



Home Office

CONSULTATION:
THE COMMUNITY AND ANCILLARY SELLERS
NOTICE

11 November – 9 December 2014

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1. MINISTERIAL FOREWORD

1. The Coalition Government is determined to tackle the harmful effects of alcohol and curb excessive drinking. We have achieved much to tackle alcohol harms: we have reformed the Licensing Act 2003, we have introduced new powers for the police and licensing authorities to close down problem premises and deal with alcohol-fuelled crime and disorder, and we have banned the worst cases of very cheap and harmful alcohol by introducing a ban on sales below the cost of duty plus VAT. These are important achievements.
2. The Coalition Government is also committed to reducing the unnecessary burdens on responsible businesses. Community groups and small businesses have told us that the existing licensing requirements are heavy handed for those who want to sell small amounts of alcohol as part of a wider service. For example, small bed and breakfasts wishing to provide a welcome drink to guests must be at present licensed in the same way as a large hotel with a public bar. Community groups wishing to sell a glass of wine during the performance of a play are subject to the same licensing regime as companies putting on much larger events. For community groups and small accommodation providers selling limited amounts of alcohol in low-risk environments, the existing regulation is disproportionate.
3. We want to free up the police and local enforcement agencies to concentrate on the premises that are causing alcohol harms. The Community and Ancillary seller's Notice (CAN) will allow such particular low-risk businesses and community groups to sell a small amount of alcohol, while providing appropriate, light-touch controls.
4. We are committed to delivering the CAN and must make sure we do so in a way that works best for businesses and community groups, but not at the expense of undermining safeguards against crime and disorder, public nuisance or risking public health. In order to get this balance right, we are consulting on the details of the regulations at this early stage. This consultation is subject to Parliament's consideration of the Deregulation Bill which is currently before Parliament. I hope that all those with an interest in this matter will respond.



Lynne Featherstone
Minister of State for Crime Prevention

2. INTRODUCTION

PROPOSAL

5. The CAN will be a new, light touch authorisation under the Licensing Act 2003 which will benefit particular small businesses and community groups who wish to sell or give away¹ limited amounts of alcohol as part of a wider service. Under existing arrangements these bodies are subject to the same licensing regime and scrutiny as other businesses and groups who sell much higher quantities of alcohol including large hotels and off-licences.
6. The public consultation on alcohol, undertaken in 2012², asked for feedback on two measures which could improve the arrangements. These were: a lighter touch Temporary Event Notice (TEN) with more local discretion for community groups, and a new authorisation to reduce burdens on ancillary sellers of alcohol. In response to the consultation, the Government announced its intention to create a new authorisation called the Community and Ancillary sellers Notice (CAN) to provide a light-touch authorisation for both these groups. The CAN is intended to benefit providers of bed and breakfast or other similar overnight accommodation who may wish to offer overnight guests a bottle of wine in their room or a drink with an evening meal, and community groups putting on small community events who wish to sell an alcoholic drink to those attending the event. The Government does not intend to extend the proposal to include florists and hairdressers or other business types at this stage.
7. The CAN was introduced as part of the Deregulation Bill at report stage in the House of Commons on 14 May 2014. The details set out in the table below will be prescribed in primary legislation.
8. The process for giving a CAN will be similar to the existing process for giving a TEN. Users will fill out a simple form and send it to the licensing authority to notify it of their intentions to provide alcohol. There will be a fee, which will be set in accordance with HM Treasury's Managing Public Money principles to recover all costs for the licensing authority, including the administration cost to process the notice. In line with the process for TENs, licensing authorities will be able to reject a notice where appropriate on grounds of the four licensing objectives.³
9. This consultation asks for views on the details that will be set out in regulations. For both groups this includes the limits on the appropriate quantity of alcohol that can be sold. For ancillary sellers, it includes the size of business that could use a CAN. For community groups, it includes the definition of an eligible community group and the frequency of licensable activities that can be authorised by a CAN. Licensing authorities are also asked what level of fee will be necessary for giving a CAN in order to cover their costs.

¹ Alcohol provided free of charge in a business context, in return for a donation or as part of a ticket price is considered by the courts to constitute a sale in law.

² A consultation on delivering the Government's policies to cut alcohol fuelled crime and anti-social behaviour.

³ The licensing objectives are: the prevention of crime and disorder; public safety; the prevention of public nuisance; the protection of children from harm.

