



THE LICENSING ACT 2003

Navigation authorities as responsible authorities and Public Safety on passenger ships

The Licensing Act

The Licensing Act 2003 was approved by Parliament in July 2003, and the transition to this becoming law will begin on the 7th February 2005, with full implementation by November 2005. The overall aim of the Act is to modernise the legislation governing the sale and supply of alcohol and public entertainment licensing. The Act will do this by transferring liquor licensing powers from the Magistrates' Courts to Local Authorities, via the creation of 'Licensing Authorities'. The current fixed hours governing the sale of alcohol are also to be removed so that licence applicants can request their own hours of operation where this is appropriate.

Licence Applications

During a specified 'transition period' all existing licences for premises providing alcohol and/or public entertainment will need to be converted into a **premises licence**. Those existing licence holders who wish to vary their existing licence terms (e.g. extend their hours of operation), will need to apply for both a '**conversion**' of their existing licence, as well as a '**variation**' to their licence.

Responsible authorities for ships

A number of specified '**responsible authorities**' will be notified of all licence variations and new applications. These responsible authorities include the police and fire department, and in relation to vessels-

(i) a navigation authority (within the meaning of section 221 (1) of the Water Resources Act 1991 (c.57) having functions in relation to the waters where the vessel is usually moored or berthed* or any waters where it is, or is proposed to be, navigated at a time when it is used for licensable activities,

(ii) the Environment Agency

(iii) the British Waterways Board, or
(iv) the Secretary of State

(i) a person prescribed for the purposes of this subsection
In (iv), the Secretary of State means the Maritime and Coastguard Agency (MCA) which is responsible for setting and enforcing standards for passenger ships in the United Kingdom.

* Government guidance (5.58) states 'A vessel that is permanently moored or berthed is premises situated at that place'

-The relevant section of the Licensing Act 2003 relating to vessels is section 189 and of the Statutory Guidance section 5.57 and 5.59. These sections give further detail as to what type of vessels need apply for licences and exemptions for when they do not. These documents also contain further detail concerning representations from responsible authorities.

Making representations

Each responsible authority will be able to make representations regarding licence variations and new applications, as well as being able to call for reviews of existing licences. Such representations will need to be made in relation to one or more of the four '**licensing objectives**' which are:

The prevention of crime and disorder
Public safety
The protection of children from harm
The prevention of public nuisance

* **Care should be taken that existing law is not duplicated and that existing planning processes are not replicated. For example conditions please refer to the government guidance on the Licensing Act (annex D2.H)**

example: In particular, for ships, MCA will be concerned to avoid any duplication of or conflict with the safety regime for passenger ships. Except in exceptional circumstances, where a passenger ship holds a valid passenger certificate, this should be taken as showing that the vessel meets the safety objective as a premises.

What do local authorities need to do now?

Licensing authority officers and planning officers need to discuss how they will jointly address the statutory requirements in the Licensing Act 2003 and:

Agree which contact will be identified in the Licensing Authority's 'Statement of Licensing Policy' as the contact to be provided for body responsible for vessel applications

Agree how representations will be made during the transition period (when volumes may be high) and subsequently.

What are LACORS and the MCA planning to do?

LACORS and the MCA are working together to disseminate practical advice, and examples of good practice. All queries should be initially discussed in local groups, however, outstanding questions / comments can be directed in writing to:

Julie Carlton, Code Vessel Safety, MCA, Bay 2/05 Spring Place, 105 Commercial Road, Southampton SO15 1EG.

Rachael Rogers, Policy Officer, LACORS, 10 Albert Embankment, London, SE1 7SP (Licensing enquiries)

Useful links & contacts:

The Government Department responsible for the Act is **The Department for Culture, Media & Sport (DCMS)**:
<http://www.culture.gov.uk>.

The Act and Explanatory Notes can be viewed via **Her Majesty's Stationary Office** website:
<http://www.legislation.hmsso.gov.uk/acts/acts2003/20030017.htm>

MCA (Maritime and Coastguard Agency)- for information about the passenger ship safety regime
<http://www.mcga.gov.uk>

In offering this advice LACORS wishes to make it clear that: Legislation may change over time and the advice given is based on the information available at the time the guidance was produced. It is not necessarily comprehensive and is subject to revision in the light of further information. Only the courts can interpret statutory legislation with any authority. This advice is not intended to be a definitive guide to, nor substitute for, the relevant law. Independent legal advice should be sought where appropriate.