

7. Temporary event notices (TENs)

- 7.1 This Chapter covers the arrangements in Part 5 of the 2003 Act for the temporary carrying on of licensable activities that are not authorised by a premises licence or club premises certificate.

GENERAL

- 7.2 The system of permitted temporary activities is a light touch process, and as such, the carrying on of licensable activities does not have to be authorised by the licensing authority on an application. Instead, a person wishing to hold an event at which such activities are proposed to be carried on (the “premises user”) gives notice of the event (a “temporary event notice” or “TEN”).
- 7.3 The TEN must be given to the licensing authority in the form prescribed in regulations made under the 2003 Act. Unless it is sent electronically, it must be sent to the relevant licensing authority, to the police and local authority exercising environmental health functions at least ten working days before the event (although a premises user may give a limited number of TENs to the licensing authority less than 10 days before the event to which they relate).
- 7.4 If a temporary event notice is sent electronically via Business link or the licensing authority’s own facility, the licensing authority must notify the police and local authority exercising environmental health functions as soon as possible and no later than the first working day after the notice is given.
- 7.5 The police or local authority exercising environmental health functions may intervene to prevent such an event taking place or agree a modification of the proposed arrangements, and their intervention may in some cases result in the licensing authority imposing conditions on a temporary event notice. When giving a temporary event notice, consideration should be given to the four licensing objectives. The licensing authority only otherwise intervenes if the statutory permitted limits on temporary event notices would be exceeded.
- 7.6 A temporary event notice does not relieve the premises user from any requirements under planning law for appropriate planning permission where it is required.

LIMITATIONS

- 7.7 A number of limitations are imposed on the use of TENs by the 2003 Act. The limitations apply to:
- the number of times a premises user may give a TEN (50 times in a calendar year for a personal licence holder and 5 times in a calendar year for other people);
 - the number of times a TEN may be given for any particular premises (12 times in a calendar year);
 - the maximum length of time a TEN may have effect (168 hours or 7 days);

- the maximum total duration of the periods authorised by TENs in relation to individual premises (21 days in a calendar year); and
- the maximum number of people attending at any one time (fewer than 500).

- 7.8 Proposed activities that exceed these limits will require a premises licence or club premises certificate.
- 7.9 TENs may be given in respect of premises which already have a premises licence or club premises certificate to cover licensable activities not permitted by the existing authorisation.
- 7.10 In determining whether the maximum total duration of the periods covered by TENs at any individual premises has exceeded 21 days, an event beginning before midnight and continuing into the next day would count as two days towards the 21-day limitation.
- 7.11 There is nothing to prevent notification of multiple events at the same time, provided the first event is at least ten days away (or five days away in the case of a late TEN). For example, an individual personal licence holder wishing to exhibit and sell beer at a series of farmers' markets may wish to give several notices simultaneously. However, this would only be possible where the events are to take place in the same licensing authority (and police area), and the limits are not exceeded in the case of each notice.

WHO CAN GIVE A TEMPORARY EVENT NOTICE?

PERSONAL LICENCE HOLDERS

- 7.12 A personal licence holder can give a TEN at any premises on up to 50 occasions in any calendar year. This limit is inclusive of any late TENs given in the same year. The use of each TEN must of course observe the limits described above, including the limit of 12 TENs in respect of each premises in a calendar year.

NON-PERSONAL LICENCE HOLDERS

- 7.13 The 2003 Act provides that any individual aged 18 or over may give a TEN whether or not that individual holds a personal licence. Such an individual will not, therefore, have met the requirements that apply to a personal licence holder under Part 6 of the 2003 Act. Where alcohol is not intended to be sold, this should not matter. However, many events will involve combinations of licensable activities. In the absence of a premises user holding a personal licence, the 2003 Act limits the number of notices that may be given by any non-personal licence holder to 5 occasions in a calendar year (this limit is inclusive of any late TENs in the same year). In every other respect, the Guidance and information set out in the paragraphs above applies.

STANDARD AND LATE TEMPORARY EVENT NOTICES

7.14 There are two types of TEN; a standard TEN and a late TEN. These are subject to different processes:

- a standard notice is given no later than 10 working days before the event to which it relates; and
- a late notice is given not before 9 and not later than 5 working days before the event.

STANDARD TEMPORARY EVENT NOTICES

7.15 "Ten working days" (and other periods of days which apply to other requirements in relation to TENs) exclude the day the notice is received and the first day of the event. Working days are Monday to Friday excluding Christmas Day, Good Friday and other Bank Holidays. A notice that is given less than 10 working days before the event to which it relates, when the premises user has already given the permitted number of late TENs in that calendar year, will be returned as void and the activities described in it will not be authorised.

7.16 The police and local authority exercising environmental health functions have a period of three working days from when they are given the notice to object to it on the basis of any of the four licensing objectives.

7.17 Although ten clear working days is the minimum possible notice that may be given, licensing authorities should publicise their preferences in terms of advance notice and encourage premises users to provide the earliest possible notice of events planned by them. Licensing authorities should also consider publicising a preferred maximum time in advance of an event by when TENs should ideally be given to them.

LATE TEMPORARY EVENT NOTICES

7.18 Late TENs are intended to be used by premises users who are required for reasons outside their control to, for example, change the venue at short notice. They should not be used save in exceptional circumstances.

7.19 As for a standard TEN, the police and local authority exercising environmental health functions have a period of three working days from when they are given the notice to object to it on the basis of any of the four licensing objectives. If there is an objection from either the police or local authority exercising environmental health functions, the event will not go ahead. In these circumstances there is no scope for a hearing or the application of existing conditions.

