

PUB LICENCES – PERSONAL AND PREMISES



We recognise the concerns you have about a drink driving conviction often extend beyond the short-term consequences of a disqualification. However, when your livelihood is on the line, we fully endorse the process of gathering as much information as you can obtain about the consequences of a conviction.

If you are a personal licence holder you should be aware of the reporting requirements you are obliged to comply with:

Reporting requirements – when already granted a personal licence

Where a person is charged with a **relevant offence**, Personal Licence holders have a legal obligation to tell the court about their licence and show it to the court if possible, before the end of their first appearance in a Magistrate's court.

If a personal licence holder is subsequently convicted of the charge, and if the court was told about their licence, they will usually notify the relevant licensing authority of their conviction. The authority will then ask them to return their licence to endorse the details of the conviction upon it. If the person has failed to tell the court about their licence, or if they were convicted of a similar offence abroad, they must notify their licensing authority of their conviction.

These provisions only apply to specific offences known as 'relevant offences'.

The **relevant motoring offences** are found in Schedule 4 of the Licensing Act 2003.

s.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).

Reporting requirements – when applying for a personal licence

When making an application for a personal licence, the applicant must inform the authority of any unspent relevant offences as above. Upon notice of these convictions the authority will notify the police. The Police then having 14 days to object to the application. If they do not object the Licensing Authority will go ahead and grant the application.

If a police objection is received, the application would be referred to a Licensing Sub-Committee hearing to be considered further. The applicant will most likely be invited to attend the hearing and address the Committee as part of this process.

THE RELEVANT SECTIONS OF THE STATUTE:

s.123 Duty to notify licensing authority of convictions during application period

- (1) Where an applicant for the grant or renewal of a personal licence is convicted of a relevant offence or a foreign offence during the application period, he must as soon as reasonably practicable notify the conviction to the authority to which the application is made.
- (2) A person commits an offence if he fails, without reasonable excuse, to comply with subsection (1).
- (3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (4) In this section "the application period" means the period that—
 - (a) begins when the application for grant or renewal is made, and
 - (b) ends when the application is determined or withdrawn.

If someone is convicted after they have made an application then the following requirements apply:

s.124 Convictions coming to light after grant or renewal

- (1) This section applies where, after a licensing authority has granted or renewed a personal licence, it becomes aware (whether by virtue of section 123(1), 131 or 132 or otherwise) that the holder of a personal licence ("the offender") was convicted during the application period of any relevant offence or foreign offence.
- (2) The licensing authority must give a notice to that effect to the chief officer of police for its area.

(3) Where, having regard to—

- (a) any conviction of the applicant for a relevant offence, and
- (b) any conviction of his for a foreign offence which the chief officer of police considers to be comparable to a relevant offence,

which occurred before the end of the application period, the chief officer of police is satisfied that continuation of the licence would undermine the crime prevention objective, he must, within the period of 14 days beginning with the day he received the notice under subsection (2), give the authority a notice stating the reasons why he is so satisfied (an “objection notice”).

(4) Where an objection notice is given within that period (and not withdrawn), the authority—

- (a) must hold a hearing to consider the objection notice, unless the holder of the licence, the chief officer of police and the authority agree it is unnecessary, and
 - (b) having regard to the notice, must revoke the licence if it considers it necessary for the promotion of the crime prevention objective to do so.
- (5) Where the authority revokes or decides not to revoke a licence under subsection (4) it must notify the offender and the chief officer of police of the decision and its reasons for making it.

(6) A decision under this section does not have effect—

- (a) until the end of the period given for appealing against the decision, or
- (b) if the decision is appealed against, until the appeal is disposed of.

(7) In this section “application period”, in relation to the grant or renewal of a personal licence, means the period that—

- (a) begins when the application for the grant or renewal is made, and
- (b) ends at the time of the grant or renewal.

Duty to notify court of the personal licence

If a person has a personal licence or has made an application for a personal licence, the court must be notified in accordance with the following provisions:

s.128 Duty to notify court of personal licence

(1) Where the holder of a personal licence is charged with a relevant offence, he must, no later than the time he makes his first appearance in a magistrates’ court in connection with that offence—

- (a) produce to the court the personal licence, or
- (b) 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 he cannot produce the licence.

(2) Subsection (3) applies where a person charged with a relevant offence is granted a personal licence—

(a) after his first appearance in a magistrates’ court in connection with that offence, but

(b) before—

- (i) his conviction, and sentencing for the offence, or his acquittal, or,
- (ii) where an appeal is brought against his conviction, sentence or acquittal, the disposal of that appeal.

(3) At his next appearance in court in connection with that offence, that person must—

- (a) produce to the court the personal licence, or
- (b) 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 he cannot produce the licence.

(4) Where—

- (a) a person charged with a relevant offence has produced his licence to, or notified, a court under subsection (1) or (3), and
- (b) before he is convicted of and sentenced for, or acquitted of, that offence, a notifiable event occurs in respect of the licence, he must, at his next appearance in court in connection with that offence, notify the court of that event.

(5) For this purpose a “notifiable event” in relation to a personal licence means any of the following—

- (a) the making or withdrawal of an application for renewal of the licence;
- (b) the surrender of the licence under section 116;
- (c) the renewal of the licence under section 121;
- (d) the revocation of the licence under section 124.

(6) A person commits an offence if he fails, without reasonable excuse, to comply with this section.

