you can drink' deals, inappropriate 'happy hours' promotions and 'vertical drinking' establishments which provide no seating.

3. The Licensing Authority will also look closely at any evidence of involvement in sale of alcohol either directly to minors or indirectly, via adult intermediaries, in cases where the vendor could reasonably have been expected to predict the outcome but failed to take appropriate actions.
4. The Licensing Authority will be particularly concerned to prevent the exposure of children to drunkenness, whether on the part of their own parents or carers or of others. This will depend in particular on the times at which children are to be admitted to licensed premises, in combination with the overall style or ethos of the establishment.
5. The Licensing Authority recognises the problems that fixed and artificially early closing times can promote and would encourage the holders of Premises Licences to stagger their closing times.

## **PREMISES PROVIDING REGULATED ENTERTAINMENT**

### **1. Music, singing and dancing**

- (a) Where appropriate The Licensing Authority expects the applicant to prepare a written drugs policy to be implemented at the licensed premises with the objective of securing, as far as reasonably practicable, the safety of patrons and others attending the premises.
- (b) When appropriate The Licensing Authority expects the applicant to maintain a drugs register in accordance with any guidelines laid down by North Yorkshire Police.
- (c) The Licensing Authority expects the applicant to maintain a register of all staff, including door supervisors, who are working at the premises during each public performance.
- (d) The Licensing Authority expects that the applicant will to the best of his/her ability, maintain and keep good order and decent behaviour on the said premises during the time of the public entertainment and notwithstanding the generality of the foregoing the licensee shall:
  - i. provide an acceptable system of:
    - **controlling entry;**
    - **identifying the numbers of persons present on the premises at any given moment in time;**
  - ii. produce on demand by any authorised officer of The Licensing Authority, the Police or Fire Brigade, evidence of the number of persons present at any given moment of time.

## 2. Night club and similar venues

The Licensing Authority expects that applicants will in addition give the foregoing factors consideration and in regard to those premises licensed for regulated entertainment and sale of alcohol beyond 23.00 hours will:

- (a) provide and maintain on licensed premises a secure drug deposit box of a type approved by North Yorkshire Police (where such approval type is published) for the safe storage and containment of any drugs found or seized on the premises;
- (b) use licensed door supervisors (numbers to be determined by North Yorkshire Police);
- (c) provide and maintain an area, suitably separate from the main dance area provided with:
  - **adequate seating;**
  - **suitable means of providing cool air (either by air conditioning or ventilation to the external air; and**
  - **so far as practicable, respite from high levels of noise.;**
- (d) the licensee shall make provision for at least one person qualified in first aid to be present on the premises during the whole time the premises are made available for public entertainment;
- (e) provide CCTV to cover both inside and outside the premises in positions agreed with both The Licensing Authority and Police. All cameras will be set to continually record when the premises are open to the public and the tapes produced will be logged in an auditable manner and retained for a minimum of 30 days.

## 3. **ADULT NATURE (I.E. STRIPTEASE, LAP DANCING ETC)**

- (a) The Licensing Authority expects applicants to promote the licensing objectives by agreeing to the following conditions which shall apply in relation to any consent given for a performance of striptease, lap dancing or similar entertainment and there shall be agreed in writing with The Licensing Authority:
  - i. activities that may take place;
  - ii. designated areas where these activities may take place; and
  - iii. arrangements for restricted access to the dressing room, which shall be maintained at all times whilst the agreed activities are taking place and until such times as all performers using the dressing room have vacated it.;

- (b) The agreed activities may only take place between such hours and be in such a position where the performance cannot be seen from the street as may be agreed in writing with The Licensing Authority.
- (c) The agreed activities shall only be given by the performers and no audience participation shall be permitted.
- (d) Performers shall be aged not less than 18 years and be accompanied and monitored by a member of security staff licensed by the Security Industry Authority to protect the performer from harm.
- (e) Performers shall only perform on the stage area, to seated and segregated customers or in such other areas of the licensed premises as may be agreed in writing with The Licensing Authority.
- (f) Whilst the agreed activities are taking place, no person under the age of 18 shall be allowed on to that part of the premises or any other part of the premises that gives any view of or direct access to that part of the premises. Clear notices(s) shall be displayed at each entrance to the premises in a prominent position that can be easily read by persons entering the premises in the following terms:

