

GUIDANCE FOR LICENSING AUTHORITIES TO PREVENT ILLEGAL WORKING IN LICENSED PREMISES IN ENGLAND AND WALES

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1. Introduction

The Licensing Act 2003 (the 2003 Act) sets out the licensing regime for the sale and supply of alcohol, the provision of entertainment and the provision of late night refreshment in England and Wales. Section 36 of and Schedule 4 to the Immigration Act 2016 (the 2016 Act) amend the 2003 Act and introduce immigration safeguards in respect of licensing applications made in England or Wales on or after 6 April 2017. The intention is to prevent illegal working in premises licensed for the sale of alcohol or late night refreshment.

The statutory prevention of crime and disorder licensing objective in the 2003 Act includes the prevention of immigration crime and the prevention of illegal working in licensed premises. Licensing authorities should work with the Home Office (Immigration Enforcement) as well as the police, in respect of these matters.

1.1 Summary of the immigration measures

Section 36 of, and Schedule 4 to the Immigration Act 2016 (the 2016 Act) amend the 2003 Act to provide that in England and Wales:

- Premises licences to sell alcohol or provide late night refreshment and personal licences cannot be issued to an individual who does not have permission to be in the UK, or is not entitled to undertake work relating to the carrying on of a licensable activity;
- Licences issued to those with limited permission to be in the UK will lapse when their permission to be in the UK and work in a licensable activity comes to an end;
- Immigration offences, including civil penalties, become 'relevant offences' as defined by the 2003 Act;
- The Home Secretary (in practice Home Office (Immigration Enforcement)) is added to the list of responsible authorities in the licensing regime, which requires Home Office (Immigration Enforcement) to receive premises licence applications (except regulated entertainment only licences and applications to vary a Designated Premises Supervisor (DPS)), and in some limited circumstances personal licence applications, and permits Home Office (Immigration Enforcement) to make appropriate representations and objections to the grant of a licence; and
- Immigration officers are permitted to enter premises which they have reason to believe are being used to sell alcohol or provide late night refreshment, to investigate whether immigration offences are being committed in connection with the licensable activity.

Section 36 enables similar provision to be made by regulations in the licensing regimes of Scotland and Northern Ireland. These are expected to come into force later in 2017.

1.2 Purpose of this guidance

This guidance is issued for use by licensing authorities in England and Wales. Equivalent guidance will be issued for the relevant licence issuing bodies in Scotland and Northern Ireland when the measures are implemented there.

It sets out what the immigration amendments to the 2003 Act mean for licensing authorities and the Home Office (Immigration Enforcement), which are, in summary:

- **Licensing authorities** are under a duty not to issue licences to individuals who do not have the required immigration permission to work in a licensable activity.
- **Home Office (Immigration Enforcement)** will undertake the role of a 'responsible authority' as defined in the 2003 Act. It will also use the power of entry under section 179 of the 2003 Act to investigate illegal working in premises engaged in licensable activities, working closely with licensing enforcement officers and the police.

1.3 For whom is this guidance relevant?

This guidance should be used by licensing authority staff responsible for the issue, suspension and revocation of premises licences for the sale of alcohol or late night refreshment, and personal licences.

This guidance applies to applications sent to licensing authorities on or after 6 April 2017.

The checking requirements are not retrospective. Licensing authorities do not have to check the immigration status of those people who already hold a licence which was issued before 6 April 2017, or whose licence was issued after 6 April 2017 further to an application sent to the licensing authority before this date. A postmark may be taken as acceptable evidence of the date of application.

1.4 How should this guidance be used?

The guidance sets out what licensing authorities need to know about their legal duty not to issue a licence to a person who is not permitted to hold one because of their immigration status. It sets out how licensing authorities should discharge this duty by conducting document checks, and on whom. It also explains the role of Home Office (Immigration Enforcement) in promoting the prevention of crime and disorder in licensed premises, including immigration crime and illegal working.

This guidance supplements the statutory guidance issued under section 182 of the Licensing Act 2003¹.

