



# **THE LICENSING ACT 2003**

**The roles and responsibilities of navigation  
authorities with regard to passenger boats**

**AUGUST 2005**



**Association of  
Inland  
Navigation  
Authorities**

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## Glossary of Terms

**This Guidance is based on the latest information available in August 2005.**

**The information is growing as First-Time Applications for Vessels are being made. AINA would welcome feedback from member navigation authorities and operators via the AINA Office Manager.**

## **1. OBJECTIVES OF THE ACT**

The Licensing objectives of the Act are:

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

## **2. WHY ARE NAVIGATION AUTHORITIES INVOLVED?**

The Act, for the first time ever, requires passenger boats to be licensed (see Appendix 1 for Definition)

Navigation Authorities (like the police and fire service) are one of the responsible bodies to which copies of the Licence Application for a Vessel should be sent. (see Appendix 2 if you receive an Application that is for premises **other than** a vessel)

## **3. WHEN DOES A VESSEL NEED A LICENCE?**

If the operator of a vessel undertakes any of the following on a vessel as part of their regular business during the year they will need a licence to:-

- makes a sale of alcohol
- provides musical entertainment including music and dancing
- provides late night food

There are separate provisions if a vessel operator just arranges a small number of "Temporary Events" on or from a vessel. (see Appendix 3)

Where a Temporary Event Application (TEN) is submitted, navigation authorities are not consulted.

Each vessel (or premises) will have a licence application and at least one Personal Licence Holder. If there is a single Personal Licence holder, they will also act as the 'Designated Premises Supervisor' (DPS.) If there are more than one Personal Licence Holders, one must be designated as the DPS.

**AINA Members need only be concerned with the Application for the Licence for the VESSEL.**

#### 4. WHERE DOES A VESSEL OPERATOR APPLY?

The Operator applies to the Local Authority in whose area their main base is located.

If they have multiple bases, they will apply to the Local Authority for the area including the location of the base for the vessel(s), which normally operate from that base.

Licensed vessels can move between bases. They only need one licence from one Local Authority. They **do not** need a licence from each Authority through which they pass, nor from another area in which they operate at an event like a regatta.

A vessel such as a Hotel Boat, which cruises the whole waterway system, still only needs one Licence from one Local authority.

Where a vessel travels across the boundaries of more than one navigation authority, the lead navigation authority will be the one associated with the licensing point for the vessel.

If a vessel enters another navigation authority and is obviously subject to the requirements of the Licensing Act 2003 it will be assumed by the visited navigation authority, provided the vessel has a current trading licence, that it is properly licensed by the Local Authority. The home base navigation authority will not issue a trading licence if the vessel does not have the necessary licence from the Local Authority and would have the Domestic Safety Management Code (DSMC) and Passenger Ship Certificate (PSC) in place as part of the usual navigation authority licensing checks.

Cruise liners are exempted from the need to have either a permanent or temporary licence provided that they are a) on an international journey and b) they are moored at an approved wharf as defined by S20A of the Customs and Excise Management Act 1970, as set out in Section 173 of Licensing Act 2003. This may well have implications for Docklands, the Caledonian Canal, Hull, Sharpness and other harbours managed by navigation authorities.

#### 5. WHAT DOES THE APPLICATION CONTAIN?

The Applicant sends their Main Application Form to the Licensing Department of the Local Authority in which the vessel operates. That Authority administers the Licence System.

AINA Members are consulted as the appropriate navigation authority. Any comments or questions should be raised with the Licensing Authority.

Vessels are very different to most Licence Applications, which relate to pubs, clubs etc. The Maritime and Coastguard Agency (MCA) Codes for Passenger Vessels, and the role of the skipper in the safety of the vessel form an important part of the overall management of the vessel.

The application must be in a statutory form and will include an Operating Schedule and a plan of the premises (vessel) indicating the place(s) where alcohol is sold.

The application must be copied to the following responsible authorities when it is submitted to the Licensing Authority:

- The Chief of Police
- The Fire Authority
- The Maritime and Coastguard Agency (the local Marine Office) which issued the passenger certificate and DSM certificate)
- The Navigation Authority
- British Waterways and the Environment Agency (See Appendix 6)
- Any other responsible authority relevant to the application, as specified in the Licensing Policy

The vessel operator will need to explain to the Licensing Authority that, under the Memorandum of Understanding between the MCA, MAIB and the HSE, all health and safety inspections on vessels will rest with the MCA.

