

Department for Culture Media and Sport

live music act q&a

We have collected a selection of questions and answers about the changes to entertainment licensing that the Live Music Act 2012 has brought in. If you have any specific questions about your own circumstances, you should contact your local licensing authority, which is usually **your local council**.

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General

What if I have already given and paid for a Temporary Event Notice (TEN) that is now not necessary, will I receive a refund?

Licensing authorities have no power to issue refunds under the 2003 Act. When the Act received Royal Assent earlier this year, DCMS wrote to Licensing Authority Chief Executives notifying them of the likely commencement date of the Act.

What is the definition of a workplace in relation to live music?

The term is defined in the Workplace (Health, Safety and Welfare) Regulations 1992 and is, broadly speaking, any non-domestic place where someone works.

Does the Act deregulate recorded music?

No, unless it is accompanying morris dancing. However, a performance of live music can include the playing of some recorded music as part of that performance. For example, a drum machine or backing track being used to accompany a vocalist or a band would be part of the performance of amplified live music, but a DJ who is merely playing tracks would not be performing live music – unless he or she was performing a set which largely consisted of mixing recorded music to create new sounds.

What about illegal raves with live music instead of recorded music?

Absolutely not. The Act simply aims to enable more performances of live music. Deregulated live music performances must cease at 11pm, and the licence review process should ensure appropriate safeguards. Recorded music is further regulated by other legislation, including the Environmental Protection Act 1990, the Criminal Justice and Police Act 1994 and the Noise Act 1996.

Unamplified music

Can an unamplified performance can take place on a plot of land next to my property?

Such a performance would not require a licence under the 2003 Act, but other public protection legislation would continue to apply.

Performers and Performances

Does karaoke need a licence?

As music includes vocal performance, karaoke will usually benefit from the exemption of the Live Music Act.

Is a licence required if karaoke is performed with the video / words across backdrop?

The screens showing the words would probably not require a licence as it would be for instruction and not a licensable activity under the 2003 Act. However, a video accompanying the performance might require a licence as an exhibition of film).

What if people start singing along to recorded music in a pub?

Any spontaneous singing, is not and has never been licensable under the 2003 Act.

What are the licensing requirements for buskers?

Busking has generally not been licensable under the 2003 Act, a) as it is often does not occur at a place made available for entertainment or b) will usually be incidental to another activity, such as shopping. However, even where busking does take place at a location made available for that purpose, and is not incidental to other activities, it will not require a licence for an unamplified performance or to an audience of 200 people or less if it is an amplified performance at a workplace (which can include outside areas).

What is incidental music?

The 2003 Act defines incidental recorded and live music as being incidental to other activities that are not in themselves a description of regulated entertainment in the 2003 Act.

Can a venue have more than one performance deregulated under the 2012 Act going on at the same time?

Yes. To avoid the possibility that multiple separate performances will be treated in practice as a single performance, organisers should ensure that there is a clear distinction between each such performance – for example, by holding them in separate rooms or on separate floors.

Are rehearsals covered by the Act?

Most amplified rehearsals and sound checks will not be licensable unless members of the public are being admitted or a charge is being made for the audience's attendance with a view to a profit.

Conditions and Advice

Can conditions added after review specify a particular type of live music, such as karaoke?

Yes, provided that there is sufficient evidence of risk to the licensing objectives from a particular type of live performance. While it is important that conditions are targeted, it is also important that types of musical genre are not singled out based on assumption or prejudice and without evidence of harm.

Do current conditions that relate to entertainment facilities need to be removed from current licences as they no longer apply? And the licences reissued?

There is no requirement to amend and reissue licences in the 2003 Act.

Do current conditions that relate to live music need to be removed from current licences as they no longer apply? And the licences reissued?

No. These conditions are only suspended between 8am and 11pm under the Live Music Act and can be reintroduced during those times following a review.

Does this mean that new venues providing live music are at an advantage over existing ones with licences (i.e. they won't be subject to any conditions being re-introduced following a review)?

The Live Music Act suspends the effect of any condition of a premises licence or club premises certificate that relates to live music. Subject to normal public law principles, live music conditions may nevertheless be imposed on new premises licences or club premises certificates, although any such condition would also be suspended. However, the Live Music Act also enables licensing authorities, on review, both to reinstate the effect of existing conditions relating to live music (see the new section 177A(3) of the Licensing Act 2003) and to introduce new and effective conditions relating to live music (see the new section 177A(4) of the Licensing Act 2003). In this way, the Live Music Act gives licensing authorities the tools to take action against problematic live music performances, regardless of whether a venue is new or pre-existing.

