

**EXPLANATORY MEMORANDUM TO
THE LICENSING ACT 2003 (PERMITTED TEMPORARY ACTIVITIES) (NOTICES
AND FEES) (WALES) REGULATIONS 2014**

2014 No.1371

1. This explanatory memorandum has been prepared by the Home Office (“the Department”) and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

- 2.1 These Regulations are made under the Licensing Act 2003 (“the 2003 Act”) to enable premises users in Wales to carry on certain licensable activities in accordance with a temporary event notice (“TEN”) at times during and immediately after matches in which the Men’s Senior England Football Team (“England”) will or may play in the FIFA World Cup 2014 in Brazil (“the World Cup”). These Regulations prescribe a specific form of TEN for this purpose, called a “temporary event notice (2014 FIFA World Cup)”.

- 2.2 The licensable activities are the sale or supply of alcohol for consumption on the premises and the provision of late night refreshment at times when the premises are also used for the sale or supply of alcohol for consumption on the premises. Premises users will not be required to pay a fee if giving a temporary event notice (2014 FIFA World Cup).

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

- 3.1 These Regulations breach the 21 day rule. The Department has decided to make these Regulations to reduce the burden of the temporary event notice system for premises in Wales. The Government is acting in response to representations from interested parties for a simpler and cheaper temporary event notice system for premises in Wales specifically for the World Cup. The urgency with which these Regulations must be made cannot be avoided because the World Cup begins on 12 June and England will play their first match on 14 June. This is within the 21 days that would usually be required.

- 3.2 A temporary event notice (2014 FIFA World Cup) may be given no later than five working days before the event to which the notice relates. It is therefore not possible to observe the usual 21 day period between the date of laying these Regulations and their coming into force and there is an urgent need for the instrument to come into force as soon as possible.

4. Legislative Context

- 4.1 The 2003 Act contains a framework in accordance with which premises are authorised to be used for certain activities (referred to as “licensable activities”), namely: the sale by retail of alcohol (for consumption on or off the premises); 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 (the supply of hot food or hot drink between 11pm and 5am). It is a criminal offence to carry on, or attempt to carry on, a licensable activity on or from premises without an appropriate authorisation under the 2003 Act. Such an authorisation may comprise a premises licence, a club premises certificate or a TEN.
- 4.2 Part 5 of the 2003 Act sets out a framework under which a person (“the premises user”) can carry on licensable activities without having to obtain a licence or certificate. The premises user may instead give a TEN to the licensing authority which must include certain information (for example, the proposed licensable activities and duration of the proposed event). The use of a TEN is subject to a number of limits which apply in any calendar year (for example, the number of TENs which may be given by the premises user and the number which may be given in relation to the same premises). The premises user may give a limited number of TENs no later than five working days before the event (ordinarily, the minimum period is no later than ten working days) and the licensing authority may impose conditions on a TEN if certain requirements are met. A TEN must be accompanied by a fee of £21.
- 4.3 These Regulations make provision for a temporary event notice (2014 FIFA World Cup) (“TEN 2014 FIFA World Cup”). This is a specific TEN for use by premises users in Wales to enable them to carry out certain licensable activities (the sale or supply of alcohol for consumption on the premises and the provision of late night refreshment at times when alcohol is sold or supplied for consumption on the premises) at one or more specified times. These are times during and immediately after England will or may play in matches in the World Cup. These Regulations prescribe the form for a TEN 2014 FIFA World Cup. Premises users may use one form to give one or more TENs in respect of one or more matches. A TEN 2014 FIFA World Cup does not have to be accompanied by a fee.

5. Territorial Extent and Application

- 5.1 These Regulations extend to England and Wales but apply to Wales only.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- *What is being done and why*

7.1 Many people in Wales will want to watch England games during the World Cup and the Department has decided to assist premises users to do so, by reducing the burdens of the TENs regime. The World Cup is a hugely important sporting event and England's involvement in it will be followed closely by millions of fans. A number of games kick off late in the evening because of the time difference with the host country Brazil, and would therefore finish after the cessation of traditional licensing hours (at 11pm). As such, the Department considers it likely that many pubs and other licensed premises would want to sell alcohol and food later than their traditional hours permit. Premises in Wales are able to use the TEN system to do this. These Regulations aim to make the TEN process simpler and cheaper for premises in Wales, including by removing some of the costs that the normal TEN regime would impose.

- *Consolidation*

7.2 These Regulations amend two instruments but the Department considers that the very limited nature of these amendments means that consolidation is not appropriate.

8. Consultation outcome

8.1 The consultation ran from 13 – 26 March 2014. This set out that the World Cup, taking place in June and July 2014, is an important sporting event for which licensed premises are likely to wish to be able to sell alcohol and food later than their traditional hours allow. It explained the options for doing this either nationally, under section 172 of the '2003 Act', or locally, using the existing system of TENs.

8.2 This consultation asked for responses on the following areas:

- whether licensing hours should be relaxed nationally or not during England's matches in the World Cup;
- the duration for which any national order should apply; and
- whether any relaxation should apply to England only, or England and Wales.

8.3 The Department received a total of 1,463 responses to the online consultation. This included 503 from members of the public; 605 from those involved in the retail or manufacture of alcohol or their trade associations; 127 from police involved in enforcement; 136 from licensing authorities and 11 from environmental health. There were 25 consultation responses from people who live or work in Wales, and the majority of them (14 out of 25) were in favour

of using the TENs system to relax licensing hours in Wales, rather than applying a blanket relaxation.

8.4 The Department also wrote to nine key stakeholders, asking for a more detailed response. In summary, those representing licensing authorities and enforcement bodies were not in favour of a national relaxation, whilst those representing the licensed trade or football supporters were.

8.5 A summary of the consultation responses is published at www.gov.uk/government/consultations/world-cup-licensing-hours.

9. Guidance

9.1 Information on the use of TENs is made available through statutory guidance issued under section 182 of the 2003 Act. Any changes arising specifically from these Regulations will also be communicated to licensing authorities in Wales.

10. Impact

10.1 The impact on on-trade licensed premises is estimated to be £2,800-£4,900.

10.2 This measure is not expected to increase the overall number of premises supplying alcohol or providing hot food late during the World Cup. We assume that these premises would in any event still have given a TEN, but would have borne the cost themselves. This measure is therefore not expected to significantly increase the risk of crime and disorder or other licensing objectives being undermined.

10.3 An Impact Assessment has been prepared for this instrument and will be published alongside the Explanatory Memorandum.

11. Regulating small business

11.1 The legislation applies to small business but will not have an adverse impact on it.

12. Monitoring & review

12.1 These Regulations make provision only in relation to a finite number of matches during the World Cup, which ends on 13 July 2014. The Department, therefore, has no plans to carry out any ongoing review of their effect.

13. Contact

13.1 Please contact the Alcohol Unit at the Home Office on 020 7035 8711

or email: worldcup.consultation@homeoffice.gsi.gov.uk for queries regarding the instrument.