**"NO PERSON UNDER 18 YEARS WILL BE ADMITTED"**

- (g) The licensee shall not permit the display outside of the premises of photographs or other images that indicate or suggest that striptease or similar entertainment takes place on the premises and which may be offensive.
- (h) The Licensing Authority may not grant licences where Operating Schedule involve entertainment of an adult nature near to schools, youth clubs or other premises where significant numbers of children are likely to congregate.

#### 4. **SPORTING ENTERTAINMENT**

- (a) The layout of the premises, including all seating and standing areas for spectators, shall be to the satisfaction of The Licensing Authority and shall be such as to minimise any risk of injury to persons present on the premises.
- (b) Where The Licensing Authority specifies the number of participants for a particular sports entertainment, that limit shall not be exceeded.
- (c) As regards any structure to be used in connection with the sports entertainment, the licensee or nominated person shall ensure that it is:
  - i. installed in a position approved in writing by The Licensing Authority;
  - ii. constructed to the satisfaction of The Licensing Authority;
  - iii. constructed of non-inflammable materials;

- iv. sufficiently stable; and
  - v. positioned so that no member of the public occupies any seat within 2.5 metres of it.
- (d) If barriers are required by The Licensing Authority, they shall be erected in such positions and be of such construction as specified in writing by The Licensing Authority.
- (e) Dressing room accommodation and washing facilities for participants shall be provided to the satisfaction of The Licensing Authority.
- (f) No glasses, crockery or cutlery shall be in the auditorium whilst any sports entertainment is taking place.
- (g) As regards any water sports entertainment, members of staff adequately trained in rescue and life safety procedures shall be stationed and remain within the vicinity of the water whilst the premises are open to the public.

## 5. **HYPNOTISM**

The following conditions shall apply to any consent given for an exhibition, demonstration or performance (hereafter "performance") of hypnotism:

(a) **Publicity**

- i. no poster, advertisement or programme for the performance that is likely to cause public offence shall be displayed, sold or supplied by or on behalf of the licensee either at the premises or elsewhere;
- ii. every poster, advertisement or programme for the performance, which is displayed, sold or supplied shall include, clearly and legibly, the following statement:

**"VOLUNTEERS, WHO MUST BE AGED 18 OR OVER, CAN REFUSE AT ANY POINT TO CONTINUE TAKING PART IN THE PERFORMANCE"**

(b) **Insurance**

- i. The performance shall be covered by public liability insurance to a level of at least £2,000,000. The hypnotist must provide evidence of this to the local authority if requested and it must be available for inspection at the performance.

(c) **Physical Arrangements**

- i. The means of access between the auditorium and the stage for participants shall be properly lit and free from obstruction;
- ii. A continuous white or yellow line shall be provided on the floor of any raised stage at a safe distance from the edge. The line shall run

parallel with the edge of the stage for its whole width. The hypnotist shall inform all subjects that they must not cross the line while under hypnosis, unless specifically told to do so as part of the performance.

(d) **Treatment of Audience and Subjects**

- i. Before starting the performance the hypnotist shall make a statement to the audience, in a serious manner, identifying those groups of people who should not volunteer to participate in it, explaining what volunteers might be asked to perform; informing the audience of the possible risk from embarrassment or anxiety; and emphasising that subjects may cease to participate at any time they wish. The following is a suggested statement, which might be amended as necessary to suit individual styles as long as the overall message remains the same:

"I shall be looking for volunteers aged over 18 who are willing to be hypnotised and participate in the show. Anyone who comes forward should be prepared to take part in a range of entertaining hypnotic suggestions but can be assured that they will not be asked to do anything which is indecent, offensive or harmful. Volunteers need to be in normal physical and mental health and I must ask that no-one volunteers if they have a history of mental illness and under the influence of alcohol or other drugs or are pregnant".

