

LICENSING ACT 2003 - GUIDANCE

PERSONAL LICENCES

RELEVANT OFFENCES

These guidance notes are intended to provide further information to applicants to enable them to submit an application that complies with the provisions of the Licensing Act 2003 (“the Act”) and the associated regulations.

However, these notes do not constitute a full statement of the law and **all applicants are strongly advised to consult their own independent legal advisor before making any application.**

Please note that all application forms and fees are those prescribed by law and that the Borough Council has no discretion to change them.

The legislation requires the licensing authority to grant a personal licence to any person who:

- (a) is over 18 years of age; and
- (b) holds an accredited, certified or equivalent licensing qualification or is the holder of an existing Justices’ licence; and
- (c) has not forfeited a personal licence within five years; and
- (d) has not been convicted of any of the relevant offences set out in schedule 4 to the Act (reproduced in [Table 1](#) below) or any ** immigration offence, foreign offence * or is subject to an immigration penalty.*

Where the criteria at (a), (b) or (c) are not met, no licence can be granted.

If the criterion at (d) is not met, the Police ** or the Secretary of State (in respect of immigration matters),* may object to the grant of a licence if they consider that the grant of a licence would undermine the crime prevention objective. Such an objection will result in a hearing by the Licensing Committee at which the application will be determined.

Please note that this schedule of relevant convictions is subject to change by Parliament or the Home Secretary without notice. If in doubt, you should consult your own legal advisor. A failure to disclose a relevant conviction in connection with an application for a licence is, in itself, an offence.

Section 128 of the Licensing Act 2003 requires the holder of a personal licence charged with a relevant offence, no later than their first appearance in a magistrates’ court in connection with that offence, to produce to the court their personal licence or, if that is not practicable, notify the court of the existence of the personal licence and the identity of the relevant licensing authority and of the reasons why the licence cannot be produced. Failure to do so is an offence.

Table 1 – Extract from Schedule 4 to the Licensing Act 2003 (as amended)

1	An offence under the Licensing Act 2003.
2	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) the Private Places of Entertainment (Licensing) Act 1967 (c.19);
	(d) section 13 of the Theatres Act 1968;
	(e) the Late Night Refreshment Act 1969 (c.53);
	(f) section 6 of, or Schedule 1 to, the Local Government (Miscellaneous Provisions) Act 1982;
	(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).
3	An offence under the Firearms Act 1968 (c.27).
4	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.
5	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 a 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.).
6	An offence under section 7(2) of the Gaming Act 1968 (c.65) (allowing a child to take part in gaming on premises licensed for the sale of alcohol).
7	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).
7A	<i>* An offence under any of the Immigration Acts.</i>
8	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).
9	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).
10	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).
11	An offence under the Forgery and Counterfeiting Act 1981 (c.45), other than an offence under Section 18 or 19 of that Act.

12	An offence under the Firearms (Amendment) Act 1988 (c.45).
13	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 an 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 297A(1) (supply etc. of an unauthorised decoder).
14	An offence under any of the following provisions of the Road Traffic Act 1988 (c.52) –
	(a) section 3A (causing death by careless driving while 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 the prescribed limit).
	(d) section 6(6) (failing to co-operate with a preliminary test).
15	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).
16	An offence under Section 92(1) or (2) of the Trade Marks Act 1994 (c.26) (unauthorised use of trademark etc. in relation to goods) in circumstances where the goods in question are or include alcohol.
17	An offence under the Firearms (Amendment) Act 1997 (c.5).
18	A sexual offence, being an offence –
	(a) listed in Part 2 of Schedule 15 to the Criminal Justice Act 2003, other than the offence mentioned in paragraph 95 (an offence under section 4 of the Sexual Offences Act 1967 (procuring others to commit homosexual acts));
	<i>** (aa) listed in Schedule 3 to the Sexual Offences Act 2003 (sexual offences for the purposes of notification and orders);</i>
	(b) an offence under section 8 of the Sexual Offences Act 1956 (intercourse with a defective);
	(c) an offence under section 18 of the Sexual Offences Act 1956 (fraudulent abduction of an heiress).
19	A violent offence, being any offence which leads, or is intended or likely to lead, to a person's death or to physical injury to a person, including an offence which is required to be charged as arson (whether or not it would otherwise fall within this definition).
19A	<i>** An offence listed in Part 1 of Schedule 15 to the Criminal Justice Act 2003 (specified violent offences).</i>
20	An offence under Section 3 of the Private Security Industry Act 2001 (c.12) (engaging in certain activities relating to security without a licence).

21	An offence under section 46 of the Gambling Act 2005 if the child or young person was invited, caused or permitted to gamble on premises in respect of which a premises licence under this Act had effect.
22	An offence under the Fraud Act 2006.
22ZA	** <i>An offence under any of the following provisions of the Violent Crime Reduction Act 2006—</i> <i>(a) section 28 (using someone to mind a weapon);</i> <i>(b) section 36 (manufacture, import and sale of realistic imitation firearms)</i>
22A	An offence under regulation 6 of the Business Protection from Misleading Marketing Regulations 2008 (offence of misleading advertising) in circumstances where the advertising in question relates to alcohol or to goods that include alcohol.
23	An offence under regulation 8, 9, 10, 11 or 12 of the Consumer Protection from Unfair Trading Regulations 2008 (offences relating to unfair commercial practices) in circumstances where the commercial practice in question is directly connected with the promotion, sale or supply of alcohol or of a product that includes alcohol.
23A.	An offence under any of the following provisions of the Psychoactive Substances Act 2016— <i>(a) section 4 (producing a psychoactive substance);</i> <i>(b) section 5 (supplying, or offering to supply, a psychoactive substance);</i> <i>(c) section 7 (possession of psychoactive substance with intent to supply);</i> <i>(d) section 8 (importing or exporting a psychoactive substance)</i>
23B	** <i>An offence listed in section 41 of the Counter-Terrorism Act 2008 (terrorism offences).</i>
24	An offence under section 1 of the Criminal Attempts Act 1981 of attempting to commit an offence that is a relevant offence.
25	An offence under section 1 of the Criminal Law Act 1977 of conspiracy to commit an offence that is a relevant offence.
26	The offence at common law of conspiracy to defraud.

Please note that the additions marked * will come into effect when section 36, and paragraph 12 of schedule 4 to the Immigration Act 2016 is brought into force and those marked ** will come into effect when section 139 of the Policing and Crime Act 2017 is brought into force.