Table: Details of the CAN which will be prescribed in primary legislation

<p>For all CAN users</p>	<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.
<p>Ancillary sellers</p>	<ul style="list-style-type: none"> • Sale of alcohol must be ancillary to provision of goods or services by the business. • Sale of alcohol from single named premises. • Alcohol for consumption on the named premises.
<p>Community groups</p>	<ul style="list-style-type: none"> • Sale of alcohol must be made by or 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 from up to three named premises. • Sales of alcohol for consumption at organised events of up to 300 people.

BACKGROUND

1. The licensing regime is designed to safeguard against the potential problems which can arise from the sale of alcohol and other licensable activities, such as alcohol-related crime and disorder, public nuisance and risks to public safety. Under the Licensing Act 2003 (the 2003 Act) those wishing to sell alcohol must be authorised to do so by virtue of a premises licence, club premises certificate or a temporary event notice (TEN).
2. Under existing arrangements, the application fee for a premises licence is between £100 and £1,900 plus annual renewal fees of up to £200, with an additional associated cost of obtaining a personal licence of approximately £75. Applying for a premises licence also requires the applicant to provide detailed information including a full operating schedule and plan of the premises and a process of scrutiny by the licensing authority and other responsible authorities.
3. The alternative is for premises users to give a TEN each time they wish to put on an event at which alcohol will be sold. The TENs regime enables people with or without an existing licence to give notice that they intend to sell alcohol when this would not otherwise be authorised, on a 'one-off', limited basis. This includes community groups putting on small events. Each TEN costs £21 and authorises the activities to which it relates⁴ to be carried on for up to 168 hours (seven days).

⁴ Licensable activities are the sale of alcohol, late night refreshment or licensed entertainment.

3. ABOUT THIS CONSULTATION

Scope of the consultation

Topic of this consultation:	This consultation seeks views on the details of the Community and Ancillary Sellers Notice (CAN) which will be set out in secondary legislation.
Scope of this consultation:	Accommodation providers including guest houses and bed and breakfasts, community groups and charities, licensing authorities, the police, environmental health authorities, licensed trade, residents.
Geographical scope:	England and Wales

Basic Information

To:	We are keen to hear from everyone who would wish to use the CAN or may be affected by the proposals, including: small accommodation providers, community groups and charities members of the public, those who live close to licensed premises, the police, licensing authorities and trade associations.
Duration:	The consultation runs for four weeks from 11 November – 9 December 2014.
Enquiries:	CANsConsultation@homeoffice.gsi.gov.uk
How to respond:	<p>Please respond using the online consultation tool through the GOV.UK website:</p> <p>https://www.gov.uk/government/consultations/community-and-ancillary-sellers-notice-consultation</p> <p>If you are not able to respond via the online system please contact the Home Office on the email address above. Further information on how to respond to this consultation can be found on the GOV.UK website.</p>
Additional ways to become involved:	Please contact the Home Office (as above) if you require information in any other format, such as Braille, large font or audio. The Department is obliged to both offer, and provide on request, these formats under the Equality Act 2010.
After the consultation:	Responses will be analysed and a 'Response to Consultation' document will be published. This will explain the Government's final policy intentions. All responses will be treated as public, unless stated otherwise.

Background

Previous engagement:	The Government has already consulted on the principle of the CAN in the Alcohol Strategy consultation in 2012, and set out the intentions in the <i>Next Steps</i> following the consultation on delivering the Government's alcohol strategy.
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DETAILS OF THE PROPOSAL

