

Police Reform and Social Responsibility Bill - March 2011

Extend Early Morning Restriction Orders so they can be applied flexibly between midnight and 6am

What is the policy aim?

The Coalition Agreement included a commitment to overhaul the Licensing Act 2003 to give local authorities and the police much stronger powers to remove licences from, or refuse to grant licences to, any premises that are causing problems in the local area.

The intention of these policy proposals is to extend the flexibility of Early Morning Restriction Orders to provide licensing authorities with an additional tool to shape and determine local licensing.

What is an Early Morning Restriction Order?

An Early Morning Restriction Order is an uncommenced power within the Licensing Act 2003 that will allow licensing authorities to restrict sales of alcohol in the whole or a part of their areas for any specified period between 3am and 6am if they consider this appropriate for the promotion of the licensing objectives. This applies to premises licences, club premises certificates and temporary event notices.

What are the key changes that will be made through the Bill?

1. We will amend the provisions with regard to Early Morning Restriction Orders in the Licensing Act 2003 to allow licensing authorities to decide which hours they would like to prevent premises from selling alcohol, between 12am and 6am, in accordance with what they consider to be most appropriate for their local area.
2. Licensing authorities will be able to make Early Morning Restriction Orders if they consider this to be appropriate (and not necessary, as they must do now) for the promotion of the objectives.

What are the intentions of these policies?

Many residents and resident groups have told us that the night-time economy makes certain parts of the town no-go areas at night and anti-social behaviour associated with late night drinking extends into residential communities not just around licensed premises. We are committed to ensuring that licensing authorities and enforcement agencies are given the right tools to address the problems in their area whilst promoting a healthy night-time economy to benefit business and the community that they serve.

What evidence will licensing authorities need to make an Early Morning Restriction Order?

The licensing authority will need to be satisfied that an EMRO is appropriate for the promotion of the licensing objectives in a particular area.

Won't allowing licensing authorities to impose Early Morning Restriction Orders result in unfair restrictions on responsible retailers?

Licensing authorities will have to advertise the proposed order and hold a hearing to consider any representations before making an Order. This gives responsible retailers an opportunity to submit evidence against an Early Morning Restriction Order being imposed. It will also be possible to exempt certain types of premises from Early Morning Restriction Orders in secondary legislation. These would typically include premises such as hotels and casinos that generally operate responsibly and do not contribute to alcohol related crime and disorder and public nuisance late at night.

How wide an area will the Early Morning Restriction Order be able to apply to?

An Early Morning Restriction Order may only be applied to the whole or part local authority area – if the licensing authority considers this is appropriate for the promotion of the licensing objectives.

Main views of consultation respondents

This proposal received widespread support with many residents and resident groups informing us that the night-time economy makes certain parts of the town no-go-areas at night and anti-social behaviour associated with late night drinking extends into residential communities not just around licensed premises. We are committed to ensuring that licensing authorities and enforcement agencies are given the right tools to address the problems in their area whilst promoting a healthy night-time economy to benefit business and the community that they serve.

Late night levy

What is the late night levy?

The late night levy is a power for licensing authorities to introduce a charge for premises that have a late alcohol licence. Whether or not to implement the levy will be left entirely at the discretion of the licensing authority that will make the decision based on the situation in their local area. In the areas that it is introduced the levy will be collected annually and the revenue will be split between licensing authorities and the police.

What is the policy's aim?

To permit licensing authorities to charge those businesses that benefit from trading alcohol in a safe late-night economy for the extra enforcement costs that the night-time economy generates for police and local authorities.

Why is the late night levy needed?

We cannot avoid the status of alcohol as a controlled substance and the impact of alcohol related crime and disorder. Businesses profit from selling alcohol in a late night economy that is safe by virtue of the considerable police and licensing authority resources dedicated to mitigating crime and disorder.

The problems caused by the late night economy are particularly costly for the taxpayer as the increased need for a police presence on the streets late at night requires expensive overtime arrangements to be made. We believe it is right that those businesses which profit by selling alcohol in the night time economy contribute towards these costs, rather than relying on other taxpayers in the community to bear the full costs.

Who will the late night levy affect?

In areas where the licensing authority decides to apply the levy it will affect all premises (both in the on-trade and the off-trade) that are licensed to sell alcohol during the hours to which the levy applies. It will be up to the licensing authorities to decide the time at which the levy applies in their area, although it will be restricted to applying between the hours of midnight and 6am.

We will consult with interested parties over the summer to define categories of premises that may be subject to reductions in their levy charge or indeed be exempt from the levy in its entirety.

For example, it may be appropriate for the licensing authority to be able to offer exemptions or discounts to members of best practice schemes such as Business Improvement Districts in order to help encourage responsible

trading. Further, there may be types of premises - such as certain hotels with a late night licence for mini-bars in rooms - who do not benefit from the policing of the late night economy.

There will be hotels whose guests drink in the hotel bar or at functions, such as weddings and parties, who go out later in the evening and benefit from the policing of the late night economy. And there may be bars who are members of best practice schemes but who are not fulfilling their duties under these schemes. For these reasons, the categories of exemptions and reductions will be optional so that licensing authorities have the discretion to decide what is appropriate for their own circumstances.

We will specify in secondary legislation the categories of business to whom licensing authorities may be able to grant an exemption and or reduction.

What will be charged under the late night levy?

Premises are split into bands based upon their rateable value to determine how much they pay under the levy. This system applies to the existing licence fee and means that larger businesses will make greater contributions to the levy than smaller ones.

The late night levy will be set at a national level. While the final detail will be confirmed in secondary legislation we currently anticipate the following charge to be issued under the late night levy:

Rateable value bands	A No rateable value to £4,300	B £4,301 to £33,000	C £33,001 to £87,000	D £87,001 to £125,000	E £125,001 and above	Dx2 Multiplier applies to premises in category D that primarily or exclusively sell alcohol	Ex3 Multiplier applies to premises in category E that primarily or exclusively sell alcohol
Annual levy charge	£299	£768	£1,259	£1,365	£1,493	£2,730	£4,440

A multiplier is added to premises in the Bands D and E that primarily or exclusively sell alcohol. This will ensure that larger pubs and clubs contribute more to the levy than restaurants and theatres which may serve alcohol, but are likely to have a smaller impact on late-night crime. Further, businesses selling alcohol benefit from doing so in a safe late night economy.

Why is the late night levy not targeted at individual premises?

The costs caused by the night time economy are often not directly linked to particular businesses but instead occur as a result of the night-time economy

as a whole – for example a fight may take place between groups of individuals who have each visited a variety of different premises over an evening.

The levy will allow licensing authorities to charge all premises that benefit from the existence of the night-time economy through selling alcohol beyond midnight to contribute towards covering the costs that it causes the community.

Will this not put more community pubs out of business?

Many community pubs will not have licences to open beyond midnight - as the earliest the levy will only apply is from midnight, such premises will not face any costs related to the levy.

Furthermore, premises that do not want to pay the levy will be able to change their opening hours free of charge to avoid being required to do so. This will enable all premises to make an informed decision on whether to remain open and pay the levy, balancing the extra charge against the revenue they would be likely to raise from remaining open past midnight.

Main views of consultation respondents

Many residents and resident groups informed us that the night-time economy makes certain parts of the town no-go-areas at night and anti-social behaviour associated with late night drinking extends into residential communities not just around licensed premises. We are committed to ensuring that licensing authorities and enforcement agencies are given the right tools to address the problems in their area whilst promoting a healthy night-time economy to benefit business and the community that they serve.

