

Proposed changes to the Licensing Act 2003

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Why the changes?

- In May 2010 Coalition Government made a number of commitments relating to crime and policing which included reform of the Licensing Act 2003
- Overall aim was to achieve “a fundamental shift in the licensing regime in this country, with more emphasis on local accountability and less emphasis on central interference”

- The Home Office assumed responsibility for alcohol licensing.
- Entertainment licensing remained with DCMS
- Proposed reforms were included in Police Reform & Social Responsibility Bill which received Royal Assent in September 2011
- Changes will be commenced in stages, most anticipated in April and October 2012

- Before any changes are implemented revised s.182 Guidance under the LA03 will need to be issued
- Some reforms will apply to all authorities once commenced
- Others will require decisions at local level regarding implementation. For these consultation will need to be made

Possible conflict?

- In addition to the provisions contained within the PR&SR Act 2011 further changes are proposed within the Live Music Bill 2010 which is expected to receive shortly
- The desired aims and proposed changes within the Live Music Bill could conflict with what has already been agreed within the PR&SR Act 2011

Changes in detail

- Licensing Authorities will become “Responsible Authorities” i.e. –
 - Licensing Officers will be able to make representations against licence applications
 - Licensing Officers will be able to apply for a licence to be reviewed without having to wait for another Responsible Authority to do so

- Primary Care Trusts and Local Health Boards will become responsible authorities and will be able to make representations to licence applications
- However, representations have to be based on existing objectives – the addition of protection of health as a licensing objective was discussed but not as yet progressed

- Removal of the “vicinity” test – in future anyone can object about a licence application anywhere – they do not have to be physically affected by it
- Similarly anyone can now call for a review without having to live or work within the vicinity of a premises

- Reducing the evidential burden on LA's
 - Currently decisions can be made and conditions attached to a licence only if the steps taken are considered “necessary” to promote the licensing objectives
 - This will now be replaced by steps that are considered “appropriate” thereby lowering the evidential threshold required to justify decisions taken

- Licensing Authorities will be required to advertise all licence applications
 - currently the burden is on the applicant to advertise an application and prove to the LA that this has been done
 - at the moment LA's only advertise review applications

Temporary Events Notices

- Current position is:
 - Required for supply of alcohol, regulated entertainment, late night refreshment
 - 12 notices may be applied for, up to 96 hours in length each
 - Total of 15 working days allowed each calendar year
 - 10 working days notice to be given
 - 2 working days in which to object from time of application – hearing required if objection received
 - 24 hours is required between TEN's
 - For up to 499 persons at any one time

- Only the police can object and only on the grounds of prevention of crime and disorder
- No conditions can be attached to a TEN and any conditions on an existing licence are invalid for an event held using a TEN

Changes to TEN's

- Environmental Health Officers will now be consulted and will be able to object
- Both the police and EHO's can now object on any of the licensing objectives
- Conditions can be attached to a TEN although they should not simply replicate any conditions imposed on a Premises Licence

- A number of 'late' TEN's will be permitted where only 5 working days notice is required
- If an objection to a 'late' TEN is received the notice cannot go to ahead and no hearing will be held
- TEN's will be allowed for up to 168 hours (7 days) at any one time
- A maximum of 21 days per calendar year will be permitted

Fines for selling to children

- The fine for persistently selling alcohol to children will double from £10,000 to £20,000
- The police or Trading Standards will now be able to order alcohol to cease being sold from a maximum of 48 hours to a minimum of 48 hours and a maximum of 336 hours (14 days)

Early Morning Alcohol Restriction Orders

- EMARO's allow a local authority to decide whether to prohibit the sale of alcohol in a particular area covered by the order between midnight and 06:00 on any day it specifies
- No further detail at present but would probably require public consultation and a justifiable reason to do so rather than just aspirational reasons

Suspension of licence for non-payment of annual fees

- Annual retainer fees are required to be paid for all licences
- Currently only recourse for non-payment is through the courts as a civil debt – premises can continue trading as normal
- Change will allow a LA to suspend a licence for non-payment and to only reinstate when payment is made – during the suspension no licensable activities to take place

Local authorities to set their own fees

- Currently fees are set by statute – the amounts based on rateable value of premises
- Does not reflect the actual cost in administering or enforcing the Act
- LA's will in future be able to set their own fees – anticipated that this will be within prescribed maximum bands
- Not likely to be introduced before 2013

Licensing Policy Statements

- Currently have to be reviewed every three years or sooner if there are substantial changes (eg – like the changes being introduced)
- This will be amended to a requisite five year review

Relevant offences on Personal Licence

- Additional relevant offences to be introduced
- Relevant offences last for 5 years in terms of a rehabilitation period

Late Night Levy



- LA's will be able to decide whether to introduce a levy on those premises who operate between midnight and 06:00
- Can choose what times during this period it would apply
- Would apply to the whole borough

- Money raised is to pay for policing and other associated costs in reducing or preventing alcohol related crime and disorder
- Of the revenue not less than 70% must be given to the police

- LA's can decide whether certain types of premises can be exempted from the requirement to pay or whether they can qualify for a reduced payment
- Government is currently considering what premises it thinks should fall into the above categories

Live Music Bill 2010



- When this receives Royal Assent and a commencement order is issued the following will happen:-
- Live music will ease to be classified as 'regulated entertainment' in venues licensed for the consumption of alcohol

- For this to happen the live music must be:
 - Unamplified and taking place between 08:00 and 23:00 or;
 - Amplified and taking place with an audience of less than 200 persons and be between 08:00 and 23:00
- The premises must be open for the sale of alcohol during the time the live music is provided

- Any condition attached to a licence which relates to live music during this time frame ceases to have effect
- However if a licence is reviewed a Licensing Panel can impose conditions relating to live music during this time

- On premises which are not authorised for the sale of alcohol live music can take place without an authorisation between 08:00 and 23:00 provided it is unamplified
- If the music is amplified then a TEN would still be required
- Provision of facilities for making music and dancing is also de-regulated



- Questions?