¹ <https://www.gov.uk/government/publications/section-182-of-the-licensing-act-2003-amended-guidance>

1.5 Types of licences affected by the provisions

The provisions apply to premises licences for alcohol and late night refreshment, (but not entertainment only licences) and personal licences. Other types of authorisation under the 2003 Act (club premises certificate and temporary event notices (TEN)) are not covered. This is because there is little evidence of immigration abuse in respect of premises authorised under club premises certificates, and it would have been disproportionate to apply the requirements to TENs.

2. Entitlement to work

2.1 What does entitlement to work in a licensable activity mean?

For an application² for a premises licence or a personal licence to be lawful and valid, it must be made by someone who is over the age of 18, and, if they are living in the UK, they must be entitled to be in the UK and to work in a licensable activity. Applicants who are not living in the UK are not required to be eligible to work in the UK to hold a personal or premises licence.

For the purpose of these provisions, an individual is disqualified from applying for a personal or premises licence if:

- (a) the individual requires leave (immigration permission) to enter or remain in the UK and has not been granted it, or
- (b) the individual has been granted such leave and the leave -
 - is invalid,
 - has ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time, or otherwise), or
 - is subject to a condition preventing the person from doing work relating to the carrying on of a licensable activity.

For applications made on or after 6 April 2017, a licensing authority must not issue a premises or personal licence to someone who lives in the UK and who is not entitled to work in a licensable activity. An application made by an individual without the entitlement to work in the UK is invalid and must be rejected.

In order to discharge their duty from 6 April 2017, licensing authorities must be satisfied that an applicant has the right to work in the UK and should require applicants to submit a copy of one of the documents listed at [Annex A](#) to show that the applicant has permission to be in the UK and to undertake work in a licensable activity. Licensing authorities are therefore responsible for carrying out the check to ensure that the applicant is entitled to live in the UK and to work in a licensable activity.

Home Office (Immigration Enforcement) will receive all premises³ and some personal applications. They will consider whether there are immigration offences or penalties – for example for the employment of illegal workers, which lead them to believe that to grant a licence in the circumstances, is, in the case of personal licences, likely to be prejudicial to the prevention of immigration crime or, in the case of premises licences, likely to undermine one of the licensing objectives – in the immigration context the prevention of crime is the most likely ground of objection.

² Refers to an application made by an individual, including partnerships where there is a joint and several liability between partnership individuals.

³ Except applications to vary the DPS on a premises licence.

Licensing authorities are not required to check the entitlement to work of the DPS. It is the employer's responsibility to ensure they are satisfied that the DPS is entitled to work (and is not subject to conditions preventing him or her from doing work relating to a licensable activity), and to check any documentation as appropriate. Similarly, applications to vary a premises licence to specify a new DPS do not need to be accompanied by documents demonstrating entitlement to work in the UK. Licensing authorities do not need to check the entitlement to work of the DPS and should not request documents demonstrating entitlement to work relating to the DPS.

The requirements to demonstrate immigration status are not retrospective. This means that a licensing authority does not need to check the immigration status of those individuals who already hold a licence which was issued before 6 April 2017, or who had applied for their licence before this date.

2.2 Immigration information as part of the application

The relevant licence application forms have been amended to contain a list of documents that licence applicants should provide, so that the licensing authority has the information necessary for the introduction of immigration checks as part of the licensing regime⁴ with effect from 6 April 2017.

For applications made on or after this date, the applicant must provide their date of birth, their nationality and their residential address. Evidence of their entitlement to work in the UK should also accompany their application. The form includes a list of documents and a copy of one or more of these documents should be provided, as part of their application. These documents which demonstrate the applicant's entitlement to work in the UK are the same for personal and premises licence applications, and broadly the same as those for the existing requirements for the taxi and private hire vehicle licensing regime. They are based on existing prescribed document lists for checks undertaken by employers⁵.