(7) A person guilty of an offence under subsection (6) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Automatic reporting by Court/Police

Following a conviction of a relevant offence the Court must as soon as reasonably practicable inform the relevant licensing authority of the nature and date of conviction along with the sentence passed as follows:

131 Court’s duty to notify licensing authority of convictions

(1) This section applies where a person who holds a personal licence (“the relevant person”) is **convicted**, by or before a court in England and Wales, of a relevant offence in a case where—

- (a) the relevant person has given notice under section 128 (notification of personal licence), or
- (b) the court is, for any other reason, aware of the existence of that personal licence.
- (2) The appropriate officer of the court must (as soon as reasonably practicable)—
 - (a) send to the relevant licensing authority a notice specifying—
 - (i) the name and address of the relevant person,
 - (ii) the nature and date of the conviction, and
 - (iii) any sentence passed in respect of it, including any order made under section 129, and send a copy of the notice to the relevant person.
- (3) Where, **on an appeal** against the relevant person’s conviction for the relevant offence or against the sentence imposed on him for that offence, his conviction is quashed or a new sentence is substituted for that sentence, the court which determines the appeal must (as soon as reasonably practicable) arrange—
 - (a) for notice of the quashing of the conviction or the substituting of the sentence to be sent to the relevant licensing authority, and
 - (b) for a copy of the notice to be sent to the relevant person.
- (4) Where the case is referred to the **Court of Appeal** under section 36 of the Criminal Justice Act 1988 (c. 33) (review of lenient sentence), the court must cause—
 - (a) notice of any action it takes under subsection (1) of that section to be sent to the relevant licensing authority, and
 - (b) a copy of the notice to be sent to the relevant person.
- (5) For the purposes of subsection (2) “the appropriate officer” is—
 - (a) in the case of a magistrates’ court, the clerk of the court, and
 - (b) in the case of the Crown Court, the appropriate officer;

and section 141 of the Magistrates’ Courts Act 1980 (c. 43) (meaning of “clerk of a magistrates’ court”) applies in relation to this subsection as it applies in relation to that section.

Consequences of Pleading Guilty

Following a conviction of a relevant offence the court will notify the relevant licensing authority of the conviction. The licence holder also has a duty to notify the licensing authority of any relevant convictions. If he fails to notify the authority he will commit an offence under s. 132(4) of the Act which carries a penalty of a fine not exceeding level 2 on the standard scale.

Following a conviction the court may order that the personal licence is forfeited or they may suspend the licence for a period not exceeding 6 months.



THE RELEVANT SECTIONS OF THE STATUTE:

132 Licence holder’s duty to notify licensing authority of convictions

- (1) Subsection (2) applies where the holder of a personal licence—
 - (a) is convicted of a relevant offence, in a case where section 131(1) does not apply, or
 - (b) is convicted of a foreign offence.
- (2) The holder must—
 - (a) as soon as reasonably practicable after the conviction, give the relevant licensing authority a notice containing details of the nature and date of the conviction, and any sentence imposed on him in respect of it, and
 - (b) as soon as reasonably practicable after the determination of any appeal against the conviction or sentence, or of any reference under section 36 of the Criminal Justice Act 1988 (c. 33) in respect of the case, give the relevant licensing authority a notice containing details of the determination.
- (3) A notice under subsection (2) must be accompanied by the personal licence or, if that is not practicable, a statement of the reasons for the failure to provide the licence.
- (4) A person commits an offence if he fails, without reasonable excuse, to comply with this section.
- (5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

The convicting court may :-

s.129

- (a) order the forfeiture of the licence, or
- (b) order its suspension for a period not exceeding six months.
- (3) In determining whether to make an order under subsection (2), the court may take account of any previous conviction of the holder for a relevant offence.
- (4) Where a court makes an order under this section it may suspend the order pending an appeal against it.
- (5) Subject to subsection (4) and section 130, an order under this section takes effect immediately after it is made

In accordance with s.130 the court can suspend any order imposed by s.129 above if the offender appeals to the crown court or court of appeal against his conviction.

Consequences of pleading Not Guilty

You must still notify and produce the court with the personal licence at the start of the case but if you enter a not guilty plea and you are acquitted, the personal licence will be unaffected. Again, failure to notify the court will be an offence in accordance with s. 128(6) of this Act and be subject to a fine.

Solicitors dealing with applications for personal and premises licences

If you wish to seek further advice from solicitors specialising in licensing law, please get in touch on **0800 1389 123** so that we can facilitate a smooth and speedy referral to one of the top experts in this field.

PREMISES LICENCE

The suspension or forfeiture of the premises supervisor's personal licence will affect the ability for that premises to supply alcohol. To apply for a premises licence, the designated premises supervisor (DPS) must hold a valid premises licence. There are no specific regulations to comply with for obtaining a premises licence where a criminal conviction is pending or in existence.

If the individual specified as the DPS ceases to work at the premises, it will be necessary for the holder of the Premises Licence to apply to specify a new individual. Alcohol cannot be sold from the premises if there is no DPS listed on the licence.

THE RELEVANT SECTIONS OF THE STATUTE:

19Mandatory conditions where licence authorises supply of alcohol

- (1) Where a premises licence authorises the supply of alcohol, the licence must include the following conditions.

- (2) The first condition is that no supply of alcohol may be made under the premises licence—

- (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
- (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
- (3) The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

[F1 (4) The other conditions are any conditions specified in an order under section 19A and applicable to the premises licence.]

What do I do next?

We are always happy to discuss your case with you, we are specialists in defending drivers nationwide for all types of motoring offences. Call our team on **0800 1389 123** for some free initial advice.

CALL US NOW ON FREEPHONE
0800 1389 123



Call Geoffrey Miller Solicitors
24 hours 7 days a week

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