What happens if a workplace already holds an alcohol licence?

If a workplace has an alcohol licence, it is classed as a licensed premises and the workplace exemption cannot apply, but it can benefit from the conditions for alcohol licensed premises, providing it is open for the sale of alcohol for consumption on the premises.

Does the Act cover schools, colleges and community premises i.e. village halls, church halls?

Yes. They are classified as workspaces for amplified live music and they would not require licensing for unamplified music. Unamplified music does not require a licence in any location between 08:00-23:00. Amplified music is permitted in pubs, clubs and workplaces for up to 200. However, if you are unsure you should check with your local authority for clarification.

Who should be held responsible for breaches of the Act?

A person commits an offence if '(a) he carries on or attempts to carry on a licensable activity on or from any premises otherwise than under and in accordance with an authorisation, or (b) he knowingly allows a licensable activity to be so carried on'. A person will not commit the offence if his or her sole involvement is as a performer or participant.

Can I hold a live music event if the premises is not open for the sale of alcohol?

Yes, but only if the live music is unamplified and between the hours of 8:00-23:00.

Noise protections

If premises are causing noise nuisance can I complain?

Yes of course, anyone involved in the organisation or provision of entertainment activities – whether or not any such activity is licensable – must comply with any applicable duties that may be imposed by other legislation (e.g. crime and disorder, fire, health and safety, noise, nuisance and planning).

How can local authorities deal with noise from live music where licensing controls no longer apply?

Local authorities will continue to have a range of interventions for dealing with noise issues and complaints. It will be for environmental health officers to decide the appropriate response in each case, whether it be informal discussion with premises managers or action under the statutory nuisance regime. And, of course, premises licensed to sell alcohol will be subject to possible licence review if problems occur and, if appropriate, the reinstatement of licence conditions relating to live music.

What if I've heard of an impending event which will almost certainly cause a noise nuisance? Have you got rid of all powers to mitigate noise nuisance until it takes place?

Section 80(1) of the Environmental Protection Act 1990 says that where a local authority is satisfied that a statutory nuisance exists, or is likely to occur or recur, in its area, it shall serve an abatement notice requiring (among other things) the abatement of that nuisance or prohibiting or restricting its occurrence or recurrence. Noise of various kinds is capable of being a statutory nuisance, but local authorities obviously require some kind of evidence before imposing such a notice on a proactive basis.

Audience size

Does the exemption apply where the capacity of the venue is over 200?

Yes. The Live Music Act refers only to the audience for the performance and not the capacity of the venue.

What happens if more than 200 people attend a deregulated performance of live music?

There is no limit on audience numbers for a performance of unamplified live music which does not take place on licensed premises. In all other cases, an audience in excess of 200 would mean that the performance is a licensable activity. It would be an offence under the 2003 Act for such an event to continue without an appropriate licence or TEN. Where the organiser of a live music event can foresee that it might attract an audience of more than 200 in circumstances where it may be difficult to restrict entry, the event organiser may wish to consider whether to obtain a licence, or giving a Temporary Event Notice, to avoid breaching licensing laws.

How should local authorities/organisers check numbers attending and event?

It would be up to organisers to determine how to ensure that audience numbers for their event do not exceed

the maximum permitted. Exceeding audience limitations is a breach of the Licencing Act and is a criminal offence.

Entertainment facilities

Does that mean that facilities like dance floors are no longer licensable?

Yes. We are aware of past inconsistencies in terms of defining what constitutes an entertainment facility. The measures taken by the Act remove any confusion. There are adequate protections under the Health and Safety at Work etc. Act 1974 to ensure venue owners maintain facilities without the need for the additional burden of licensing. Nightclubs will, however, continue to require licences for recorded music and the supply of alcohol.

What does this mean to night clubs that do not sell alcohol but put on live music?

They would still require a licence if an event was held after 11pm, or if an audience of over 200 people is present.

What is the impact of the exemption on entertainment facilities such as dance floors, disco equipment when hiring of a licenced premises?

Entertainment facilities are no longer licensable.

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