

Licensing Act 2003 Guidance: Offences under the Act

The new Act brings into play a number of new criminal offences or updates existing ones. Most **licensing authorities** and **responsible authorities** that have a role to play in enforcement will initially seek to advise or guide people in order to prevent breaches of the law. In these cases, prosecution would normally be the last resort. However, in serious cases – perhaps where public safety is seriously at risk or where there has been a deliberate disregard of legal requirements - the authorities may decide to bring immediate prosecutions.

Many of the regulatory bodies with powers under the Licensing Act will be familiar with the government's Enforcement Concordat. This is an agreement setting out key principles of how their enforcement powers will be used in an open, consistent and proportionate manner. Many agencies also have an enforcement policy that guides them as to what action should be taken in certain circumstances. Both of these documents will be freely available from the relevant organizations.

It is essential to remember that licence holders and others responsible for organizing or managing licensed events also owe duties under other legislation such as the Health and Safety at Work etc Act 1974, or the Environmental Protection Act 1990.

Offences under the Act

Carrying on an activity without the required licence or authorization is an offence. Carrying on a **licensable activity** in breach of a condition in a licence or an authorization is also an offence. Conviction before the magistrates' court can lead to six months imprisonment and/or a maximum fine of £20,000.

Offences include the following:

- ✓ failing without reasonable excuse to notify the change of name or address of a **premises licence-holder**
- ✓ failing to notify a designated **premises supervisor** of a transfer of a **premises licence**
- ✓ failing to display without reasonable excuse the summary of the **premises licence** or produce a copy of it to an authorized officer or constable
- ✓ intentionally obstruct an authorized officer inspecting premises in relation to a grant, variation, review of a licence or a provisional statement
- ✓ intentionally obstructing an authorized officer from entering premises where a **TEN** is in force

- ✓ failing to display without reasonable excuse a **TEN** or produce a copy of it to an authorized officer or constable
- ✓ failing to notify a change of name or address in relation to a **personal licence**
- ✓ failure to notify a court when charged with a relevant offence that the defendant is a **personal licence-holder**, or to produce the licence to the court
- ✓ failure of **personal licence-holder** to notify licensing authority of conviction for a relevant or foreign offence
- ✓ failure to produce a **personal licence** for inspection by an authorized officer or constable on licensed premises
- ✓ conducting licensable activities without authorization or in breach of an authorization
- ✓ putting alcohol on display for sale without a licence
- ✓ keeping alcohol on a premises for unauthorized sale
- ✓ allowing disorderly conduct on any licensed premises (not just those where alcohol is sold)
- ✓ selling alcohol to someone who is drunk or obtaining alcohol for someone who is drunk
- ✓ failing to leave any licensed premises without reasonable excuse when drunk and disorderly and when requested to do so by a constable, a licence-holder or their authorized agents
- ✓ entering or attempting to enter any licensed premises without reasonable excuse if drunk and disorderly after a constable, a licence-holder or authorized agent has requested him not to enter
- ✓ allowing children under 16 years of age on the premises when alcohol is being sold, without being accompanied by a person of over 18 years old
- ✓ allowing the sale of alcohol to children under the age of 18
- ✓ buying or attempting to buy alcohol whilst under the age of 18



- ✓ buying or attempting to buy alcohol for children under 18 unless the child is over 16, accompanied by a person over 18, and beer, wine or cider has been purchased with a table meal
- ✓ consuming alcohol by children under 18 on licensed premises unless the same exceptions as above apply
- ✓ knowingly allow a person under the age of 18 to sell alcohol unless the licence-holder or another responsible person has specifically approved the sale.

Most offences are punishable by a fine of up to level 1 or level 2 on the standard scale (£200 and £500) respectively, although offences relating to disorder on licensed premises or children can attract maximum penalties of up to level 5 (£5000).

Both **licensing authorities** and the police have the authority to bring prosecutions under the Act. Trading standards officers and the police have powers to conduct 'test-purchases' using children, and to prosecute for those offences involving the sale of alcohol to children under age.

Powers of entry

Constables and authorized officers have the right to enter licensed premises to ensure that activities are being conducted in accordance with an authorization or licence, and may use reasonable force to gain entrance if need be.

It is illegal to intentionally obstruct an authorized officer exercising this power. Constables may also enter and search (with reasonable force if necessary) any premises in which they believe that an offence under the Act has been, is being or is about to be committed.

The advice in this document should not be regarded as a definitive statement of the law – you are advised to seek your own legal advice on these matters. You can contact the Licensing Section by email at licensing@haringey.gov.uk.