Applicants may provide either clear photocopies or scanned copies of documents, which can either be in black and white or colour, and do not need to be endorsed as a copy of the original. Applicants should not be encouraged or required by licensing authorities to submit original documents. Copy documents are accepted because this is in line with the existing licensing regime which must provide for online applications and scanned documents, and therefore keeps additional burdens on businesses and licensing authorities to a minimum.

If an applicant fails to provide the appropriate documentation from which the licensing authority is satisfied that the individual, if living in the UK, is entitled to work, the licensing authority may request that the applicant submits further documentation. If the applicant fails to provide the appropriate documentation, the licence must not be granted.

⁴ The Licensing Act 2003 (Miscellaneous Amendments) Regulations 2017: <http://www.legislation.gov.uk/2017/?title=licensing%20act%202003%20%28miscellaneous%20amendments%29%20regulations>

⁵ Acceptable documents for right to work checks are set out in the following regulations: The Immigration (Restrictions on Employment) Order 2007 and the Immigration (Restrictions on Employment) (Codes of Practice and Amendment) Order 2014.

The licence application forms include a clear warning that it is an offence to work illegally in the UK, and to employ individuals who do not have an entitlement to work. It also makes clear that an individual is not entitled to be issued with a licence if they are not entitled to live and work in the UK, or are subject to a condition preventing them from carrying on a licensable activity. Furthermore, a licence will become invalid if the individual to whom it has been granted ceases to be entitled to live and work in the UK.

The application form includes a clear warning about the requirement to be entitled to work in the UK. Under section 158 of the 2003 Act, it is a criminal offence to provide false information as part of the licence application, punishable on summary conviction with a fine of any amount.

2.3 Ensuring equal treatment

To ensure that licensing authorities do not discriminate against anyone, all licence applicants should be treated in the same way during the licence application process, including British citizens. This will also demonstrate a fair, transparent and consistent application process. Assumptions should not be made about a person's right to work in the UK or their immigration status on the basis of their nationality, ethnic origin, accent, the colour of their skin, or the length of time they have been living in the UK.

2.4 Licensing authority assessment of entitlement to work

It is the responsibility of the licensing authority to be satisfied that an individual's immigration status does not preclude them from holding a premises or personal licence to sell alcohol or late night refreshment.

In most cases, the licensing authority should be able to make the assessment that the applicant is entitled to work and is not disqualified from applying for a premises or personal licence. They will make this assessment on the basis of the information provided with the application, including the copy documents supplied.

In all cases where the licensing authority is satisfied that the applicant is a British citizen, they will be able to make the assessment that the applicant meets the 'entitlement to work' criteria.

Applicants are not required to provide original documents, and licensing authorities should not request them. Clear photocopies or scanned copies of documents are sufficient. The licensing authority will retain the document copies in accordance with its existing procedures for retaining licence applications.

The licensing authority must be satisfied that the applicant is entitled to work in the UK, but the licensing authority is not required to check that the document submitted by the applicant to demonstrate the right to work is genuine, or physically compare the photograph with the applicant in person. The licensing authority should establish whether or not an individual has a lawful immigration status in the UK or is prohibited from working because they are in the UK illegally or subject to a condition that prevents them from working in a licensable activity.

Licensing authorities must conduct checks of entitlement to work on all individuals who apply for a premises licence⁶, including where there is more than one individual applicant, including partnerships where there is joint and several liability.

Licensing authorities are not required to carry out immigration checks on the following:

- the DPS named on an application for a premises licence;
- applications to vary the DPS on a premises licence;
- applications from those who do not live in the UK (where this is clear from the information in the application form (residential address) and in supporting documentation)
- applications from those applying for a premises licence as a limited company, limited liability partnership, or anyone applying pursuant to a function or on behalf of an organisation listed in section 16(1)(b)-(h) of the 2003 Act.

When a licensing authority determines that an application is invalid, it is not required to notify Home Office (Immigration Enforcement). However, licensing authorities may choose to inform the Central Team by email to prevent them from receiving representations from Home Office Immigration Enforcement in respect of applications which have already been rejected.

