

Licensing Act 2003 – Updates

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Purpose of the Report

To inform the Licensing Committee of proposed changes to legislation that the Deregulation Bill is expected to provide; and to advise that some of these changes are likely to have an effect on the resources of the Licensing Service.

Recommendations

- (1) That members note the proposed changes to legislation; and
- (2) That members recommend that a sum is set aside in the Council budget to pay for the changes proposed by the Deregulation Bill, which cannot be funded by licensing fees.

Background

The Deregulation Bill has made provision to amend legislation in several areas that are covered by the Licensing Service as follows:

Proposed Changes to the Licensing Act 2003

- Temporary Event Notices – the maximum number of events per calendar year to increase from 12 to 15 from 2016 onwards.
- Section 148 to be repealed – the sale of liqueur confectionery to children under 16.
- Removal of requirement to report loss or theft of the following to the police:
 - premises licence or summary
 - club premises certificate or summary
 - temporary event notice
 - theft, loss, etc. of personal licence
- The provision of entertainment consisting of the exhibition of a film at community premises is not to be regarded as the provision of regulated entertainment for the purposes of this Act subject to specified conditions.
- Removal of requirement to renew a personal licence so that they are of an indefinite duration.
- Power for local authorities to exempt late night refreshment supplies in designated areas, set descriptions of premises and times as below:
 - The supply of hot food or hot drink is an exempt supply for the purposes if it takes place—
 - (a) on or from premises which are wholly situated in an area designated by the relevant licensing authority;
 - (b) on or from premises which are of a description designated by the relevant licensing authority; or
 - (c) during a period (beginning no earlier than 11.00 p.m. and ending no later than 5.00 a.m.) designated by the relevant licensing authority
- Community groups and small business accommodation providers who sell limited amounts of alcohol can apply for a Community and Ancillary Sellers Notice. Please see table in appendix.

Effect on the Licensing Service

Personal Licences

The bill will not receive Royal Assent until the Spring of 2015, which means that it will affect thousands of personal licence holders who have to renew before this. Applications must be lodged with local authorities no more than three nor less than one month before expiry. No updated criminal record check is required and there is no requirement to supply the current personal licence or a current photograph.

Perceived problems

The prescribed forms have not yet been circulated even in draft format. No fee is payable to licensing authorities to process these applications, therefore the Council will need to fund the exercise from funds received from central government as other licensing income cannot be used to cross-fund it.

Community and Ancillary Sellers Notice (CAN)

The government has indicated that the fee for a CAN should be between £20 and £50. During an exercise requested by the Home Office in 2012 to ascertain how much it cost to process applications and notices under the Licensing Act 2003, we advised that it cost the Licensing Authority £57 to process a TEN. The government is expecting that monitoring and checking compliance to be included in this fee.

It is expected that the Police and the Environmental Protection service will be able to object to a CAN at the outset on one or more of the licensing objectives with the licensing service given discretion to reject a CAN. Where problems arise after it has taken effect, both the Police and Environmental Protection Service can seek revocation through a process with no hearing or appeal; once revoked the User or their associate will not be able to give a further notice for a period of 12 months.

The Home Office are currently consulting¹ on CAN's with some of the options being as follows:

Community Groups

- No restriction on the frequency they provide alcohol
- Ability to sell more than 5 units of alcohol per person
- A Community Group may be defined as "any group which has local membership and operates on a not for profit basis" or there will be a defined list which will include groups such as charities, voluntary groups, faith groups and community interest companies which operate on a not for profit basis

Ancillary Sellers

- No restriction on the frequency they provide alcohol
- Ability to sell more than 5 units of alcohol per person per 24 hour period
- Ability to provide up to 20 bed spaces
- The providers of self-catering holiday homes, camping and caravanning sites and youth hostels may be included as an ancillary seller

¹ This can be found at

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/374692/2014-11-13-CAN_Consultation_final_HO_branding_v2.pdf

Perceived Problems

It is highly unlikely that the cost of the CAN will cover the costs involved for both the Licensing Service and Environmental Protection service; hence the Council is likely to be requested that extra funds will be diverted to these services to cover the costs. Again the fees received by the Licensing Service cannot be used to cross fund the expected deficit, as to do so would be unlawful and open to legal challenge.

Where an ancillary user moves his business to a location situated in the area of a different licensing authority, unless a national register is kept, there would be no way to check if they are subject to the 12 month restriction, if their previous CAN had been revoked.

Taxi & Private Hire Measures

- Private hire operators will be permitted to sub-contract bookings to operators licensed in a different district.
- Making the standard duration for all taxi and private hire vehicle driver licences three years; and five years for all private hire vehicle operator licences. Shorter durations will only be granted on a case by case basis, where it is justifiable for a particular reason.

Legal Implications

None

Financial Implications

It is expected that a large number of organisations and businesses will seek to avail themselves of the Community and Ancillary Sellers Notice which will cost more than the fees the government are proposing in administration, with no income proposed for the anticipated extra regulatory work either for the Licensing Service or the Environmental Protection Team.

Implications for Corporate Priorities

Diverting funds to enable delivery of the proposed changes is likely to have an effect on theme 5 - Deliver well managed cost effective services valued by our customers.

Carbon Emissions & Climate Change Implications

None

Equality and Diversity Implications

None

Background Papers: *Deregulation Bill HL Bill 58*
Home Office consultation The Community and Ancillary Sellers Notice 11 November to 9 December 2014

APPENDIX

For All CAN Users	<ul style="list-style-type: none"> • The CAN will be authorised for 36 months • Alcohol may be sold between 7am and 11pm Notice will be given to the Licensing Authority • The prescribed fee will be paid • Police, Environmental Health Authority and Licensing Authority can object if a CAN will undermine the licensing objectives. Where problems arise, the Police and Environmental Health Authority can object, with the result that the CAN may be revoked. • Police and Licensing Authority officers will have rights of entry to investigate where users are in breach of the CAN conditions • No right to a hearing or appeal if a CAN is revoked
Ancillary Sellers	<ul style="list-style-type: none"> • Sale of alcohol must be ancillary to provision of goods or services by the business • Sale of alcohol of a single named premises • Alcohol for consumption on the named premises
Community Groups	<ul style="list-style-type: none"> • Sale of alcohol must be made by on behalf of a community group that does not trade for profit. • Sale of alcohol must be ancillary to an organised community event. • Sales of alcohol may be made up from up to three named premises. • Sales of alcohol of consumption at organised events for up to 300 people.