

2005 No.41

LICENCES AND LICENSING

The Licensing Act 2003 (Personal licences) Regulations 2005

<i>Made</i> - - - -	<i>12th January 2005</i>
<i>Laid before Parliament</i>	<i>13th January 2005</i>
<i>Coming into force</i> - -	<i>7th February 2005</i>

The Secretary of State, in exercise of the powers conferred upon her by sections 125(4) and 133(1) of the Licensing Act 2003(a), hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Licensing Act 2003 (Personal licences) Regulations 2005 and shall come into force on 7th February 2005.

Interpretation

2.— In these Regulations —

“the Act” means the Licensing Act 2003;

“legible in all material respects” means that the information contained in the application is available to the recipient to no lesser extent than it would be if it were given by means of a document in written form;

“person of standing in the community” includes a bank or building society official, a police officer, a civil servant or a minister of religion; and

“prescribed fee” in relation to an application, shall be the fee for such application calculated in accordance with the regulations made by the Secretary of State under Part 6 of the Act.

Scope

3. These Regulations apply to applications made under and in relation to Part 6 (personal licences) of the Act.

Person to whom a personal licence may be granted who does not possess a licensing qualification

4.— The following persons are prescribed for the purposes of section 120(2)(b) of the Act –

- (a) a member of the company of the Master, Wardens, Freemen and Commonalty of the Mistery of the Vintners of the City of London;
- (b) a person operating under a licence granted by the University of Cambridge; or

- (c) a person operating premises under a licence granted by the Board of the Green Cloth.

Form of personal licence

5. A personal licence shall be in the form of a physical document in two separate parts and shall contain—

- (a) in the first part, the matters referred to in section 125(2) of the Act, a photograph of the holder, a number allocated by the licensing authority that is unique to the licence, an identifier for the licensing authority granting the licence and the date of the expiry of the licence and this part shall be produced in durable form and shall be of a size no larger than 70mm x 100mm, and
- (b) in the second part, the matters referred to in section 125(3) of the Act and the matters referred to in (a) except that the photograph of the holder shall be omitted.

Application for grant or renewal of a personal licence

6.—(1) Except in the case of an application for the grant of a personal licence by the holder of a justices' licence during the period commencing on 7th February 2005 and ending on 6th August 2005, in which case the provisions of regulation 8 shall apply, an application for the grant of a personal licence made under section 117 of the Act (application for grant or renewal of a personal licence) shall be in the form and shall contain the information set out in Schedule 1 to these Regulations and shall be accompanied by the prescribed fee.

(2) An application for the renewal of a personal licence made under section 117 of the Act (application for grant or renewal of a personal licence) shall be in the form and shall contain the information set out in Schedule 2 to these Regulations and shall be accompanied by the prescribed fee.

7.—(1) An application made under regulation 6(1) or 6(2) shall be accompanied by the following documents –

- (a) two photographs of the applicant, which shall be –
 - (i) taken against a light background so that the applicant's features are distinguishable and contrast against the background,
 - (ii) 45 millimetres by 35 millimetres,
 - (iii) full face uncovered and without sunglasses and, unless the applicant wears a head covering due to his religious beliefs, without a head covering,
 - (iv) on photographic paper, and
 - (v) one of which is endorsed with a statement verifying the likeness of the photograph to the applicant by a solicitor, notary, a person of standing in the community or any individual with a professional qualification; and
- (b) either –
 - (i) a criminal conviction certificate issued under section 112 of the Police Act 1997(a),
 - (ii) a criminal record certificate issued under section 113A of the Police Act 1997 or
 - (iii) the results of a subject access search under the Data Protection Act 1998(b) of the Police National Computer by the National Identification Service, andin any case such certificate or search results shall be issued no earlier than one calendar month before the giving of the application to the relevant licensing authority, and
- (c) a declaration by the applicant, in the form set out in Schedule 3, that either he has not been convicted of a relevant offence or a foreign offence or that he has been convicted of

(a) 1997 c. 50
(b) 1998 c. 29

a relevant offence or a foreign offence accompanied by details of the nature and date of the conviction and any sentence imposed on him in respect of it.

