

Licensing Act 2003

Licensable Activities

The following activities are licensable when carried out on or from any premises:

- The sale by retail of alcohol
- The supply of alcohol by or on behalf of a club
- The provision of late night refreshment
- The provision of Regulated Entertainment

What is the Sale by Retail of Alcohol?

Generally speaking, alcohol includes spirits, wine, beer, cider or any other fermented, distilled or spirituous liquor which at the point of sale is of strength in excess of 0.5%.

The sale of alcohol by retail to the general public covers sales commonly made in pubs, bars, commercial clubs hotels, restaurants and supermarkets. However, it is also considered that any alcohol described as being “complimentary” when provided with a chargeable service, for example a beauty treatment, or alcohol provided “free of charge” on purchase of a ticket, for example at a ticketed “tasting” event or summer ball, still constitutes the sale of alcohol, and must be appropriately authorised.

Whether a profit is made or not from the sale is irrelevant.

Alcohol that is provided completely free of charge, given without condition, is not licensable.

Bring Your Own (BYO) is not licensable under the Licensing Act 2003.

The sale of alcohol by retail may be authorised by:

- a Temporary Event Notice (if specific criteria is met); or
- a Premises Licence

In respect of the latter, the Sale of Alcohol may only be made when a Designated Premises Supervisor (DPS) has been nominated on the premises

licence. In turn this person must hold a Personal Licence issued under the Licensing Act 2003, and will be responsible for making or authorising the sale of alcohol at the premises.

In respect of certain **community premises** that are operated by a Committee or Board of individuals, the mandatory DPS requirement may be dis-applied following completion of the appropriate form. An alternative condition will make the Committee or Board responsible, thus negating the need for a DPS or sales to be authorised by a personal licence holder.

Although **wholesale** is exempt under the Licensing Act 2003, for example the sale of alcohol from a brewery to a public house (to a trader, for the purpose of his trade), from April 2017 any business selling alcohol by retail must make sure that they purchase their alcohol from UK wholesalers who have been approved by HMRC under the Alcohol Wholesaler Registration Scheme (AWRS).

You may access further information at:

<https://www.gov.uk/guidance/the-alcohol-wholesaler-registration-scheme-awrs>

What is the Provision of Late Night Refreshment?

A common misconception is that the provision of Late Night Refreshment (LNR) involves selling alcohol into the wee small hours when in fact, it doesn't involve alcohol at all.

Late Night Refreshment is the provision of hot food and/or non-alcoholic hot drink (coffee, tea, drinking chocolate etc.) to members of the public, anytime between the hours of 23:00 and 05:00 the following morning.

If you are proposing to carry out this activity, you will need to be authorised by way of a Temporary Event Notice or Premises Licence.

Premises such as late night cafes, take-aways, restaurants, pizza delivery services and mobile hot food vans, to name just a few, will all require an authorisation in order to provide Late Night Refreshment. Temporary events such as community fun days or festivals will also require an authorisation if hot food and/or hot drinks are to be provided between the times stated above.

Late Night Refreshment may be provided indoors or outdoors, for consumption on premises, off premises, or both. The "provision" is deemed to take place at the point a take-away for example, is handed to a customer, or when a plate of food is served –therefore, not at the point of payment.

Some premises do not require an authorisation for Late Night Refreshment when it is provided:

- to members of a recognised club;

- to guests of a hotel, B&B, hostel, camping/caravan site or any other premises whose main purpose is providing overnight accommodation;
- by a registered charity or anyone authorised by a registered charity;
- by an employer for an employee e.g. in a staff canteen;
- from a vending machine that is operated completely by the customer without any involvement from staff. Please note that the vending machine exemption applies to hot drinks only;
- free of charge (late night refreshment will not be considered “free of charge” if an admission fee has to be paid or any other service purchased, in order to be provided);
- on moving vehicles such as coaches, boats and trains;
- to a Tradesman carrying out work at a particular premises.

Please note that if you provide hot beverages containing alcohol such as liqueur coffees as part of your offering, you will require an authorisation that permits the sale of alcohol, as opposed to Late Night Refreshment.

What is Regulated Entertainment?

- Performance of a Play (including rehearsal)
- Exhibition of a Film
- Indoor Sporting Events
- Boxing and Wrestling
- Live Music
- Recorded Music
- The Performance of Dance
- Anything similar to Live and Recorded Music or the Performance of Dance

The entertainment is provided to entertain an audience, and takes place on premises made available for enabling the entertainment and either takes place in the presence of a public audience or, if taking place in private, is subject to a charge made with a view to profit.

An audience member need not be, or indeed may not want to be entertained, it is sufficient that they are present.

Several types of entertainment are EXEMPT from licensing and examples have been given under each entertainment category.

Entertainment provided at fetes or as part of a religious meeting or service will not require an authorisation.

Performance of a Play

This is the performance of any piece of drama by one or more persons present, involving:

- improvisation
- speech

- singing and/or
- actions

in the performance of the role.