2.5 Checking with the Home Office

An immigration status check may be made by the licensing authority contacting the Home Office's Status, Verification, Evidence and Checking (SVEC) Unit – formerly called the Evidence and Enquiry Unit, using a standard pro-forma. This service is exactly the same as the existing service available to licensing authorities conducting checks in relation to taxi and private hire vehicle licensing. Home Office Local Partnership Managers can provide licensing authorities with the contact details and the pro-forma for the SVEC Unit. The Unit will send a response to an enquiry within 10 working days.

It will only be necessary to contact the SVEC Unit in the following circumstances to verify that someone has the right to hold a premises or personal licence:

- (i) the applicant provides a copy of a Certificate of Application which is less than six months old and indicates that work is permitted; or
- (ii) the applicant has provided reasonable evidence that they have an outstanding application for permission to remain in the UK with the Home Office which was made before their previous immigration leave expired, such as a Home Office acknowledgement letter or proof of postage or reasonable evidence that they have an appeal or administrative review pending against the Home Office decision, such as a reference number.

⁶ The exceptions are where there is evidence that the applicant is not ordinarily resident in the UK, or the application is vary the Designated Premises Supervisor.

In these two circumstances only, the SVEC Unit will confirm the individual's immigration status, in order that the licensing authority may decide whether the applicant is entitled to a licence.

Assistance on this process may be obtained from Local Partnership Managers, or by email I&SDLPMSsupportTeam@homeoffice.gsi.gov.uk. In most circumstances, a Local Partnership Manager or local Immigration, Compliance and Enforcement (ICE) team will be the first point of contact for licensing authorities.

The licence application form makes clear that documentary evidence of immigration status should accompany the application. The list of documents is contained in the form. If this documentary evidence is absent, the licensing authority may wish to contact the applicant to request this information, in accordance with its usual procedures. In the event that the requested information is not provided, the licensing authority should determine that the immigration requirements have not been met and reject the application.

2.6 Time-limited immigration permission to work

Where an applicant's permission to work in the UK is time-limited, the licensing authority may issue a licence for an indefinite period, but the licence will become invalid when the immigration permission expires. This is set out in the licence application forms. The individual's entitlement to work in the UK may be extended or made permanent by the Home Office, and granting the licence for an indefinite period prevents the licence holder from having to re-apply for a new licence. In the event that the Home Office cuts short or ends a person's immigration permission (referred to as a curtailment or revocation), any licence issued further to an application made on or after 6 April 2017 will automatically lapse. The licensing authority is under no duty to carry out on-going immigration checks to see whether a licence holder's permission to be in the UK has been brought to an end.

Home Office (Immigration Enforcement) will seek to inform the licensing authority of any individual whose immigration permission has been curtailed or revoked, so that the licensing authority can take any necessary action. Such a person may apply to transfer the licence to another person. That person must not be disqualified by their immigration status. Home Office (Immigration Enforcement) will receive a copy of that transfer application.

For most non-European Economic Area nationals granted immigration permission to be in the UK, the document most likely to be seen to demonstrate right to work is the biometric residence permit (BRP). Migrants overseas who are granted permission to enter the UK for more than six months are issued with a vignette (sticker) in their passport, which is valid for 30 days, to enable them to travel to the UK, where they collect their BRP. Following their arrival, they have 10 days or until the vignette expires (whichever is later) to collect their BRP. It is unlikely that an individual will make a licence application before they have collected their BRP. The 30 day vignette demonstrates evidence of right to work, however, it is preferable to check the applicant's BRP. Following receipt of an application with a 30 day vignette, licensing authorities may request, as part of existing procedure, further supporting documents; i.e. the BRP.

If a licensing authority receives an application for a licence from an individual whose immigration status is valid at the point they make the application, but whose leave expires before the licensing authority has considered it, the application must be refused. If, during this time, the applicant extends their immigration permission to be in the UK and work, they may submit a new licence application and supporting valid evidence of their immigration status.

