

LICENSING ACT 2003 – INTERIM AUTHORITY NOTICES

These guidance notes are intended to provide further information to applicants to enable them to comply with the provisions of the Licensing Act 2003 (“the Act”) and the associated regulations. However, these notes do not constitute a full statement of the law and in cases of doubt applicants should seek further advice from their own legal advisor.

Background Information

Whilst a premises licence, when granted, may remain in force indefinitely, there are circumstances where it can automatically lapse or may be surrendered by the licence holder.

In such cases, the Act provides for the licence to be reinstated, within a period of 28 days, in two ways which are either by way of giving an interim authority notice (IAN) under section 47 of the Act or by way of a transfer of the premises licence having immediate effect under section 50 of the Act. However, to make application for the transfer of the licence to have immediate effect, there must be someone in a position to take over immediately as the licence holder. Where for any reason this is not possible, the giving of an IAN gives authority for the business to continue to operate as normal until a subsequent transfer application can be made.

Under what circumstances can a licence automatically lapse?

Section 27 of the Act states that a premises licence will lapse if the holder of the licence:

- (a) dies,
- (b) becomes mentally incapable (within the meaning of section 13(1) of the Enduring Powers of Attorney Act 1985 (c.29)),
- (c) becomes insolvent,
- (d) is dissolved, or
- (e) if it is a club, ceases to be a recognised club.

Who can give an Interim Authority Notice?

Notice can be given to the Licensing Authority within 28 days beginning with the day after the licence lapsed by person who has a “prescribed interest” in the premises or by a person “connected to” the person who held the premises licence immediately before it lapsed.

Persons with a “prescribed interest” in the premises are those with a legal interest in the premises as freeholder or leaseholder.

Persons “connected to” the former holder of the licence are his personal representative (in cases of death), a person with a power of attorney (in cases of incapacity) or his insolvency practitioner (in cases of insolvency).

How can a notice be given?

The notice must be served on the Licensing Authority within 28 days beginning with the day after the licence has lapsed.

Where such a notice has been given, the premises licence will be reinstated from the time that the notice was received by the Licensing Authority and the person who gave the notice is from that time deemed to be the holder of the licence.

Where can a copy of the notice be obtained?

The Act has prescribed the information required to be submitted on the notice and a copy can be downloaded from the Council’s website at the link below. Alternatively, a hard copy of the notice can be provided via the Licensing Section of Portsmouth City Council. Contact details are provided on page 4.

http://www.portsmouth.gov.uk/media/Interim_authority_notice_-_Form.pdf

Is there a fee payable?

There is a statutory fee of £23.00 payable in respect of giving an IAN. The fee should accompany the notice and cheques should be made payable to Portsmouth City Council.

What action must the Licensing Authority take?

Upon receipt of an IAN, the Licensing Authority must issue to the person giving the notice a copy of the premises licence and summary in the form they existed immediately before the licence lapsed except that the holder of the premise licence will be amended to show the name of the person who gave the IAN.

What other steps must be taken?

Important Note: The premises licence will automatically lapse again after a period of 28 days unless the person who gave the IAN has given a copy of the notice to the Chief Officer of Police and will again lapse if a transfer application is not made to the Licensing Authority within three months from when the IAN was given.

Therefore, it is very important that after the notice has been served on the Licensing Authority, arrangements must be made by the person who originally gave the IAN to serve a copy of the notice on the Chief Officer of Police within 28 days beginning from the day after the day the licence lapsed. Contact details for the police are provided on page 4.

In addition, to ensure that the IAN does not lapse, a subsequent transfer application must be made to the Licensing Authority within three months from when the IAN was served.

Who else needs to be notified of the IAN?

Where the premises licence is reinstated under the IAN, the new holder of the licence must immediately notify the Designated Premises Supervisor (DPS) (if there is one) of the existence of the IAN. Failure to comply with this requirement, without reasonable excuse, is a summary offence punishable with a fine not exceeding level 3 on the standard scale (currently £1,000).

Can the police object to an IAN?

The police can object within two working days of being notified of an IAN, but only on the grounds that they are satisfied that the exceptional circumstances of the case mean that failure to cancel the IAN would undermine the crime prevention objective.

The police must serve a notice on the Licensing Authority within the above time period stating the reasons for their objections.

What happens if the police object?

The Licensing Authority, upon receipt of an objection from the police, must hold a hearing within 5 working days to decide whether or not to cancel the IAN, unless the parties agree that this is unnecessary.

The Licensing Authority must notify the person who has given the IAN and the police of the time, date and venue of the hearing by no later than two working days before the day or the first day on which the hearing is due to commence.

If the Licensing Authority considers it necessary for the promotion of the crime prevention objective, it may cancel the IAN.

If such action is taken, the Licensing Authority must give the person who gave the IAN and the Police a formal notice stating that it is cancelled and the reasons for the decision. The premises licence will lapse when such a notice is given (subject to any possible appeal proceedings under Schedule 5 of the Act). In cases where an appeal has been lodged with the Court, the premises licence will be reinstated pending the outcome of the appeal.

Important Note: The Licensing Authority are not permitted to cancel an IAN after a relevant transfer application has been made in respect of the premises licence.

Contact Numbers and addresses for the Licensing Authority & Police

Licensing Authority:

Licensing Section
Legal, Licensing and Registrars
Portsmouth City Council
Civic Offices
Guildhall Square
Portsmouth
Hants
PO1 2AL

Tel: 023 9283 4604/4607 or 023 9268 8367
Fax: 023 9283 4811
Email: licensing@portsmouthcc.gov.uk

Police:

The Chief Officer of Police
Hampshire Constabulary
Licensing Unit
Southsea Police Station
259 Highland Road
Portsmouth
Hants
PO4 9EX

Tel: 0845 045 4545
Direct Dial: 023 9289 9080
Fax: 023 9289 3285
Email: Portsmouth.licensing@hampshire.pnn.police.uk