

Live Music Bill [HL]

[AS AMENDED IN COMMITTEE]

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B I L L

[AS AMENDED IN COMMITTEE]

TO

Amend the Licensing Act 2003 with respect to the performance of live music entertainment; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Licence review for live music entertainment

(1) In section 177 of the Licensing Act 2003 (dancing and live music in certain small premises)—

(a) in subsections (1) and (2), for “the provision of music entertainment” in each place substitute “dancing”, 5

(b) in subsection (2) omit—

(i) paragraph (b) and “and” immediately before it, and

(ii) in the words following paragraph (b), the words “, in relation to the provision of that entertainment,”,

(c) omit subsections (3) and (4), 10

(d) in subsection (8)—

(i) for “music entertainment” substitute “dancing” and in paragraph (a) of that definition omit “(e) or”, and

(ii) omit paragraph (b) of that definition and “or” immediately before it, and 15

(e) in the heading omit “and live music”.

(2) After that section insert—

“177A Licence review for music entertainment

(1) Subsection (2) applies where live music takes place in premises authorised to be used for the supply of alcohol for consumption on the premises by a premises licence or club premises certificate, and— 20

- (a) at the time of the live music, the premises are open for the purposes of being used for the supply of alcohol for consumption on the premises,
- (b) the live music takes place in the presence of an audience of no more than 200 persons, and 5
- (c) the live music takes place between 8am and 11pm on the same day (or, where an order under section 172 has effect, between the hours specified in that order).
- (2) Any condition of the premises licence or club premises certificate which relates to live music does not have effect in relation to the live music, unless it falls within subsection (3) or is added to the licence in accordance with subsection (4). 10
- (3) A condition falls within this subsection if, on a review of the premises licence or club premises certificate it is altered so as to include a statement that this section does not apply to it. 15
- (4) On a review of a premises licence or club premises certificate a licensing authority may (without prejudice to any other steps available to it under this Act) add a condition relating to live music as if –
- (a) the live music were regulated entertainment, and
- (b) the licence or certificate licensed the live music. 20
- (5) In this section –
- “condition” means a condition –
- (a) included in a premises licence by virtue of section 18(2)(a) or (3)(b), 35(3)(b), 52(3) or 167(5)(b),
- (b) included in a club premises certificate by virtue of section 72(2)(a) or (3)(b), 85(3)(b) or 88(3), 25
- (c) added to a premises licence by virtue of its inclusion in an application to vary the licence in accordance with section 34 or 41A which is granted under section 35(2) or 41B(3) (as the case may be), or 30
- (d) added to a club premises certificate by virtue of its inclusion in an application to vary the certificate in accordance with section 84 or 86A which is granted under section 85(2) or 86B(3) (as the case may be);
- “live music” means entertainment of a description falling within, or of a similar description to that falling within, paragraph 2(1)(e) of Schedule 1; 35
- “supply of alcohol” means –
- (a) the sale by retail of alcohol, or
- (b) the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club.” 40

2 Removal of requirement to license the provision of entertainment facilities

- (1) Schedule 1 to the Licensing Act 2003 (c. 17) is amended as follows.
- (2) For sub-paragraph 1(1) substitute –
- “(1) For the purposes of this Act, the “provision of regulated entertainment” means the provision of entertainment of a 45

- description falling within paragraph 2 where the conditions in sub-paragraphs (2) and (3) are satisfied.”
- (3) In sub-paragraph 1(2) omit “, or entertainment facilities are,”.
- (4) For sub-paragraph 1(3) substitute –
- “(3) The second condition is that the premises on which the entertainment is provided are made available for the purpose, or for purposes which include the purpose, of enabling the entertainment concerned to take place.” 5
- (5) For sub-paragraph 1(4) substitute –
- “(4) For the purposes of sub-paragraph (2)(c), entertainment is to be regarded as provided for consideration only if any charge – 10
- (a) is made by or on behalf of any person concerned in the organisation or management of that entertainment, and
- (b) is paid by or on behalf of some or all of the persons for whom that entertainment is provided.” 15
- (6) In sub-paragraph 1(6) omit paragraph (c).
- (7) Omit paragraph 3.
- (8) For paragraph 4 substitute –
- “4 The Secretary of State may by order amend this Schedule for the purposes of modifying the descriptions of entertainment specified in paragraph 2, and for this purpose “modify” includes adding, varying or removing any description.” 20
- (9) For paragraph 7 substitute –
- “7 The provision of entertainment consisting of the performance of live music or the playing of recorded music is not to be regarded as the provision of regulated entertainment for the purposes of this Act to the extent that it is incidental to some other activity which is not itself a description of entertainment falling within paragraph 2.” 25
- (10) In paragraph 8 omit “or entertainment facilities”.
- (11) In paragraph 9 omit “or entertainment facilities”. 30
- (12) In sub-paragraph 10(1) omit “or entertainment facilities”.
- (13) In paragraph 11 –
- (a) omit “or entertainment facilities”, and
- (b) omit sub-paragraph (b).
- (14) In paragraph 11A omit sub-paragraph (4). 35
- (15) In paragraph 12 omit “or entertainment facilities”.
- 3 Exemptions for live music entertainment**
- (1) Schedule 1 to the Licensing Act 2003 (c. 17) is amended as follows.
- (2) In paragraph 11(a) for “a performance of unamplified, live music as” substitute “the playing of live or recorded music that forms”. 40

- (3) After paragraph 12 insert –

“Live music in licensed venues

- 12A The provision of entertainment consisting of a performance of live music is not to be regarded as the provision of regulated entertainment for the purposes of this Act on premises authorised to be used for the supply of alcohol for consumption on the premises by a premises licence or club premises certificate, if – 5
- (a) the requirements of section 177A(1)(a) to (c) are satisfied, and
 - (b) conditions have not been included in the licence or certificate by virtue of section 177A(3) or (4).” 10

- (4) After paragraph 12A (as inserted by sub-paragraph (3)) insert –

“Live music in workplaces

- 12B The provision of entertainment consisting of a performance of live music is not to be regarded as the provision of regulated entertainment for the purposes of this Act, provided that – 15
- (a) the place where the performance is provided is not licensed under this Act (or is so licensed only for the provision of late night refreshment) but is a workplace as defined in regulation 2(1) of the Workplace (Health, Safety and Welfare) Regulations 1992, 20
 - (b) the performance takes place in the presence of an audience of no more than 200 persons, and
 - (c) the performance takes place between 8am and 11pm on the same day.”

- (5) After paragraph 12B (as inserted by sub-paragraph (4)) insert – 25

“Live unamplified music

- 12C The provision of entertainment consisting of a performance of live music is not (subject to section 177A(3) and (4)) to be regarded as the provision of regulated entertainment for the purposes of this Act provided that the music – 30
- (a) is unamplified; and
 - (b) takes place between 8am and 11pm on the same day.”

4 Short title, commencement and extent

- (1) This Act may be cited as the Live Music Act 2011.
- (2) This Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint. 35
- (3) This Act extends to England and Wales only.

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To amend the Licensing Act 2003 with respect to the performance of live music entertainment; and for connected purposes.

Lord Clement-Jones

Ordered to be Printed, 15th July 2011

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Enquiries to The National Archives, Kew, Richmond, Surrey, TW9 4DU;

email: psi@nationalarchives.gsi.gov.uk

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