3. Home Office as a responsible authority

The Immigration Act 2016 makes the Secretary of State a responsible authority in respect of premises licensed to sell alcohol or late night refreshment with effect from 6 April 2017. In effect this conveys the role of responsible authority to Home Office (Immigration Enforcement) who exercises the powers on the Secretary of State's behalf.

When Home Office (Immigration Enforcement) exercises its powers as a responsible authority, it will do so in respect of the prevention of crime and disorder licensing objective because it is concerned with the prevention of immigration crime in connection with licensed premises.

In addition to its function as a responsible authority in respect of premises licences, Home Office (Immigration Enforcement) has a similar role to the police in respect of its ability to intervene in respect of personal licences.

Licence applications for alcohol and late night refreshment submitted on or after 6 April 2017 must be sent to the Home Office (Immigration Enforcement).

3.1 Home Office contact details

Home Office (Immigration Enforcement) has established a Central Team to handle the receipt of licence applications.

Postal licence applications will be copied by the applicant to Home Office (Immigration Enforcement) as a responsible authority in the usual way. The licensing authority should add Home Office (Immigration Enforcement) to its existing list of responsible authorities and provide the following address on its website. This will also feature on gov.uk:

**Alcohol Licensing Team
Lunar House
40 Wellesley Road
Croydon
CR9 2BY**

Email licence applications will be forwarded by the licensing authority to Home Office (Immigration Enforcement) as a responsible authority:

Alcohol@homeoffice.gsi.gov.uk

3.2 Licence applications to be sent to Home Office (Immigration Enforcement)

Home Office (Immigration Enforcement) will receive notification of the following:

- (i) **Premises licences for the sale of alcohol or late night refreshment:**
- all applications for premises licences for the sale of alcohol and/or late night refreshment
 - all applications to transfer the above⁷
 - applications to vary a premises licence, except to vary the DPS⁸
 - applications for minor variations considered by the licensing authority to require consultation with Home Office (Immigration Enforcement) (for example, removal or alteration of a relevant condition on a premises licence)
 - all interim authority notices.

Personal licences for the sale of alcohol

- all personal licence applications which include a declaration of an unspent conviction for a relevant offence or a foreign offence, as set out in Schedule 4 of the 2003 Act and all personal licence applications which declare a civil immigration penalty.

3.3 What are 'relevant offences'?

Relevant offences are defined within the 2003 Act. Further to amendments introduced by the Immigration Act 2016, they now specifically include immigration offences. Civil penalties received for immigration matters are treated in the same way as relevant offences.

Licensing authorities are required to notify Home Office (Immigration Enforcement) of a personal licence applicant when an applicant declares that they have been required to pay an immigration penalty or convicted of an immigration offence, or a foreign offence comparable to an immigration offence. The Home Office may object to an application on the grounds that granting the personal licence would be prejudicial to the prevention of illegal working in licensed premises.

As with objections from the police, the applicant is entitled to a hearing if the Home Office (Immigration Enforcement) objects to the personal licence application on the grounds of the prevention of illegal working where the applicant has an unspent conviction for a relevant immigration offence received on or after 6 April 2017, or has been required to pay an immigration penalty on or after 6 April 2017⁹. If the police or

⁷ Home Office (Immigration Enforcement) may object exceptionally where there is evidence that the business or individuals seeking to hold the licence, or businesses or individuals linked to such persons, are involved in crime (or disorder) or employing illegal workers.

⁸ See Section 37 of the Licensing Act 2003. Applications must be sent to the licensing authority and police only. Applications to vary a DPS include a declaration that the proposed DPS is eligible to work in the UK. It is the employer's responsibility to ensure that the DPS is entitled to work (and is not subject to conditions preventing him or her from doing work relating to a licensable activity), and to check any prescribed documentation.

⁹ Offences added to the list of relevant offences with effect from 6 April 2017 and civil immigration penalties may only be taken into consideration for grant, revocation and suspension of personal licences if the conviction was received on or after 6 April 2017, or they were required to pay a penalty after this date. Offences and penalties which pre-date 6 April 2017 may be considered in relation to premises licences.

