

Deregulation Bill

The Government published a draft Deregulation Bill on 1st July 2013. The draft Bill was subject to pre-legislative scrutiny by a Joint Committee which published its report on 19th December 2013. In response to the Joint Committee's report, the Government introduced the actual Bill on 23rd January 2014. The Bill received its second reading in the House of Lords on 7th July 2014.

Proposals relating to alcohol and entertainment licensing

Community and Ancillary Seller Notice (CANs)

Clause 52 of the Bill creates a simple new "licence" process - the CAN - to allow small-scale, "low" risk alcohol sales over 36 months, without the need for a premises licence or TEN providing there is no objection from the police, environmental health or the local authority.

The CAN is aimed at two eligible groups:

- "Ancillary sellers" (e.g. bed & breakfast providers) that would like to sell (or provide as part of a wider business contract) minimal amounts of alcohol to customers.
- "Community groups" (e.g. charities; church choirs; the Women's Institute) that may regularly hold small "one-off" events at which they wish to sell alcohol. While the law provides for them to do so under a temporary events notice (TEN), they complain of bureaucratic burdens; costs (£21 each) and limits for TENs (12 per year).

At this stage, it is envisaged that key elements of the new authorisation will be that:

- A prospective CANs user will give notice to the licensing authority (either on a simple form or via email/letter) that they are going to operate either as (i) an "ancillary" or (ii) "community" seller.
- Notification will specify the relevant premises at which they intend to sell alcohol: in the case of an ancillary seller this can be just one premises; community groups could name up to three premises within their local area
- The licensing authority may reject or revoke a CAN at any point under a light-touch process to be triggered by an objection from the police or the Environmental Health Service on grounds of the licensing objectives (the prevention of crime and disorder; the prevention of public nuisance, public safety, protection of children from harm).
- Local discretion: Local authorities could reject CANs in their own cumulative impact policy (CIP) areas.

- CAN users need not hold personal licences (which many consider will be a risk and unfair to the licensed trade) but they could be named as “responsible persons” who could be prosecuted for certain criminal offences under the 2003 Act. It is already the case that community premises such as village and church halls are exempt from the requirements to have a Personal Licence Holder and Designated Premises Supervisor.
- Licensing costs are recovered from the fees so there would need to be a small processing fee.

The sales of alcohol under a CAN would be subject to certain parameters to provide safeguards against loopholes that could be exploited by unscrupulous operators. At this stage, the Government envisages that they would include the following:

- All sales of alcohol between “low risk” prescribed times, for example, 7am to 11pm.
- “Ancillary sellers” to be strictly defined by reference to business types, for example small Bed and Breakfasts, guest houses and self catering accommodation providers.
- Ancillary sellers may only supply limited amounts of alcohol to their customers (e.g. up to three units per individual customer over 18 in a 24 hour period) possibly explained in user friendly language e.g. one 175ml “standard” glass of wine), one 75ml bottle of wine in a room per two night stay or between two adults with a meal.
- Alcohol sale must take place within the public facing area of the business which directly relates to the main service being provided.
- A cap on the size of community event (e.g. up to 300 people) and tickets must be sold to the event either before or on the door.
- “Community sellers” are defined as non-profit making bodies, charities, voluntary sector etc. Alcohol sold by community sellers must be ancillary to a wider event e.g. a performance or flower show or talk or meal. Only the equivalent of an average of up to three units of alcohol per person

Temporary Event Notices (TENs)

Any individual premises can be used for 12 temporary events per year; up to a total maximum of 21 days. Clause 53 of the Bill would amend section 107 of the 2003 Act and increase the maximum number of TENs per year from 12 to 15. This would take effect from 2016.

Personal Licences

All alcohol sales have to be made or authorised by a personal licence holder. This is to ensure that anyone running or managing a business that sells alcohol does so in a professional manner: All personal licences currently have to be renewed after ten years. The original intention behind this requirement was to provide a mechanism for identifying licence holders who had got criminal convictions for offences which could result in their licence being revoked but who had not declared them.

