



Council of the Isles Scilly

Licensing Act 2003

Guidance for Applicants

Personal Licences

1 - INTRODUCTION

This guidance has been produced by the Cornwall and Isles of Scilly Licensing Officers Group (CLOG) to assist you in applications under the licensing legislation. The contents are intended as a guide to applicants, are not a full authoritative statement of the law and do not constitute legal advice. The Licensing Act 2003, Statutory Guidance and the Regulations are all available on the website of the Department for Culture, Media and Sport:- www.culture.gov.uk

2 - CONTACT

Council of the Isles of Scilly 01720 424000

3 – PERSONAL LICENCE

3.1 – Description

Personal Licences are granted to individuals and authorise that individual to supply alcohol, or authorise the supply of alcohol, in accordance with a premises licence.

Supply of alcohol means, selling alcohol by retail, or ,supplying by or on behalf of a club to, or to the order of, a member of the club.

3.2 – Application process

The application must be made to the licensing authority in whose area the applicant is ordinarily resident.

The application must be made on the form specified by the regulations and must be accompanied by

- the fee of £37
- two photographs of the applicant in the specified form ([see Note 1 & 2](#))
- either
 - a criminal conviction certificate issued under section 112 of the Police Act 1997
 - a criminal record certificate issued under section 113a of the Police Act 1997; or
 - the results of a subject access search under the Data Protection Act 1998 of the Police National Computer by the National Identification Service; and in any case such certificate or search results shall be issued no earlier than one calendar month before the giving of the application to the licensing authority ([see Note 3](#))
- a declaration by the applicant, in the specified form, that either they have not been convicted of a relevant or foreign offence (see note 4) or that they have been so convicted, accompanied by details of the nature and date of conviction(s) and any sentence imposed
- the licensing qualification of the applicant but note that this is not required for persons of a prescribed description (see notes 5, 6 & 7)

NOTES

Note 1 – Photo Specification

The photographs must be:

- taken against a light background so that the applicant's features are distinguishable and contrast against the background
- 45mm x 35mm
- full face uncovered and without sunglasses and, unless the applicant wears a head covering due to his religious beliefs, without a head covering
- on photographic paper, and
- **one of the photographs must be** endorsed with a statement verifying the likeness of the photograph to the applicant by
 - the chief executive of the licensing justices for the relevant licensing authority
 - a solicitor or notary
 - a person with standing in the community (**see Note 2**) ; or
 - an individual with a professional qualification

Note 2 – Person of Standing in the Community

Regulations specify that this includes a bank or building society official, a police officer, a civil servant or a minister of religion. It should be noted that this may not be provided free of charge.

Note 3 – Criminal Conviction / Record Certificates

The criminal conviction certificate issued under section 112 of the Police Act 1997 is the **basic** Criminal Records Disclosure. This is not yet available in England & Wales. It is, however, available via 'Disclosure Scotland'.

The criminal record certificate issued under section 113a of the Police Act 1997 is the **enhanced** Criminal Records Disclosure. Only authorised organisations, not individuals, may apply for these.

The subject access search under the Data Protection Act 1998 allows individuals to obtain details that the police hold on them. This is not really considered to be a vetting tool for applicants. Also, the Association of Chief Police Officers does not consider it appropriate to use this for licence applications although individuals may apply for it.

The Association of Chief Police Officers suggests that applicants be advised to go to Criminal Records Bureau Scotland, details available from www.disclosurescotland.co.uk

Note 4 – Relevant Offence or Foreign Offence

Relevant Offences

An offence under the Licensing Act 2003;

An offence under any of the following enactments –

- (a) Schedule 12 to the London Government Act 1963 (c.33) (public entertainment licensing);
- (b) the Licensing Act 1964 (c.26);
- (c) the Private Places of Entertainment (Licensing) Act 1967 (c.19);
- (d) section 13 of the Theatres Act 1968 (c.54);
- (e) the Late Night Refreshment Houses Act 1968 (c.53);
- (f) section 6 of, or Schedule 1 to, the Local Government (Miscellaneous Provisions) Act 1982 (c.30);
- (g) the Licensing (Occasional Permissions) Act 1983 (c.24);
- (h) the Cinemas Act 1985 (c.13);
- (i) the London Local Authorities Act 1990 (c.vii).

An offence under the Firearms Act 1968 (c.27).

An offence under section 1 of the Trade Descriptions Act 1968 (c.29) (false trade description of goods) in circumstances where the goods in question are or include alcohol.

An offence under any of the following provisions of the Theft Act 1968 (c.60) –

- (a) section 1 (theft);
- (b) section 8 (robbery);
- (c) section 9 (burglary);
- (d) section 10 (aggravated burglary);
- (e) section 11 (removal of articles from places open to the public);
- (f) section 12A (aggravated vehicle-taking), in circumstances where subsection (2) (b) of that section applies and the accident caused the death of any person;
- (g) section 13 (abstracting of electricity);
- (h) section 15 (obtaining property by deception);
- (i) section 15A (obtaining a money transfer by deception);
- (j) section 16 (obtaining pecuniary advantage by deception);
- (k) section 17 (false accounting);
- (l) section 19 (false statements by company directors etc);
- (m) section 20 (suppression, etc. of documents);
- (n) section 21 (blackmail)
- (o) section 22 (handling stolen goods);
- (p) section 24A (dishonestly retaining a wrongful credit);
- (q) section 25 (going equipped for stealing etc.).