Home Office (Immigration Enforcement) do not issue an objection notice and the application otherwise meets the requirements of the 2003 Act, the licensing authority must grant it.

3.4 Home Office (Immigration Enforcement) consideration

Home Office (Immigration Enforcement) will be acting as a responsible authority under the prevention of crime and disorder licensing objective, which includes preventing immigration crime in respect of premises licences (except for regulated entertainment only).

It will consider whether there are immigration offences or penalties – for example for the employment of illegal workers, which lead it to believe that to grant a licence in the circumstances, is likely to be prejudicial to the prevention of immigration crime.

The Central Team will not consider the applicant's immigration status, as this will be considered by the licensing authority.

Home Office (Immigration Enforcement) will take into account the following:

Whether the applicant:

- (i) has been convicted of an offence of employing an illegal worker under section 21 of the Immigration, Asylum and Nationality Act 2006 (the 2006 Act); or
- (ii) has been required to pay a penalty, in particular:
 - (a) a penalty under section 15 of the 2006 Act during the last three years ending on the date of the licence application; or
 - (b) a penalty at any time which they have failed to pay; or
- (iii) has been convicted of an offence under any of the Immigration Acts.

If appropriate, Home Office (Immigration Enforcement) will consider whether to request that conditions be attached to the licence. This will be the case where the conditions are considered appropriate to promote the licensing objective of preventing crime and disorder, including preventing immigration crime and illegal working in licensed premises.

Conditions that are considered appropriate for the prevention of illegal working in licensed premises may include mandating a premises licence holder to undertake right to work checks on all staff employed at the licensed premises, and requiring that a physical copy of any document checked as part of a right to work check is retained at the licensed premises, or a digital copy be immediately accessible from the premises.

3.5 Home Office (Immigration Enforcement) representations

In the event that Home Office (Immigration Enforcement) considers it appropriate to make representations in the case of a premises licence application or to object to the grant of a personal licence, it will do so by email and using a standard form.

Home Office (Immigration Enforcement) will not submit a response to the relevant licensing authority where it does not wish to intervene in an application.

3.6 Licensing hearings and appeals

Home Office (Immigration Enforcement) will assist a licensing authority in respect of applications in which it has made representations, including participation in a hearing if this is required. The Central Team will be the point of contact for licensing authorities at any point before a hearing. At a hearing, Home Office (Immigration Enforcement) will usually be represented by a member of an Immigration, Compliance and Enforcement Team. Their attendance will be decided on a case by case basis, and the licensing authority will be informed in advance. The licensing authority is requested to notify Home Office (Immigration Enforcement) of the outcome of applications in which it has submitted representations.

When appeals are made to a magistrates' court against a decision of a licensing authority, the court is not permitted to consider any question as to whether an individual should be, or should have been granted leave to enter or remain in the UK; or an individual has, after the date of the decision being appealed against, been granted leave to enter or remain in the UK. In the case of the latter, it is open to the individual to make a further licence application.

Home Office (Immigration Enforcement), in common with other responsible authorities, may appeal against a decision about the grant or variation of a licence where it has objected or made representations.

4. Ending a licence

4.1 Request for a review on immigration grounds

Home Office (Immigration Enforcement) may request that a licensing authority reviews an existing licence where it has concerns relating to the licensing objective of preventing crime and disorder, including immigration crime and preventing illegal working in licensed premises. This can include licences issued further to an application made before 6 April 2017.

Such a request is likely to follow:

- (i) an enforcement operation or instance of data sharing that identifies an offence under any of the Immigration Acts is suspected of being committed in connection with the carrying on of the licensable activity and/or a breach of the immigration conditions on the licence¹⁰; or
- (ii) the issue of a civil penalty which is not cancelled following an objection or appeal; or
- (iii) the identification of a licence holder whose immigration status no longer permits them to work in the UK and whose licence was issued before 6 April (and therefore does not lapse automatically) (see below).

