

**LICENSING AND SAFETY COMMITTEE
5 FEBRUARY 2009**

**CHANGES TO LICENSING ACT 2003
(Chief Officer: Environment and Public Protection)**

1 INTRODUCTION

- 1.1 There are currently two draft legislative reform orders laid before Parliament which are associated with the Licensing Act 2003. They relate to a proposed new procedure for dealing with applications for minor variations to premises licences and club premises certificates, and the proposed removal of the requirement for a designated premises supervisor for community premises which sell alcohol.
- 1.2 Both proposals have been subject to public consultation and feature in the Department for Culture, Media and Sport's current Simplification Plan.
- 1.3 If the orders are not rejected, they will come into effect on 6 February 2009. Licence holders will be notified of the changes through the annual newsletter, which will be sent out to all licensed premises in April 2009.

2 SUPPORTING INFORMATION

Minor Variations

- 2.1 At present, even minor variations (such as removal of a redundant condition where all parties are in agreement) require a full variation application entailing the right of statutory agencies and local residents to comment. The proposal is to introduce a new procedure to make minor variations to premises licences and club premises certificates under the Licensing Act 2003.
- 2.2 This new procedure will avoid the need for public notices and copying of applications to responsible authorities. The proposed fee for this type of application is £73.
- 2.3 An example of a minor variation application might be addition of performance of dance as a licensable activity, where a premises is already authorised to have live and recorded music.
- 2.4 The following types of application would still need to be made under the full variation procedure:
- extending the period for which a licence has effect
 - varying substantially the premises to which it relates
 - specifying an individual as the premises supervisor
 - adding the sale or supply of alcohol as a licensable activity
 - authorising the sale or supply of alcohol at any time between 11pm and 7am, or an increase in the amount of time on any day during which alcohol may be sold or supplied, or

- including the new alternative licence condition for community premises.
- 2.5 The Licensing Authority will be responsible for consulting those responsible authorities it considers appropriate, and must take their comments into account when determining the application. Licensing officers will have effectively sixteen working days from receipt of the application to make a determination. If the authority fails to determine the application within that time period, the application is deemed to have been rejected and it must be returned together with the fee. The authority and the applicant may agree instead for the application to be treated as a new minor variation application, giving another fifteen working days for determination.
- 2.6 If the authority considers there would be no adverse effect on the promotion of the licensing objectives by the proposed variation(s), it must grant the application. If the view is the proposed variation(s) would have an adverse effect, the application must be rejected and the applicant must either submit a formal, full variation application or a new, amended minor variation application with a further fee.

Removal of requirement for DPS at community buildings

- 2.7 Currently, all premises licences which authorise the sale of alcohol contain mandatory licence conditions which require there to be a designated premises supervisor, who must hold a personal licence. It is believed that these mandatory licence conditions are disproportionate to the risk associated with community premises, and that the legal liabilities associated with being a premises supervisor can deter volunteers from working in management roles at such premises. Community premises are defined in the Act as a church hall, chapel hall or other similar building, or a village hall, parish hall, community hall or other similar building.
- 2.8 In future, management committees which apply for premises licences for community premises will be able to ask for an alternative licence condition to be included in their licence rather than the existing mandatory conditions in section 19(2) and (3) of the Licensing Act 2003, which requires there to be a designated premises supervisor who holds a personal licence to sell alcohol. The new alternative condition is that every supply of alcohol under the premises licence must be made or authorised by the management committee, which is a committee or board of individuals with responsibility for the management of the premises.
- 2.9 A licensing authority must include the alternative licence condition, unless it feels after a hearing that the crime prevention objective would be undermined and therefore a premises supervisor should be named instead. The licensing authority must be 'satisfied that the arrangements for the management of the premises by the applicant are sufficient to ensure adequate supervision of the supply of alcohol on the premises'.
- 2.10 For existing licences, management committees may apply for the licensing authority to vary their licence to disapply the mandatory conditions, which would lead to automatic inclusion of the alternative licence condition. Only the police may make representations, when they are satisfied that the alternative condition would undermine the crime prevention objective. The fee for a variation application of this type is likely to be in the region of £23.
- 2.11 The mandatory conditions may be re-applied on review of the licence if there are concerns over the promotion of any of the licensing objectives.

3 IMPACT ASSESSMENT

3.1 There are no implications arising from this report.

4 STRATEGIC RISK MANAGEMENT ISSUES

4.1 There are no strategic risk management implications arising from this report.

Background Papers

The Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009 [Explanatory Document by the Department for Culture, Media and Sport]

The Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls &c) Order 2009 [Explanatory Document by the Department for Culture, Media and Sport]

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