Guidance for Licensing Authorities, provided by the MCA, is available via their website at [www.mcga.gov.uk](http://www.mcga.gov.uk) under Guidance and Regulations/Inland Waterways.

If the application is for a vessel which carries less than 12 passengers, then the MCA Codes are not, at present, directly involved. Appendix 5 sets out initial guidance for these vessels.

## **6. WHERE AND WHEN CAN A VESSEL NOW SELL ALCOHOL?**

Under the old system, a vessel could only sell alcohol without a licence after it had cast off. The new provisions are a “one stop shop” for alcohol and entertainments licences. The licence will cover sales and operations while the vessel is tied up at its home moorings, after it has cast off, and when it is tied up in another location (e.g. a regatta or alongside land for corporate hospitality or other commercial operations - subject to any planning constraints.)

It is important that the applicant builds as many of these activities and locations in to their original application as can be foreseen. They should link the list with a schedule of the activities they have carried out without problem during the last few years. If something extra crops up during the year, they can apply for a Temporary Event Licence (TEN) (See Appendix 3).

This information will be important to AINA Members in advising the Licensing Authority as to whether there are likely to be any objections to the Application from Local Residents or others.

The Application must be advertised on the site of the Operational Base ( the vessel) and in a Local Newspaper.

Navigation Authorities should encourage vessel owners/applicants to put a notice not only on the vessel (which they are required to do) but also on the mooring/landing stage to show there is adequate publicity which will be a benefit to both the applicant and the navigation authority.

Under the new system the licence issued will effectively be for life. Re-applications will only be required if there are changes to the premises or operating conditions. However, responsible bodies such as navigation authorities can ask for a review at any time provided there are sufficient grounds, i.e. too much noise! The licence is renewed annually at a cost of £75 per annum by the Licensing Authority (LA) and will

need no further navigation authority involvement.

### **What will be considered a public nuisance?**

A member(s) of the public can complain to the Local Authority about the effects of the use of the premises (vessel) - noise levels, crowds, disturbance etc. The Local Authority's licence procedures will include an Appeal Procedure where the public will be able to take complaints. It has been stressed that this should not be used by an individual to frustrate a vessels trading through vexatious or frivolous objections.

### **7. WHAT SHOULD AINA MEMBERS EXPECT TO SEE IN AN OPERATING SCHEDULE WHICH SHOULD BE ATTACHED TO THE APPLICATION FORM?**

If the vessel carries more than 12 passengers, then the basic Operating Schedule, agreed with the MCA, is attached as Appendix 4.

If the vessel carries less than 12 passengers, the Draft Guidance is set out in Appendix 5. AINA Members will need to give additional consideration to these applications as it is unlikely that the MCA will be responding on navigational safety issues.

### **8. WHAT SHOULD AN AINA MEMBER DO TO COMPLY WITH THE LEGISLATION?**

Of the four licensing objectives of the Act, navigation authorities should focus on public safety and prevention of public nuisance.

The delivery of all of the objectives can be split into three categories:

- Management of sales of alcohol, hot meals and drinks after 11.00pm, i.e. the people issues will be dealt with by the police and the LA. The issue of the supervisor's licence required by LA2003 is dealt with by the police and the LA
- All on board vessel safety will be dealt with by the MCA and would normally be limited to what is required under their under their Domestic Safety Management Code (DSMC) that is set out in MSN1754 and MGN158 and the Passenger Ship Certificate (PSC).
- Navigational safety which will involve impact upon other users on the navigation. Issues associated with embarkation and disembarkation, 'pollution' i.e. litter, noise, light pollution, noxious smells, will be dealt with by the NAs. by raising the issue with the operator and if this is not successful, by asking for a review of their licence and possible closure. Noise issues could be dealt with immediately by bringing in the police who will have the power to close, and keep the premises closed, for a period of 24 hours.

