

JOELSON WILSON

JOELSON WILSON LLP LICENSING/GAMING TEAM

LICENSING LAW UPDATE: 30 OCTOBER 2009



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PAPERLESS LICENCE APPLICATIONS

The Department for Culture, Media and Sport has launched a consultation on its proposal to introduce new voluntary online licence applications. The Government is rushing this through in order to comply with an EU Services Directive requiring all Member States by 28 December 2009 to have in place systems allowing for the application and payment for, and variation of, licences online.

The electronic application process will apply to all applications save for applications and renewals of personal licences and applications for reviews of licences.

There will be a particular impact with regard to lodging Temporary Event Notices (TEN's) electronically. There will be a new requirement that licensing authorities notify the police of the receipt of an electronic TEN on the first working day after which it is received. This in turn is likely to mean that the period for police objection (for electronic TENs only) will become two working days.

You can respond to the consultation until 13 November at licensingconsultation@culture.gsi.gov.uk.

Subject to the consultation process, the new scheme will be in place by the end of the year and we will be able to advise you as to whether it will be appropriate for you to use the new process and to assist you with the details of relevant procedure if you decide to do so.

OCTOBER 2009 LICENSING STATISTICS

The Government (DCMS) collects Alcohol, Entertainment and Late Night Refreshment Licensing Statistics for England and Wales on an annual basis. The 2008/09 collection is the third year these statistics have been collected, and the first time the overall collection has received a full 100% response rate from Licensing Authorities.

The main purpose of this collection is to monitor the impact of the Licensing Act 2003. This data has been collected from a census of Licensing Authorities, who completed a statistical return.

The following results from the report are of particular interest:

- 215,100 licences and certificates were in force in England and Wales on 31st March 2009. 197,900 were premises licences and 17,300 were club premises certificates. There were also 391,600 personal licences.
- 171,800 licences and certificates authorised the sale of alcohol, and 31,300 were not permitted to sell alcohol. 44,400 premises licences were authorised for off-sale of alcohol only. 39,500 licences authorised on-sale of alcohol only, of which 7,700 were club premises certificates, and an additional 82,700 allowed both on and off sales, of which 8,100 were club premises certificates.
- Just over 73,800 premises were licensed for late night refreshment.

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- 105,800 premises licences and 12,000 club premises certificates were authorised for any form of entertainment. Over 435,000 regulated entertainment activities were authorised; the most common types of which were playing recorded music and staging live music.
- There were 7,200 premises with 24-hour licences of which 4,100 were hotel bars (of which 3,100 allowed residents and private guests only), 1,500 supermarkets and stores, 850 pubs, bars and nightclubs, and 680 other premises types.
- There were 10,600 new applications for premises licences during the year. 97% of all decided outcomes resulted in the licence being granted. New premises licences granted in the year to 31 March 2009 made up 5% of the total number of premises licences.
- Over 1,100 reviews were completed in this reporting period, 9 in 10 were premises licences following an application for review. Over half the reviews were instigated by the Police, and the main reason for review was 'Crime and Disorder'. Data collected for the first time reported that Local Residents were responsible for instigating 10% of all completed reviews.
- As at 31st March 2009 there were 129 cumulative impact areas of which 21% were in Greater London Authorities and 18% in other metropolitan districts.
- 80 Licensing Authorities had at least one cumulative impact area, including 27 Local Authority areas which had two or more cumulative impact areas.

PROPOSED GOVERNMENT U-TURN FOR MUSIC VENUES

- On 22 October 2009 Ministers unveiled plans to allow small venues such as pubs and wine bars to put on live music without a licence for less than 100 people.
- Currently, venues have to apply for a licence for any kind of performance, including a pianist playing background music in a restaurant. Owners and musicians say this puts venues off holding gigs.
- The proposals were debated by chairman of the Culture, Media and Sport select committee John Whittingdale; shadow arts minister Ed Vaizey and representatives from the Musicians' Union. During the meeting, ministers admitted the law had been heavy-handed.
- If the proposed changes to the 2003 Licensing Act make it through a public consultation, they could take effect within months. Watch this space.

LEGAL VICTORY AGAINST PHONOGRAPHIC PERFORMANCE LIMITED

- Pubs can claim millions of pounds in refunds after the trade won a major legal victory against PPL (Phonographic Performance Limited) over background music.
- The Copyright Tribunal reached its decision following a long-running dispute between PPL and the British Beer & Pub Association and the British Hospitality Association.
- It is thought that the PPL now plans to appeal the decision with the High Court, which could result in a delay to the refunds.

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Need to know more?

Ask us. *“Truly proactive practitioners, well versed in licensing law, greatly knowledgeable and utterly dependable in fighting its clients’ battles ...” – Chambers Guide to the UK Legal Profession 2008.* For information/advice on alcohol or entertainment licensing matters, gaming, betting, lotteries or remote gambling, please contact:

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