

OVERHAUL OF THE LICENSING ACT 2003

PROPOSALS IN THE POLICE REFORM AND SOCIAL
RESPONSIBILITY BILL



Home Office



Coalition Commitments on alcohol



- To overhaul the Licensing Act 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.
- To allow councils and the police to shut down permanently any shop or bar found to be persistently selling alcohol to children.
- To double the maximum fine for underage alcohol sales to £20,000
- To permit local councils to charge more for late night licences to pay for additional policing
- To ban the sale of alcohol below cost (to be dealt with outside the Police Reform and Social Responsibility Bill).

TIMETABLE

- Brought from House of Commons on 1st April 2011
- Lords Committee sessions: 6th, 9th, 18th June.
- Once Committee is complete it move to Report stage in the Lords. The Bill then enters the 'ping-pong' stage between the Commons and Lords until agreement is reached.
- Royal Assent expected in Autumn 2011. Many provisions have secondary legislation provisions.

More local powers for LAs and police

- Licensing authorities (LAs) to become responsible authorities
- Introduce locally-set fees, subject to a nationally-set cap, to ensure that fees recover licensing authorities' costs in discharging their duties under the Licensing Act
- Lower evidential hurdle – licensing decisions to be 'appropriate', not 'necessary'.
- Remove requirement to show vicinity – any person, body or business will be able to make a representation regardless of where they live as long as it relates to the licensing objectives.
 - Guidance will be amended to provide more clarification on relevant, frivolous, vexatious representations.
 - LAs will be required to publish brief details of applications online so that anyone can view.
- Primary Care Trusts to become responsible authorities. We will consider how to address alcohol harm to health but will not legislate now to make health a licensing objective.
- Introduce presumption that LAs should consider all reasonable representations from the police (Statutory Guidance)
- Require licence applicants to demonstrate knowledge of local community/context in their operating schedule (secondary legislation)

Dealing with late night drinking

- Allow LAs to charge a late-night levy to pay for policing the night-time economy and other related services, e.g. taxi marshalling.
- Extend Early Morning Restriction Orders (EMROs) to be applied flexibly between midnight and 6am.
- Allow LAs to use measures such as fixed closing times, staggered closing times and zoning where appropriate (Statutory Guidance).
- Repeal ADZs.
- Lower evidential hurdle for Cumulative Impact Policies to give LAs more control over premises density (Statutory Guidance)

- Purpose – To allow LAs to charge more for late night licences to pay for a contribution towards policing and other costs associated with late night drinking (e.g. taxi marshals).
- Applies to all premises with licence to sell alcohol during hours designated by LA between midnight and 6am in the whole LA area
- Charges set centrally by rateable value and collected with fee.
- LAs to have discretion to grant discounts or exemptions to different categories of premises (to be prescribed centrally)
- Initial decision to apply levy taken by LA in consultation with police.
- Targeted consultation with licence holders, police (minimum) on details of levy, e.g. exemptions
- LA will then write to all licence holders to give them opportunity to reduce their hours (by free minor variation) if they trade after midnight.
- LA deducts admin costs from total levy revenue, then min 70% to police, up to 30% for other LA costs.

- Intention – to allow LAs to restrict the sale of alcohol in a particular area for a specified period between midnight and 6am.
- LA must advertise the proposed Order, hold a hearing to consider any representations before making a decision and publish the Order.
- Certain types of premises, e.g. hotels, are likely to be exempt from EMROs. These exempt categories will be prescribed in secondary legislation and will apply to all EMROs.
- We will also consider whether to exempt specific dates, e.g. Christmas Day
- An Order can be applied to whole or part of the LA area; to every day or only specific days of the week and at different times on different days.
- No right of appeal.
- EMROs will also apply to TENs.

The proposals would:

- Allow Environmental Health Officers to object to a TEN.
- Allow EHOs and the police to object to a TEN on the grounds of any of the licensing objectives.
- Allow LAs to apply existing licence conditions to a TEN if there has been an objection (as alternative to preventing the event from going ahead) as long as they does not conflict with the purpose of the TEN.
- Allow late TENs up to 5 days before the event – but no hearing (if there is an objection the event cannot proceed) and annual cap on number of late TENs allowed (10 per PLH, 2 per non-PLH) to prevent abuse of system.
- Relax limits on length of TEN from 96 hours to 168 hours (7 days); and total period covered by TENS in one premises from 15 days per year to 21 days per year.

- Double the maximum fine for persistent underage sales.
- Extend the minimum period of voluntary closure for persistent underage sales from a maximum of 48 hours to a minimum of 48 hours and maximum of 2 weeks.
- Introduce presumption that licences will be reviewed and revoked following evidence of persistent underage sales (Statutory Guidance).
- Work with the Sentencing Council and the Crown Prosecution Service to encourage greater use of existing powers to prosecute premises found guilty of persistent underage selling and to use full range of sentences.
- Work with the alcohol industry to ensure take up of voluntary schemes such as Challenge 21 and Challenge 25.

REDUCING BURDEN AND BUREAUCRACY



- Introduce the suspension of licences for non-payment of annual fees.
- Allow LAs to publish new Licensing Policy Statements every 3 years instead of every 5 years.
- Review the mandatory code for alcohol within 12 months to assess impact on businesses.
- Update list of relevant offences in Schedule 4 of the Act to include offences of attempting to commit and conspiracy to commit existing relevant offences and to add failure by drivers to co-operate with a preliminary test in relation to alcohol, impairment or drugs.

Below cost sales

- We are committed to taking forward proposals to implement the ban on sales below cost without delay; however they will not form part of the Police Reform and Social Responsibility Bill. We will be outlining our plans very shortly.

Locally-set fees under the Licensing Act 2003

- The Bill will introduce a power for the Secretary of State to make regulations providing that licensing fee levels are set by the licensing authority based on ‘full cost recovery’.
- “Full cost recovery” means the full costs of the licensing authority in discharging its functions under the Act. Locally-set fees will not permit revenue-raising for other purposes, such as the wider management of the night-time economy.
- To further reassure fee-payers that this is not a ‘blank cheque’, there will be a nationally-set cap on the level of each fee. (Using the power in the Bill to “impose constraints”).

Next Steps (fees)

- Intention is to consult on the details during the Spring of 2012 (including the level of the cap). We expect to lay regulations bringing in locally-set fees in October 2012. Guidance will be provided to licensing authorities on setting fees.

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