

A Guide to the Licensing Act 2003 - Temporary Event Notices (TEN)

When do I need a TEN?

A Temporary Event Notice allows you to hold a licensable activity on premises that are not currently licensed, or to hold activities existing licences or club certificates do not permit. This would include for example:

- Selling alcohol at a school fete
- Providing regulated entertainment in a pub (please note there are some exemptions please see below)
- Staying open to sell hot food in to the night on a special occasion (e.g. New Year's Eve)
- Selling alcohol after the hours your normal licence permits, e.g. for a special occasion
- An amateur dramatics group putting on a play in unlicensed premises
- A club hiring out a function room for an event attended by the public

You can hold your event by submitting a Temporary Event Notice (TEN) to the Licensing Authority if the licensable activity falls in to one of the following categories:

- That not more than 499 people will be in attendance
- Lasting for not more than 168 hours (7 days)

What are licensable activities?

- The sale by retail of alcohol
- The supply of alcohol by or on behalf of a club to a member or to the order of a member
- Provision of regulated entertainment
- Provision of late night refreshment

What is regulated entertainment?

- Performance of a play
- Exhibition of a film
- Indoor sporting event
- Boxing or wrestling entertainment
- Performance of live music
- Any playing of recorded music
- Performance of dance

Are there any exemptions to regulated entertainment?

The following are regulated entertainment regardless of timings or audience size these include boxing and wrestling (with exception for Greco-Roman and freestyle forms of wrestling), combined fighting sports and adult entertainment.

A number of exemptions have recently been introduced these include:

Live music in licensed venues

Live music is no longer considered to be regulated entertainment in venues licensed for the sale of alcohol for consumption on the premises in the following situations:

- when it is unamplified and takes place between 8am and 11pm; and
- when it is amplified and takes place in the presence of an audience of 500 persons or less and is provided between 8am and 11pm.

The premises must be open for the sale of alcohol during the time that the live music is provided for the exemption(s) to take effect.

Any condition attached to the Premises Licence relating to live music will cease to have effect in respect of the live music when offered between 8am and 11pm, unless such conditions have been reinstated by the Licensing Authority as part of a Review Hearing.

Live music in venues which are not licensed

Unamplified, live music has been deregulated between 8am and 11pm in all non-licensed venues. However, unamplified, live music after 11pm and amplified live music in non-licensed venues will still require formal authorisation from the Licensing Authority by way of a Premises Licence, Club Premises Certificate or Temporary Event Notice.

Live music in workplaces

When it takes place between 8am and 11pm and in the presence of an audience of 500 persons or less.

Incidental music

Performance of live music or the playing or recorded music that is incidental to some other activity which is itself not an entertainment or the provision of entertainment facilities. For example recorded music played in a supermarket.

Theatrical performances and performance of dance

When it takes place between 8am and 11pm and in the presence of an audience of 500 persons or less.

Indoor sports

When it takes place between 8am and 11pm and in the presence of an audience of 1000 persons or less.

Film Exhibitions

Where the purpose is to demonstrate any product, advertise any goods or services, or to provide information, education or instruction, or is part of an exhibit at a museum or art gallery.

Television or Radio

The simultaneous reception and playing of a programme does not constitute regulated entertainment.

Religious Services and Places of Worship

Entertainment or entertainment facilities for or incidental to a religious meeting or service or at a place of religious worship does not constitute regulated entertainment.

Garden Fetes, etc.

Garden fetes or functions or events of a similar nature do not constitute regulated entertainment provided that they are not conducted for private gain.

Morris Dancing, etc.

A performance of Morris dancing or any dancing of a similar nature or a performance of un-amplified, live music as an integral part of such a performance, or facilities enabling people to take part shall not constitute regulated entertainment.

Vehicles in Motion

The provision of entertainment or facilities for entertainment on premises consisting of or forming part of a vehicle at a time when the vehicle is not permanently or temporarily parked is not the provision of regulated entertainment.

What is Late Night Refreshment?

The provision of hot food or hot drinks between 11.00 pm at night and 5.00 am in the morning for consumption on or off the premises are a licensable activity.

The following supplies are exempt from being considered as a licensable activity:

- Hot drink which consists of or contains alcohol (This is covered by other licensable activities)
- Supply of hot drink by means of a vending machine
- Hot food or hot drink that is free of charge
- Supply of hot food or drink by a registered charity
- Supply of hot food or drink on a vehicle that is not permanently or temporarily parked.

Are there any restrictions on TENs?

There are a number of limits in respect of TENs these include:

- Only 15 TEN's can be issued for any premises in any calendar year.
- The total number of days in which a TEN is in force at any premises cannot exceed 21 in any calendar year.
- There must be at least 24 hours between events for TEN's issued by the same person at a premises.
- TEN's must be received by both the Licensing Authority, Environmental Health and the Police at least 10 clear working days before the event is to take place (unless a late Notice is issued – see below). This does not include the day it is received by the Licensing Authority, the day of the event, weekends or Bank Holidays.
- 'Late' notices can be submitted giving no later than 5 working days and no earlier than 9 working days before the event. Any TEN served giving less than 5 working days will automatically be rejected.
- An individual (and any associates) can only be issued 5 TEN's in any calendar year (50 for those who hold a Personal Licence issued under the Licensing Act 2003).
- The number of late Notices that can be given in any one calendar year is limited to 10 for Personal Licence Holders and 2 for non-Personal Licence Holders. These count towards the total number of Temporary Event Notices (i.e. 50 Temporary Event Notices per year for Personal Licence Holders and 5 Temporary Event Notices for non-Personal Licence Holders).

If your event/activity falls outside these restrictions, you will require a full premises licence. If the number of TENs you seek in a year exceeds the limits, the Council must serve a counter notice prohibiting the event from going ahead.

What about outdoor events?

An outdoor space is still regarded as “premises” under the Act and you must obtain consent for any licensable activities you hold in the open air.

Why are TENs frequently rejected?

- Failure to submit notice sufficiently in advance of the event, please note that the day the Licensing Authority receive the notice is not included as one of the working days and neither is the day the event commences
- No payment (The notice is not correctly served until the fee has been paid)
- Incomplete notices (Proposed premises users may not amend a TEN once it has been submitted)

What happens after I serve a TEN?

Once the application has been received:

- The Licensing Authority will acknowledge receipt by sending you an endorsed copy of your application.
- The Police and the authority exercising Environmental Health functions have three working days in which to object to your application on the grounds of any of the four licensing objectives (the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm)
- The Licensing Authority can object to your application on the grounds that the number of TENs issued in any year for the premises or by the person has been exceeded, or where the aggregate duration of events at the premises will exceed 21 days in the calendar year.
- If there are no objections from the Police or the authority exercising Environmental Health functions then the event can proceed
- For TENs served within the 10 day notification period - If there are objections to your application then you will either need to resolve the objection or a hearing will take place to determine whether your event will be permitted, with or without conditions, or prohibited.
- For Late TENs - If there is an objection from either the police or local authority exercising environmental health functions, the event will not go ahead and a counter notice will be issued.
- If your event is permitted you will need to keep or display the copy of your application sent back to you (as a receipt) at the premises during the event

At any time before a hearing the police and environmental health may modify a TEN with the consent of the premises user. In such a case an objection notice will be deemed to have been withdrawn.