(2) Except in the case of a person prescribed under regulation 4, an application under regulation 6(1) shall be accompanied by the licensing qualification of the applicant.

8.—(1) An application for the grant of a personal licence made under section 117 of the Act by a holder of a justices' licence during the period commencing on 7th February 2005 and ending on 6th August 2005 shall be in the form and contain the information set out in Schedule 3, insofar as the provisions are relevant to the application, and Schedule 4 and shall comply with the remaining provisions of this regulation

(2) The application shall be accompanied by —

- (a) the prescribed fee;
- (b) in addition to the documents mentioned in paragraph 23(3) of Schedule 8 to the Act, by a second photograph of the applicant in identical form to the requirements in respect of a photograph of the applicant set out in article 10 of the Licensing Act (Transitional provisions) Order 2005(a) except that the second photograph does not need to be endorsed with a statement verifying the likeness of the photograph to the applicant.

9.—(1) An application shall be given in writing.

(2) Notwithstanding the requirement in paragraph (1) and subject to paragraph (3), that requirement shall be satisfied in a case where —

- (a) The text of the application —
 - (i) is transmitted by electronic means;
 - (ii) is capable of being accessed by the recipient;
 - (iii) is legible in all material respects; and
 - (iv) is capable of being read and reproduced in legible written form and used for subsequent reference;
- (b) the person to whom the application is to be given has agreed in advance that an application may be given to them by those means; and
- (c) forthwith on sending the text of the application by electronic means, the application is given to the recipient in writing.

(3) Where the text of the application is transmitted by electronic means, the giving of the application shall be effected at the time the requirements of paragraph 2(a) are satisfied, provided that where any application is required to be accompanied by a fee, or any document that application shall not be treated as given until the fee or document has been received by the relevant licensing authority.

Provision of forms

10.The relevant licensing authority —

- (a) must provide on request the forms listed in the Schedules printed on paper; or
- (b) in a case where the relevant licensing authority maintains a website, it may provide electronic copies of the forms listed in the Schedules on such a website.

Validity of forms

11.A licensing authority shall not reject any application by reason only of the fact that it is given on a form provided otherwise than from the relevant licensing authority but which complies with the requirements of these Regulations.

(a) S.I. 2005/40

Richard Caborn

Minister of State
Department for Culture, Media and Sport

Date 12th January 2005

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the detailed requirements to be fulfilled by applicants for personal licences under Part 6 of the Licensing Act 2003 (c.17) (“the Act”).

In addition the Regulations prescribe those persons to whom a licence may be granted who do not possess a licensing qualification (regulation 4). The form of the personal licence is prescribed in regulation 5.

The Regulations prescribe the application form to be used by the applicant, the information to be supplied and the documents to accompany the application for an application for the grant or renewal of a personal licence (regulations 6 and 7 and Schedules 1 to 3). In respect of an application for a personal licence made by the holder of a justices’ licence during the period commencing on 7th February 2005 and ending on 6th August 2005 regulation 8 and Schedules 3 and 4 prescribe the application form to be used by the applicant, the information to be supplied and the documents to accompany the application. In the case of such applications reference should also be made to the Licensing Act 2003 (Transitional provisions) Order 2005 S.I. 2005/ .

The Regulations require the relevant licensing authority to provide the application forms for applicants on request and provides a discretion to provide these on its website.

A Regulatory Impact Assessment in relation to these Regulations has been placed in the libraries of both Houses of Parliament and copies may be obtained from the Alcohol and Entertainment Licensing Branch of the Department of Culture, Media and Sport, 3rd Floor, 2-4 Cockspur Street, London SW1Y 5DH or viewed on the Department’s website, www.culture.gov.uk.