### **Action by a navigation authority**

- Check that the Operator of the vessel(s) has a valid licence for the right class of vessel to operate on your waterway system and that the name(s) correspond with your own records
- Check whether the navigation authority has any actions or complaints in

- relation to the operator
- Check whether there have been any complaints from other authorities or the general public about the operation of the vessel
  - Carefully read the Application to understand where the applicant wants to operate ***in the future*** and consider the implications for the navigation authority
  - Consider the implications of your own navigation authority rules, regulations or plans upon the applicant's operation
  - Contact the Local Authority to ask if they have any specific issues that they would like comment upon from the navigation authority
  - The navigation authority's responsibility under the legislation is to comment to the Licensing Authority. However, because this is the first time passenger vessels have been covered by this type of Licensing requirement, it may be helpful to contact the Applicant direct to obtain clarification of any particular navigation-related points before writing to the Licensing Authority.

Navigation Authorities have 28 days in which to reply as set out in secondary regulations created by the LA2003. NAs should liaise with applicants and deal with them on any issues that may cause an objection to see if this can be removed prior to the NAs formal response to the LA. NAs could consider sending a copy of their response to the LAs on to the applicant. However, the LAs will send a full pack of responses etc to the applicant if the application is not approved.

Send a report or letter to the Licensing Authority with your comments on the Application. If you have no comments, still write and say that you have no comments. **You have a maximum of 28 days in which to respond.** Keep a copy of the Application and your comments with the navigation authority file that relates to the vessel. (You might be called for evidence if there is a hearing relating to a public objection to the Licence Application.)

### **Other sources of information**

Your local Licensing Department

Guidance issued under section 182 of the Licensing Act 2003 issued by the Secretary of State for Culture, Media and Sport. (DCMS) 178 pages - available via the DCMS website [www.culture.gov.uk](http://www.culture.gov.uk)

Domestic Safety Management Code MSN 1754(M) and MGN 158(M)  
via the MCA web-site [www.mcga.gov.uk](http://www.mcga.gov.uk)

## APPENDIX 1

### What does the Licensing Act 2003 define as a “vessel”

#### DCMS Guidance

##### Note 5.58

The 2003 Act applies in relation to a vessel (which includes a ship or boat), which is not permanently moored or berthed as if it were premises situated in a place where it is usually moored or berthed. The relevant licensing authority for considering an application for a premises licence in respect of a vessel is therefore the licensing authority for the area in which it is usually moored or berthed. A vessel that is permanently moored or berthed is premises situated at that place.

However, an activity is not a licensable activity if it takes place aboard a vessel engaged on an international journey. An ‘international journey’ means a journey from a place in the United Kingdom to an immediate destination outside the United Kingdom, or a journey from outside the United Kingdom to an immediate destination within the United Kingdom.

##### Note 5.59

Where a premises licence is sought in connection with a vessel which will be navigated whilst licensable activities take place, the licensing authority should be concerned, following the receipt of relevant representations, with the promotion of the licensing objectives on-board the vessel. It should not focus on matters relating to safe navigation or operation of the vessel, the general safety of passengers or emergency provisions, all of which are subject to regulations, which must be met before the vessel is issued with its Passenger Certificate and Safety Management Certificate.

It is expected that, if the Maritime and Coastguard Agency is satisfied that the vessel complies with the Merchant Shipping Standards for a Passenger Ship, that the premises will normally be accepted as meeting the public safety objective of the regime. In respect of other public safety aspects of the application, representations made by the Maritime and Coastguard Agency on behalf of the Secretary of State should be given particular weight.

## APPENDIX 2

### What should an AINA member do if they are sent an application for premises which are not a vessel?

If the application is for a waterside pub or club, you may wish to comment to the Licensing Authority upon the implications of the application on your navigation or its users.

If the application is for a location away from your navigation, then it is likely to have been sent to you in error just because you may be on the list of Responsible Bodies ***and you can ignore them.***

**See Appendix 6 for the extra provisions for British Waterways and the Environment Agency.**

## APPENDIX 3

### **Where a Temporary Event Application (TEN) is submitted, Navigation Authorities are NOT consulted.**

The operator of a vessel that does not regularly sell alcohol or carry out a licensable activity, but undertakes the following on an occasional basis –

- makes a sale of alcohol
- the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club
- the provision of regulated entertainment; and
- the provision of late night refreshment

may apply for a licence for a Temporary Event or Events.

This may also provide additional flexibility for vessels that already have a premises licence, and need to add unforeseen events to their schedule.