7.20 Late TENs can be given up to five working days but no earlier than nine working days before the event is scheduled and, unless given electronically to the licensing authority, must also be sent by the premises user to the police and local authority exercising environmental health functions. A late TEN given less than five days before the event to which it relates

will be returned as void and the activities to which it relates will not be authorised. The number of late TENS that can be given in a calendar year is limited to ten for personal licence holders and two for non-personal licence holders. Late TENS count towards the total number of TENS (for example, the limit of five TENS per year for non-personal licence holders and 50 TENS for personal licence holders). Once these limits have been reached, the licensing authority should issue a counter notice (permitted limits) if any more are given.

ROLE OF THE LICENSING AUTHORITY

- 7.21 The licensing authority must check that the limitations set down in Part 5 of the 2003 Act are being observed and intervene if they are not (see paragraph 7.7 above). For example, a TEN would be void unless there is a minimum of 24 hours between events notified by the same premises user, or an associate, or someone who is in business with the relevant premises user, in respect of the same premises. This is to prevent evasion of the seven-day (or 168 hour) limit on such events and the need to obtain a full premises licence or club premises certificate for more major or permanent events. In addition, for these purposes, a TEN is treated as being from the same premises user if it is given by an associate.
- 7.22 The 2003 Act defines an associate, in relation to the premises user, as being:
- the spouse or civil partner of that person;
 - a child, parent, grandchild, grandparent, brother or sister of that person;
 - an agent or employee of that person; or
 - the spouse or civil partner of a person listed in either of the two preceding bullet points.
- 7.23 A person living with another person as their husband or wife, is treated for these purposes as their spouse. 'Civil partner' has its meaning in the Civil Partnership Act 2004.
- 7.24 Where the application is not within the statutory parameters described earlier, the licensing authority will issue a counter notice to the premises user.
- 7.25 Where the TEN is in order, the relevant fee paid, the event falls within the prescribed limits and there has been no objection from the police or local authority exercising environmental health functions on the basis of any of the four licensing objectives, the licensing authority will record the notice in its register and send an acknowledgement to the premises user (which may be given electronically).
- 7.26 If the licensing authority receives an objection notice from the police or local authority exercising environmental health functions that is not withdrawn, it must (in the case of a standard TEN only) hold a hearing to consider the objection (unless all parties agree that this is unnecessary). The licensing committee may decide to allow the licensable activities to go ahead as stated in the notice. If the notice is in connection with licensable activities at licensed premises, the licensing authority may also impose one or more of the existing

licence conditions on the TEN (insofar as such conditions are not inconsistent with the event) if it considers that this is appropriate for the promotion of the licensing objectives. If the authority decides to impose conditions, it must give notice to the premises user which includes a statement of conditions (a “notice (statement of conditions)”), and provide a copy to each relevant party. Alternatively, it can decide that the event would undermine the licensing objectives and should not take place. In this case, the licensing authority must give a counter notice.

- 7.27 Premises users are not required to be on the premises for the entire duration of the event authorised by the TEN, but they will remain liable to prosecution for certain offences that may be committed at the premises during the period covered by it. These include, for example, the offences of the sale of alcohol to a person who is drunk; persistently selling alcohol to children; and allowing disorderly conduct on licensed premises.
- 7.28 In the case of an event authorised by a TEN, failure to adhere to the requirements of the 2003 Act, such as the limitation of no more than 499 being present at any one time, would mean that the event was unauthorised. In such circumstances, the premises user would be liable to prosecution.
- 7.29 Section 8 of the 2003 Act requires licensing authorities to keep a register containing certain matters, including a record of TENs received. There is no requirement to record all the personal information given on a TEN.

POLICE AND ENVIRONMENTAL HEALTH INTERVENTION

- 7.30 The system of permitted temporary activities gives police and local authorities exercising environmental health functions the opportunity to consider whether they should object to a TEN on the basis of any of the licensing objectives.
- 7.31 Such cases might arise because of concerns about the scale, location, timing of the event or concerns about public nuisance. However, in most cases, where (for example) alcohol is supplied away from licensed premises at a temporary bar under the control of a personal licence holder, (for example, at weddings or small social or sporting events) this should not give rise to the use of these powers.
- 7.32 Each of the police and local authority exercising environmental health functions (as an authorised person) have the right under sections 109(5) and (6) of the 2003 Act to request the premises user to produce the TEN for examination. If the police do not intervene when a TEN is given, they will still be able to rely on their powers of closure under Part 8 of the 2003 Act should disorder or noise nuisance be expected or arise.
- 7.33 If the police or local authority exercising environmental health functions believe that allowing the premises to be used in accordance with the TEN will undermine the licensing objectives, they must give the premises user and the licensing authority an objection notice. The objection notice must be given within three working days of their receipt of the TEN.

- 7.34 Where a standard TEN was given, the licensing authority must consider the objection at a hearing before a counter notice can be issued. At the hearing, the police, local authority exercising environmental health functions and the premises user may make representations to the licensing authority. If the police and/or local authority exercising environmental health functions give an objection to a late notice, the TEN will not be valid.
- 7.35 The police or local authority exercising environmental health functions may contact the premises user to discuss their objections and try to come to an agreement which will allow the proposed licensable activities to proceed. The TEN can be modified. If there is no agreement, the licensing authority must hold a hearing to consider the notice.