In the case of (iii), disqualification by reason of immigration status, requesting a review is relevant where a licence was issued further to an application made before 6 April 2017, as these licences will not automatically lapse when the licence holder no longer has lawful status – see 4.3 below. The onus will be on Home Office (Immigration Enforcement) to inform the relevant licensing authority and request a review of the licence.

When reviewing a licence, the licensing authority will take action that is appropriate to ensure the promotion of the crime prevention objective which may include the prevention of illegal working in the licensed premises. It is envisaged that licensing authorities, the police, Home Office (Immigration Enforcement) and other law enforcement agencies will use the review procedures effectively to deter illegal working and crime.

Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, including immigration crime, the licensing authority may consider revocation of the licence – even in the first instance. This includes where the licence holder lives in the UK and does not have immigration permission to be in the UK and to undertake a licensable activity. Paragraph 11.27 of the statutory guidance issued under section

¹⁰ Offences and civil immigration penalties added to the list of relevant offences with effect from 6 April 2017 may only be taken into consideration (for grant, revocation and suspension of personal licences) if the conviction was received on or after 6 April 2017, or they were required to pay a penalty on or after this date. Licensing authorities may revoke/suspend personal licences as long as the conviction was received on or after 6 April 2017. Only magistrates' courts can order the forfeiture or suspension of personal licences for convictions received prior to 6 April.

182 of the Licensing Act 2003 includes illegal working as an example of criminal activity that should be considered particularly seriously.

4.2 Review following notification of a compliance order

In addition, the licensing authority must review a premises licence if the premises to which it relates was made the subject of a compliance order to prevent illegal working, as set out in section 167(1A) of the Licensing Act 2003, as amended by paragraph 18 of Schedule 6 of the Immigration Act 2016.

When the licensing authority receives notice from a magistrates' court¹¹ that it has issued a compliance order:

- the licensing authority has 28 days to determine the licence review – the determination must be made before the expiry of the 28th day after the day on which the notice is received;
- the hearing must be held within ten working days, the first of which is the day after the day the notice from the magistrates' court is received; and
- notice of the hearing must be given no later than five working days before the first hearing day (there must be five clear working days between the giving of the notice and the start of the hearing).

4.3 Where a licence lapses

A personal licence is always granted for an indefinite duration, and a premises licence will generally run indefinitely. However, it will lapse if the holder of the licence (who is an individual living in the UK) that was granted in respect of an application which was made on or after 6 April 2017 ceases to be entitled to work in the UK. This could be because their permission to be in the UK has time-expired or because the Home Office has brought it to an end (for example, the Home Office has curtailed their permission to live and work in the UK).

The licensing authority is not under a duty to carry out on-going immigration checks to see whether a licence holder's permission to be in the UK has been brought to an end. Similarly, the amended 2003 Act does not place a duty on the licensing authority to withdraw or revoke the licence if this occurs, however, it should take appropriate action where it is informed that a licence holder's permission to be in the UK has been brought to an end. The migrant will be aware when their time-limited permission has come to an end and the Home Office will inform them if their permission to be in the UK is curtailed or revoked. If the individual is subsequently granted permission to work in the UK and wishes to once again hold a licence, they must make an application for a new licence.

Home Office (Immigration Enforcement) will seek to inform the licensing authority when they identify a licence holder whose permission to be in the UK has come to an end, so that the licensing authority can take any appropriate action. Such a person

¹¹ The licensing authority review is triggered by notification from a magistrates' court. A request by Home Office (Immigration Enforcement) is not required, but may also be received.

may apply to transfer a premises licence to another person. However, that person must not themselves be disqualified by reason of their immigration status from holding a licence.

Licences issued further to applications made on or after 6 April lapse if the holder no longer has immigration permission to live and work in a licensable activity. In the event that they apply for and are granted further immigration permission that allows them to hold a licence, status, they must make a new application and licensing authorities need to carry out the immigration check as normal. There is no provision for the earlier licence to be reinstated. Licence holders with limited immigration permission are aware when this expires and will be informed by the Home Office if it is ended sooner. They may make an application to transfer their licence before their immigration permission ends.