The November 2012 alcohol strategy consultation sought views on whether the requirement to renew a personal licence should be "removed or simplified to reduce the burden on responsible businesses". The document noted that licence holders would still be required to ensure their personal details were up-to-date and to declare any relevant criminal convictions; that there were existing criminal offences for failing to make these declarations; and that the police have powers to check personal licences.

Clause 54 of the Bill would amend section 115 of the 2003 Act so that a personal licence continues indefinitely.

Liqueur Confectionary

It is an offence, under section 148 of the 2003 Act, to sell liqueur confectionary to children aged under 16. Clause 55 of the Bill would repeal section 148 of the 2003 Act.

Late Night Refreshment

Late night refreshment is defined as the supply of hot food or hot drink to the public, for consumption on or off the premises, between 11.00pm and 5.00am. The provision of such refreshment is a licensable activity because of its potential link with alcohol-related crime and disorder. A number of exemptions are set out in schedule 2 to the 2003 Act (for example, hot food or hot drink supplied to hotel and bed and breakfast guests; hot drinks from vending machines; and the supply of hot food and hot drink from workplace canteens).

The Government's alcohol strategy consultation claimed there was scope to reduce the burdens of licensing requirements for businesses that provide late night refreshment but do not sell alcohol and are not connected with the alcohol-related late night economy.

Clause 56 of the Bill would insert new paragraph 2A into schedule 2 of the 2003 Act to give licensing authorities the powers to exempt a supply of hot food and hot drink from the licensing requirements if it takes place:

- on or from premises which are wholly situated in an area designated by the licensing authority;
- on or from premises of a description designated by the licensing authority;
- during a period (beginning on or after 11pm and ending on or before 5am) designated by the licensing authority.

A licensing authority would be able to designate a description of premises only if the description is one that is prescribed by regulations. A designation could be varied or revoked by the licensing authority that made it and a licensing authority that makes, varies or revokes a designation would have to publish the designation, variation or revocation.

Reporting loss or theft of licence

If a document such as a premises licence, temporary event notice, club premises certificate or personal licence is lost, stolen, damaged or destroyed, the licence holder must report this to the police before a copy can be issued.

Clause 57 of the Bill would amend the 2003 Act to remove the requirement to report a loss or theft etc to the police before a copy of the document could be issued.

Exhibition of films

The exhibition of a film for public performance is, with certain exemptions, one of the forms of 'regulated entertainment' set out in Schedule 1 to the 2003 Act. The Act requires that a licence to exhibit film must include a mandatory condition that age classification restrictions are complied with.

In response to the DCMS consultation in January 2013, there was 'near universal agreement' that age classification restrictions had to be retained. For this reason, the Government said there would be no blanket deregulation but it would examine opportunities for deregulating low risk community-based film exhibition in suitable circumstances.

Clause 58 of the Bill sets out the Government's proposal to remove the requirement for a licence in 'community premises' where the following conditions are satisfied:

- prior written consent for the entertainment to take place at the community premises has been obtained by or on behalf of a person concerned in the organisation or management of the entertainment;
- the entertainment is not provided with a view to profit;
- the audience consists of no more than 500 persons;
- the entertainment takes place between 8am and 11pm on the same day; and
- a recommendation concerning the admission of children to the exhibition of the film has been made by the film classification body or relevant licensing authority, and the admission of children to that exhibition of the film is subject to such restrictions (if any) as are necessary to comply with that recommendation.

The term "community premises" is defined in section 193 of the 2003 Act as meaning premises that are (or form part of) a church hall, chapel hall or other similar building or a village hall, parish hall, community hall or other similar building.

Proposals relating to Street Trading

London Street Trading Appeals

At present, the majority of street trading appeals under the *Local London Authorities Act 1990* and the *City of Westminster Act 1999* are heard by a Magistrates Court. However, appeals of a more general nature (such as a decision to designate a street as one in which street trading may take place without a licence) are heard by the Secretary of State. The Government considers that this is an inefficient and inconsistent approach. Consequently, Clause 69 would ensure that all street trading appeals are made to the Magistrates Court as they have more expertise in making such determinations.

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