An authorisation will be required **except** when:

- the performance of a play takes place between **08:00 and 23:00** on any day; and
- it is performed before an audience of no more than **500** people.

Exhibition of Film

The exhibition of film is the showing of moving pictures.

An authorisation will be required **except** when:

the film is shown on **community premises** between 08:00 and 23:00 hours on any day and:

- the entertainment is not provided with a view to profit;
- the film entertainment is in the presence of an audience of no more than 500 people;
- the admission of children is subject to the recommendations of the BBFC or relevant licensing authority; and
- Written consent from the management committee, person in control of the premises or person with relevant property interest must be obtained by the organiser or manager of the exhibition.

Exemptions

The exhibition of film is not licensable when its sole or main purpose is to:

- demonstrate any product;
- advertise any goods or services;
- provide information, education or instruction;

or when it consists of or forms part of:

- an exhibit put on show by a museum or art gallery; or
- is incidental to the main event which in itself is not a licensable activity;
- a television broadcast when live and simultaneous.

Indoor Sporting Event

This is any contest, exhibition or display of any sport in which physical skill is the predominant factor, and it takes place wholly inside a building, with the spectators attending the event accommodated wholly inside that building.

A “building” refers to any “roofed” structure.

An authorisation will be required **except** when:

- the event takes place between **08:00 and 23:00** on any day, and
- the audience does not exceed **1,000** people

Games played in pubs and youth clubs such as darts, table tennis, pool to name but a few, are not regarded as being regulated entertainment.

Boxing and Wrestling

A “boxing or wrestling entertainment” includes any:

- Contest
- Exhibition
- Display of wrestling or boxing

Any contest, exhibition or display that combines one or more martial arts **with** boxing or wrestling, is a boxing or wrestling entertainment.

An authorisation will be required **except** when:

A contest, exhibition or display of Greco-Roman wrestling or freestyle wrestling:

- takes place between 08:00 and 23:00 on any day, and
- takes place in the presence of no more than 1,000 spectators, and
- takes place wholly inside a building which also accommodates all the spectators.

Live Music

Live Music can be singing, instrumental music or a combination of the two and falls into two categories:

1. Unamplified
2. Amplified

Unamplified Live Music

An authorisation will be required **except** when the music is performed on any premises between 08:00 and 23:00

Amplified Live Music

An authorisation will be required for the performance of live amplified music **except** when:

- it is performed between 08:00 and 23:00 on any day; and
- the audience does not exceed 500 people; and

- it takes place on premises licenced to sell alcohol for consumption on those premises, or
- it takes place on any “workplace” or
- it takes place in a church hall, village hall, or similar community premises that is not licenced to sell alcohol with the permission of the person responsible for the premises, or
- it takes place on non-residential premises of a local authority, or a school, or a hospital with the consent of the local authority, school or healthcare provider for the hospital.

Live music does not require an authorisation when it is incidental to a main event which in itself is not licensable e.g. a pianist playing whilst people are dining in a restaurant.

Live music does not require an authorisation when it is played at a level that may be considered “background” music as it does not predominate over any other activity.

Recorded Music

The playing of recorded music at a premises or event by a DJ for example, will require an authorisation **except** when:

- The playing of recorded music takes place between 08:00 and 23:00 on any day, **and**
- The audience does not exceed 500 people; **and**
- The music is played on premises licenced to sale alcohol for consumption on those premises, **or**
- The music is played in a church hall, village hall, community hall or other similar community premises that is not licenced by a premises licence to sell alcohol, provided that the organiser seeks consent for the performance from a person who is responsible for the premises, **or**
- The music is played at the non-residential premises of a local authority, a school or a hospital provided that the organiser seeks permission for the playing of the music from the local authority, school proprietor or health care provider for the hospital.

Recorded music does not require an authorisation when it is incidental to a main event which in itself is not licensable e.g. the musical accompaniment in a stand- up comedy show.

Recorded music does not require an authorisation when it is played at a level that may be considered “background” music as it does not predominate over any other activity

Performance of Dance

Dance is not defined in the legislation. Victorians held it to be “a graceful and rhythmical movement” but the concept of dance has changed fundamentally

over the years so as to include a whole range of movements which need not be rhythmical or related to music!

An authorisation will be required **except** when:

- The performance of dance takes place between **08:00 and 23:00** on any day; and
- It is performed before an audience of no more than **500** people.

An authorisation is not required for Morris Dancing.

What authorisation will I need?

If you are looking to carry out any of these activities at a premises, or you are planning an event or festival at which one or more of these activities will take place you will need to be authorised by one of the following:

- Temporary Event Notice (TEN);
- Premises Licence;
- Club Premises Certificate

The type of premises, the type of activities you are proposing, the times those activities are to take place and the size of the audience are all factors that will determine which authorisation is necessary for you to operate legally.