5. Enforcement and rights of entry

Section 179 of the Licensing Act 2003 in relation to rights of entry to investigate licensable activities has been amended by the 2016 Act so that, where an immigration officer has reason to believe that any premises is being used for the sale of alcohol or provision of late night refreshment, the officer may enter the premises without a warrant, with a view to seeing whether an offence under any of the Immigration Acts is being committed in connection with the carrying on of these licensable activities.

Immigration officers, like police officers, are not authorised persons within the 2003 Act, but they are separately empowered by the Act to carry out their duties. The effect is to facilitate joint enforcement operations with licensing enforcement officers, and other bodies that inspect workplaces for compliance. The power of entry may also be used by Immigration, Compliance and Enforcement (ICE) teams operating on their own, to investigate illegal working following receipt of intelligence on premises they have reason to believe are being used for a licensable activity.

Annex A

List of acceptable documents to show entitlement to work

Applicants must demonstrate that they have the right to work in the UK and are not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity. They do this by providing with their application, copies or scanned copies of the following documents (which do not need to be certified):-

- An expired or current passport showing the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK. See note below about which sections of the passport must be provided.
- An expired or current passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of an European Economic Area country or Switzerland.
- A Registration Certificate or document certifying permanent residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
- A Permanent Residence Card issued by the Home Office to the family member of a national of a European Economic Area country or Switzerland.
- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
- A **current** passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.
- A **current** Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A **full** birth or adoption certificate issued in the UK which includes the name(s) of at least one of the holder's parents or adoptive parents, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

- A certificate of registration or naturalisation as a British citizen, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A **current** passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity .
- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to work relating to the carrying on of a licensable activity.
- A **current** Residence Card issued by the Home Office to a person who is not a national of an European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence.
- A **current** Immigration Status Document containing a photograph issued by the Home Office to the holder with an endorsement indicating that the named person may stay in the UK, and is allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A Certificate of Application, **less than 6 months old**, issued by the Home Office under regulation 17(3) or 18A(2) of the Immigration (European Economic Area) Regulations 2006, to a person who is not a national of an European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence.
- Reasonable evidence that the person has an outstanding application to vary their permission to be in the UK with the Home Office, such as the Home Office acknowledgement letter or proof of postage evidence, or reasonable evidence that the person has an appeal or administrative review pending on an immigration decision, such as an appeal or administrative review reference number.
- Reasonable evidence that a person who is not a national of an European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence in exercising treaty rights in the UK including:-
 - evidence of the applicant's own identity – such as a passport,
 - evidence of their relationship with the European Economic Area family member – e.g. a marriage certificate, civil partnership certificate or birth certificate, and

- evidence that the European Economic Area national has a right of permanent residence in the UK or is one of the following if they have been in the UK for more than 3 months:
 - (i) working e.g. employment contract, wage slips, letter from the employer,
 - (ii) self-employed e.g. contracts, invoices, or audited accounts with a bank,
 - (iii) studying e.g. letter from the school, college or university and evidence of sufficient funds, or
 - (iv) self-sufficient e.g. bank statements.

Family members of European Economic Area nationals who are studying or financially independent must also provide evidence that the European Economic Area national and any family members hold comprehensive sickness insurance in the UK. This can include a private medical insurance policy, an EHIC card or an S1, S2 or S3 form.

Original documents must not be sent to licensing authorities. If the document copied is a passport, a copy of the following pages should be provided:-

- (i) any page containing the holder's personal details including nationality;
- (ii) any page containing the holder's photograph;
- (iii) any page containing the holder's signature;
- (iv) any page containing the date of expiry; and
- (v) any page containing information indicating the holder has permission to enter or remain in the UK and is permitted to work.

If the document is not a passport, a copy of the whole document should be provided.