An offence under section 7 (2) of the Gaming Act 1968 (c.65) (allowing child to take part in gaming on premises licensed for the sale of alcohol).

An offence under any of the following provisions of the Misuse of Drugs Act 1971 (c.38) –

- (a) section 4(2) (production of a controlled drug);

- (b) section 4 (3) (supply of a controlled drug);
- (c) section 5 (3) (possession of a controlled drug with intent to supply);
- (d) section 8 (permitting activities to take place on premises)

An offence under either of the following provisions of the Theft Act 1978 (c.31) –

- (a) section 1 (obtaining services by deception);
- (b) section 2 (evasion of liability by deception).

An offence under either of the following provisions of the Customs and Excise Management Act 1979 (c.2) –

- (a) section 170 (disregarding subsection (1) (a)) (fraudulent evasion of duty etc.);
- (b) section 170B (taking preparatory steps for evasion of duty).

An offence under either of the following provisions of the Tobacco Products Duty Act 1979 (c.7) –

- (a) section 8G (possession and sale of unmarked tobacco);
- (b) section 8H (use of premises for sale of unmarked tobacco).

An offence under the Forgery and Counterfeiting Act 1981 (c.45) (other than an offence under section 18 or 19 of that Act).

An offence under the Firearms (Amendment) Act 1988 (c.45).

An offence under any of the following provisions of the Copyright, Designs and Patents Act 1988 (c.48) –

- (a) section 107 (1) (d) (iii) (public exhibition in the course of a business of article infringing copyright);
- (b) section 107 (3) (infringement of copyright by public performance of work etc.);
- (c) section 198 (2) (broadcast etc. of recording of performance made without sufficient consent);
- (d) section 297 (1) (fraudulent reception of transmission);
- (e) section 297 A (1) (supply etc. of unauthorised decoder).

An offence under any of the following provisions of the Road Traffic Act 1988 (c.52) –

- (a) section 3A (causing death by careless driving whilst under the influence of drink or drugs);
- (b) section 4 (driving etc. a vehicle when under the influence of drink or drugs);
- (c) section 5 (driving etc. a vehicle with alcohol concentration above prescribed limit).

An offence under either of the following provisions of the Food Safety Act 1990 (c.16) in circumstances where the food in question is or includes alcohol –

- (a) section 14 (selling food or drink not of the nature, substance or quality demanded);
- (b) section 15 (falsely describing or presenting food or drink).

An offence under section 92(1) or (2) of the Trade Marks Act 1994 (c.26) (unauthorised use of trade mark, etc. in relation to goods) in circumstances where the goods in question are or include alcohol.

An offence under the Firearms (Amendment) Act 1997 (c.5).

A sexual offence, within the meaning of section 161 (2) of the Powers of Criminal Court (Sentencing) Act 2000 (c.6).

A violent offence, within the meaning of section 161 (3) of that Act.

An offence under section 3 of the Private Security Industry Act 2001 (c.12) (engaging in certain activities relating to security without a licence).

Foreign Offence

Means an offence (other than a relevant offence) under the law of any place outside England & Wales.

5 - Qualifications

Licensing qualification means

- (a) a qualification –
 - ◆ accredited at the time of its award, and
 - ◆ awarded by a body accredited at that time,
- (b) a qualification awarded before the coming into force of section 120 of the Licensing Act 2003 which the Secretary of State certifies is to be treated for the purposes of that Section as if it were a qualification within paragraph (a) above, or
- (c) a qualification obtained in Scotland or Northern Ireland or in an EEA State (other than the UK) which is equivalent to a qualification within (a) or (b) above.

Accredited means – accredited by the Secretary of State

EEA State means – a state which is a contracting party to the Agreement on the European Economic Area signed as Oporto on 2nd May 1992, as adjusted by the Protocol signed at Brussels on 17th March 1993.

6 - Accreditations

Accredited personal licence qualification providers

On 7 February the Secretary of State accredited the first 2 personal licence qualifications under the 2003 Act. They are:

- **BIIAB Level 2 National Certificate for Personal Licence Holders, QCA Accreditation Number: 100/4866/2** and;
- **GOAL Level 2 Certificate for Personal Licence Holders, QCA Accreditation Number: 100/4865/0**

Further information about the BIIAB qualification is available on the [Bii website](#). Enquiries about the GOAL qualification can be made to customerservice@ediplc.com or telephone 08707 202909

7 – Persons of a Prescribed Description

The following persons are prescribed under regulations as being exempt from obtaining a licensing qualification:-

- (a) a member of the company of the Master, Wardens, Freeman and Commonalty of the Ministry of the Vintners of the City of Lon
- (b) a person operating under a licence granted by the University of Cambridge: or
a person operating premises under a licence granted by the Board of the Green Cloth.