

LICENSING ACT 2003

GUIDANCE NOTES

GUIDANCE TO CLUBS

Guidance for Clubs

Qualifying Clubs

The Act defines a 'qualifying club' as:

- Having an interval of at least two days between a member's nomination / application for membership and their admission.
- Having at least 25 members, and
- Being established and conducted 'in good faith'.

In deciding whether a club is conducted 'in good faith' the following matters are taken into account:

- Any arrangements restricting the club's freedom of purchase of alcohol.
- Any arrangement where financial gain arising from the carrying on of the club does not benefit the club as a whole or is not for charitable, benevolent or political purposes.
- The arrangements for giving members information about the finances of the club and the accuracy of financial information kept.
- The nature of the premises occupied by the club.

The Benefits

Qualifying clubs are entitled to certain benefits including:

- No requirement for any member or employee to hold a Personal Licence to sell or supply alcohol to members or guests.
- No requirement to specify a Designated Premises Supervisor.
- Limits on the rights of entry and use of powers for the Police and other Authorised Persons because the premises are considered private and are not generally open to the public.

The certificate authorises qualifying clubs to use club premises for qualifying club activities, these are:

- The supply of alcohol by or on behalf of a club to a member for consumption on the premises.
- The sale by retail of alcohol by or on behalf of a club to a guest of a member for consumption on the premises.

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- The provision of regulated entertainment by or on behalf of a club for its members and guests.

Fees

The application fee and annual fee is dependent on the non domestic rateable value of the club premises. For more information, please see the Haringey Council's leaflet: **Fees Guidance**

Members and Guests

Qualifying clubs are able to admit their own members and guests as well as associate members and their guests when qualifying activities are being carried on. They can do this without compromising the use of their club premises certificate. This reflects the traditional situation where such clubs make their facilities open to members of other clubs who operate reciprocal arrangements.

The Licensing Act 2003 does not define a 'guest'. (For the sake of clarity an 'associate member' is merely one form of guest.) A guest can be served in the club as long as they are a 'guest' as defined in the club's own rules. This gives the club discretion. It is for the club to decide for itself who will be considered as a 'guest'. The only restriction is that the club must be run 'in good faith' as a genuine members' club and it is for the Licensing Authority to decide whether this is the case. The club must not become a bar open to the general public.

The Minister with special responsibility for licensing, Richard Caborn, has further elaborated on the status of visitors to clubs in an article in Golf Monthly in May 2004, saying that,

"The Licensing Act 2003, gives clubs the flexibility to invite a broad range of people into their premises as 'guests'. A visitor can be served in the clubhouse bar as long as they are a 'guest', as defined in the club's own rules. The Act does not tell clubs what to put in their rules. That is rightly a matter for them. It is up to the club to consider whether its rules should require 'guests' to be physically signed in by a member or whether some other requirement such as payment of a green fee could apply. The only restriction is that the club must be run 'in good faith' as a genuine members' club (as is the case under current law) and must not become, in effect, a bar open to the general public".

Haringey Council recommends that clubs take legal advice and scrutinise their rules. However, it does not seem at this stage that the new legislation will make that much difference to the day to day operation of clubs.

Entertainment

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For any forms of Regulated Entertainment live music, recorded music, plays, films, dancing etc will need to be covered under the clubs Club Premises Certificate.

Temporary Event Notices

There is a way, under the new Act, that the facility provided for in the above paragraph can continue without the club having to apply for a full Premises Licence. This is by using Temporary Event Notices (TEN's).

The Department for Culture, Media and Sport guidance advises that:

“Temporary event notices may be given in respect of club premises covered by club premises certificates by non personal licence holders. This means, for example, that a club which under its certificate is normally only permitted to supply alcohol to its members and their guests, may during the period covered by a TEN (subject to the limit on numbers and occasions) under the authority of the notice and the responsibility of the individual giving the notice (the premises user) admit members of the public and sell alcohol to them as well as provide regulated entertainment. Only twelve such notices may be given in respect of the same club premises in any calendar year and the maximum aggregate duration of 15 days will also apply.”

TENs allow anyone who is not a personal licence holder to apply for a licence to hold an event involving licensable activities (such as sale of alcohol or the provision of regulated entertainment) which lasts no longer than 96 hours and is for no more than 499 persons. Non personal licence holders may make up to five applications per year (which means that a club will need to give consideration to the persons who might apply. Perhaps these would be members of the bar committee) and no premises may be used more than twelve times or for more than an aggregate of 15 days in any calendar year.

Some larger clubs might decide that they would like to apply for a premises licence in addition to the club premises certificate. This would mean that the club would also need to have a designated premises supervisor who by definition would also have to be a personal licence holder. This would allow the club to admit members of the public but they would need to take care that they did not become a bar, which was generally open to the public, as this could have an impact on their status as a qualifying club being run 'in good faith'.

Clubs will need to give some thought, if they have not already, as to how they approach conversion of their existing certificates and would do well to seek some legal advice.

Please note that the advice in this document should not be regarded as a definitive statement of the law.

If you have inquiries, please do not hesitate to contact us during our normal office hours. You can do this by writing to:

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For more related information log onto the Department for Culture, Media and Sports website:
www.culture.gov.uk/alcohol_and_entertainment/licensing_act_2003/qualifying_clubs.htm

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