The new Licensing regime will provide a single 'light touch' system for permitted temporary activities. The new provisions will apply to the supply of alcohol, the provision of regulated entertainment and also the provision of late night refreshment.

The effect of these reforms is to minimise the regulatory burden on occasional, small events, which are likely to give rise to problems.

The key feature of permitted temporary activities is that no authorisation as such is required. The system involves giving notification of an event, in the form of a Temporary Event Notice (TEN), at least 10 working days before the start of the temporary event, to the relevant Licensing Authority (usually the Local Authority in which the temporary event is being held) and the police.

TENs are subject to certain limitations. These are:

- the maximum number of people attending at any one time (no more than 499).
- the number of times a person (the "premises user") may give a temporary event notice (50 times per year for a personal licence holder and 5 times per year for other people).
- the number of times a temporary event notice may be given in respect of any particular premises (12 times in any calendar year).
- the length of time an event may last for these purposes (96 hours).
- The maximum aggregate duration of the periods covered by temporary event notices at any individual premises (15 days).

In any other circumstances, a premises licence or club premises certificate would be required. So, for example, people wanting to organise week long events, or events for more than 499 people, involving licensable activities, will need a premises licence or club premises certificate.

## APPENDIX 4

The **Operating Schedule** should include:

- the licensable activities to be conducted on the premises
- the times during which it is proposed that the relevant licensable activities are to take place.
- any other times when the premises are to be open to the public
- where the licensable activities include the supply of alcohol, the name and address of the individual to be specified as the designated premises supervisor
- where the licensable activities include the supply of alcohol, whether the alcohol will be supplied for consumption on or off the premises or both
- the steps which the applicant proposes to take to promote the licensing objectives. This may include, from the Maritime and Coastguard Agency (MCA) DSM Code and alcohol policy (which will need to be copied and attached to the application.)
- policy on parties or individuals arriving for travel already intoxicated
- procedure for hostile situations relating to drunken passengers
- communication and liaison with local police (this may be covered in the emergency plan or may form an extension to same)
- chain of command on vessel in relation to alcohol disorder incident (i.e. Master to be only contact point with police).
- operating limits
- health and safety
- recording passenger numbers
- safety announcements for passengers
- co-operation with emergency services
- Search and Rescue Plan
- emergency procedures

Specific safety requirements apply in each type of operating environment (Category of waters) reflecting levels of risk.

Domestic Safety Management Code MSN 1754(M) and MGN 158(M)  
MCA web-site [www.mcga.gov.uk](http://www.mcga.gov.uk)

## APPENDIX 5

### **Passenger Boats with less than 12 passengers**

These vessels need not necessarily apply for Licenses because they may operate in conjunction with a hotel or other Licence Holder, who is responsible for selling the alcohol and delivering it to the vessel for the customer.

If the Operator does apply to a Local Authority for a Licence, they will need to include in, or attach to, their application an Operating Schedule. This could be a very simple procedure to cover how they meet the requirements of the Licensing Act on their vessel. It could be expanded to include part, or all, of the MCA Guidance set out in Appendix 4.

Vessels carrying less than 12 people will not be subject to the MCA test so navigation authorities will need to examine the vessel. It is suggested that as long as the applicant demonstrates compliance with the MCA/AINA Inland Water Small

Passenger Boat Code then this will be an adequate test for NAs to use.

## APPENDIX 6

The Licensing Act 2003 contains provisions for Applications to be sent to:

- i) Navigation Authorities
- and
- ii) British Waterways
- iii) The Environment Agency

BW and the EA are equipped to deal with their own applications for vessels as the navigation authority, but are challenging with the Department of Culture, Media and Sport the need for them to receive and consider ALL applications for all vessels.

## GLOSSARY OF TERMS

MCA	Maritime & Coastguard Agency
BW	British Waterways
EA	The Environment Agency
TEN	Temporary Event Application
PLH	Personal Licence Holder
DPS	Designated Premises Supervisor
LA	Local Authority
NA	Navigation Authority
DSMC	Domestic Safety Management Code
PSC	Passenger Ship Certificate
HSE	Health & Safety Executive
MAIB	Marine Accident Investigation Branch
DCMS	Department for Culture, Media & Sport
SPBC	Small Passenger Boat Code
AINA	Association of Inland Navigation Authorities