

Relevant offences under the Act (schedule 4)

One of the qualifying criteria for obtaining a personal licence is that a person has no unspent convictions for the 'relevant offences' specified in the Act.

These relevant offences are as follows:-

1 An offence under the Licensing Act 2003

2 Any convictions 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 1969 (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)

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 15 A (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 director, etc.);
- m) Section 20 (suppression, etc. of documents);
- n) Section 21 (blackmail);
- o) Section 22 (handling stolen goods);
- p) Section 24A (dishonesty retaining a wrongful credit);
- q) Section 25 (going equipped for stealing, etc).

6 An offence under section 7 (2) of the Gaming Act 1989 (c. 65) (allowing 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).

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 8 G (possession and sale of unmarked tobacco);
- b) Section 8 H (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 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).

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 prescribed limit).

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 trade mark, 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));

(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).

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.

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.

SPENT CONVICTIONS

Personal licence applicants do not need to declare any offences which are spent.

Understanding spent convictions:

- Prison sentences of two and half years or more are never spent
- Prison sentences of more than six months but less than two and a half years are spent after 10 years
- Prison sentences of six months or less are spent after seven years
- Fines and most community penalties are spent after five years.

Any offence for which you have been convicted in a court of law of **another country** (i.e. not in Great Britain) must be declared on your personal licence application.

Should a foreign offence be disclosed then the police will be given an opportunity to object to the application. If the police object, the application will be determined by the licensing committee. If there is no police objection the application will be granted.

If a person is convicted of a relevant or foreign offence between the making of the application to the local authority and its determination, then the applicant must inform the licensing authority immediately. Failure to do so is a criminal offence. If the local authority finds out afterwards that an applicant has not informed them of such an offence then the personal licence may be revoked.

If a personal licence holder is convicted of a relevant or foreign offence at any time during the duration of that personal licence then they must inform the sentencing court that they are a personal licence holder. Failure to do so is also a criminal offence. The court dealing with the relevant or foreign offence may then order forfeiture or suspension of the personal licence.

The sentencing court also has a duty to inform the licensing authority of the conviction. Should the sentencing court be unaware of the person's status as a personal licence holder then the duty falls upon the personal licence holder to inform the licensing authority. Failure to do so is also a criminal offence.

DUTY TO DECLARE OFFENCES

From 6 April 2017, if a Licensing Authority learns that a Personal Licence Holder has been convicted of a relevant offence or been fined an immigration penalty, they will be able to revoke the personal licence or suspend it for a period not exceeding six months. The Licensing Authority will be required to wait until the time to appeal any conviction for a relevant offence has expired, or any appeal which is launched has been determined.

If the Licensing Authority wishes to take action they will give notice to the Personal Licence Holder, who will then have a period of 28 days to make representations. There is no hearing process, so as in the case of minor variations to licences, the matter will be determined "behind closed doors."

In the event that the Licensing Authority subsequently decided not to revoke or suspend the licence they are required to inform the Police, who will then have a period of 14 days to make their own representations. The Licensing Authority is then required to consider the matter further, make a decision and notify all

parties. There will be a right to appeal a decision to suspend or revoke a personal licence.