- ii. No form of coercion shall be used to persuade members of the audience to participate in the performance. In particular, hypnotists shall not use selection technique that seek to identify and coerce onto the stage the most suggestible members of the audience without their prior knowledge of what is intended. Any use of such selection techniques (e.g. asking members of the audience to clasp their hands together and asking those who cannot free them again to come onto stage) shall only be used when the audience is fully aware of what is intended and that participation is entirely voluntary at every stage.
- iii. If volunteers are to remain hypnotised during an interval in the performance, a reasonable number of attendants as agreed with the licensing authority shall remain in attendance throughout to ensure their safety.

(e) **Prohibited Actions**

- i. The performance shall be so conducted as not to be likely to cause offence to any person in the audience or any hypnotised subject.
- ii. The performance shall be so conducted as not to be likely to cause harm, anxiety or distress to any person in the audience or any hypnotised subject. In particular, the performance shall not include:

- any suggestion involving the age regression of a subject (i.e. asking the subject to revert to an earlier age in their life; this does not prohibit the hypnotist from asking subjects to act as if they were a child etc.);
- any suggestion that the subject has lost something (e.g. a body part) which, if it really occurred, could cause considerable distress;
- any demonstration in which the subject is suspended between two supports (so called "catalepsy");
- the consumption of any harmful or noxious substance;
- any demonstration of power of hypnosis to block pain (e.g. pushing a needle through the skin);
- the performance shall not include the giving of hypnotherapy or any other form of treatment

(f) **Completion**

- i. All hypnotised subjects shall remain in the presence of the hypnotist and in the room where the performance takes place until all hypnotic suggestions are removed.
- ii. All hypnotic or post-hypnotic suggestions shall be completely removed from the minds of the subject and the audience before the performance ends. All hypnotised subjects shall have the suggestions removed both individually and collectively and the hypnotist shall confirm with each of them that they feel relaxed and well (the restriction on post hypnotic suggestions does not prevent the hypnotist telling subjects that they will feel well and relaxed after the suggestions are removed).
- iii. The hypnotist shall remain available for at least 30 minutes after the show to help deal with any problems that might arise. (Such help may take the form of reassurance in the event of headaches or giddiness but this condition does not imply that the hypnotist is an appropriate person to treat anyone who is unwell).

**6. AUTHORISED ACCESS TO LICENSED PREMISES**

Where a constable or an authorised officer of the licensing authority or the Fire Authority has reason to believe that a performance is being, or is about to be given he may enter the venue with a view to seeing whether the conditions on which approval for the performance was granted are being complied with.

**7. PREMISES PROVIDING LATE NIGHT REFRESHMENT**

- (a) Custom for late night refreshment will not be sought by means of personal solicitation outside or in the vicinity of the premise.

- (b) Litter is a source of public nuisance often associated with 'take-away' food establishments caused by careless attitudes and anti-social behaviour when patrons casually discard packaging and partly consumed food products. When food or drink for consumption 'off' the premises is sold between the hours of 11.00 pm and 5.00 am The Licensing Authority will expect the premises operator to provide adequate additional waste receptacles if required in the immediate vicinity of the premises for use by patrons.
- (c) The applicant should agree the construction, siting and positioning of the waste receptacles with The Licensing Authority.
- (d) The maintenance of and responsibility of emptying and arranging for the proper disposal of the collected waste from such additional waste receptacles will remain with the licence holder.

**Should the applicant consider that they could promote the Act's Licensing Objectives by choosing other methods than those included within this and associated documents when making an application for a licence, then full details should be given as to how those alternative methods will meet and enhance the Licensing Objectives.**