10. The CAN will be a new, light touch authorisation under the Licensing Act 2003 which will benefit certain small businesses and community groups who wish to sell limited amounts of alcohol as part of a wider service. Under existing arrangements these groups are subject to the same licensing regime as larger businesses and groups who sell much larger quantities of alcohol including hotels and off-licences.
11. The principles of the CAN are included in the Deregulation Bill, which is being considered by Parliament. The details which will be prescribed in primary legislation (the Deregulation Bill) are set out in the table on page 5. This consultation asks for views on the details that will be set out in regulations.
12. The CAN will benefit small accommodation providers, community groups and charities who wish to sell alcohol as part of a wider service. These groups complain that premises licences (which range in cost from £100 - £1,900 and accompanying personal licence fees of around £75) or multiple temporary event notices (currently £21 each) can be costly, burdensome and disproportionate in view of the low risk, low volume nature of the sales they wish to make. The CAN offers a lighter touch, cheaper alternative.
13. For a relatively low, one-off fee a CAN user will, over the course of three years, be able to sell a limited quantity of alcohol (to be prescribed in regulations) between the hours of 7am and 11pm.
 - Community group users will be able to name up to three premises, including demarcated outdoor spaces, at which they intend to provide alcohol at organised events, with a maximum of 300 attendees. The alcohol sold at the event must be ancillary to the main purpose of the event (such as a glass of wine at a play or with a lunch).
 - Ancillary business sellers will name single premises at which they will be making sales of alcohol. The sales must be ancillary to the main service being provided and the alcohol must be consumed on the premises unless regulations provide otherwise. An example is a drink for paying guests at a B&B.
14. Safeguards such as rights of entry to investigate problems and criminal liability of CAN users for licensing offences will apply as they do in relation to other alcohol authorisations. The police and Environmental Health Authority (EHA) will be able to object to a CAN taking effect at the outset on grounds that one or more of the licensing objectives would be undermined. Licensing authorities will also have discretion to reject CANs. Where problems arise after a CAN has taken effect the police and EHA will be able to seek revocation through a light touch process with no hearing or appeal. Once a user has had a CAN revoked that user (or an associate) would not be able to give notice again for a period of 12 months.
15. Community groups wishing to hold a larger event (indoor or outdoor) or sell alcohol in greater quantities than would be allowed under a CAN may do so by giving a TEN.
16. In coming to its final decision on the details of the CAN, the Government will balance reducing burdens on small businesses and community groups with protecting the public from potential crime and disorder, public nuisance and other alcohol related harms.

Questions

Questions 1-3 are about the CAN when used by ancillary sellers.

Questions 4-6 are about the CAN when used by community groups.

Question 7 is about details that will be the same for community groups and ancillary sellers and is for licensing authorities only to respond to.

Please answer all questions which are relevant to you or your organisation.

Questions about the CAN when used by ancillary sellers

The CAN will be for use by small accommodation providers, for example B&Bs and guesthouses. Alcohol may only be sold to guests, for consumption on the premises. Regulations will limit the size of accommodation providers allowed to use the CAN.

Question 1: what size of accommodation do you think should be determined a “small accommodation provider” for the purpose of the CAN?

- a) An accommodation provider with up to five bed spaces
- b) An accommodation provider with up to ten bed spaces
- c) An accommodation provider with up to fifteen bed spaces
- d) An accommodation provider with up to twenty bed spaces
- e) Don't know

A key principle of the CAN is that the sale of alcohol must be ancillary to the provision of services on the premises. The quantity of alcohol allowed to be sold under a CAN will be set out in the regulations, specifying any particular circumstances which may apply. For example, it may be permitted to offer a couple staying overnight in a B&B a bottle of wine in their room.

Question 2: how much alcohol do you think should be allowed to be sold by ancillary sellers under a CAN, per guest, in a 24 hour period?

- a) Up to 2 units
(e.g. a small 125ml glass of wine; a pint of 3.5% ABV⁵ of beer; a 330ml bottle of 4% ABV lager; one double measure of spirits)
- b) Up to 3 units
(e.g. a large 250ml glass of wine; two 330ml bottles of 4% ABV lager; a pint of 5% ABV beer)
- c) Up to 5 units
(e.g. a 750ml bottle of 13% ABV wine between two people or a 250ml bottle of spirits between two people)
- d) More than 5 units (e.g. allowing a bottle of wine between two people in a room plus an additional glass of wine with a meal)
- e) Don't know

⁵ Alcohol By Volume

Question 3: the CAN will be available for use by B&Bs and other similar accommodation providers. Do you think other types of accommodation providers should also be able to use the CAN? (tick all that apply)

- a) Self catering holiday homes
- b) Camping and caravanning sites
- c) Youth hostels
- d) Don't know

Questions about the CAN when used by community groups

The regulations will set out a definition of community groups which will be able to use the CAN.

Question 4: how do you think a community group should be defined?

- a) A broad definition to allow any group which has local membership and operates on a not-for-profit basis.
- b) A defined list which includes groups such as charities, voluntary groups, faith groups, and community interest companies which operate on a not-for-profit basis.
- c) Don't know.

The alcohol sold at the event must be ancillary to the main purpose of the event (such as a glass of wine at a play or with a lunch). A quantity will be set out in the regulations. The Government envisages that an average amount would apply in situations where alcohol is provided in a group setting, for example if a bottle of wine is intended to be shared by a number of people the alcohol limit would be classed as one person's share of the bottle.

Question 5: how much alcohol should be allowed to be sold by community groups under a CAN?

- a) Up to 2 units
(e.g. a small 125ml glass of wine; a pint of 3.5% ABV⁶ of beer; a 330ml bottle of 4% ABV lager; one double measure of spirits)
- b) Up to 3 units
(e.g. a large 250ml glass of wine; two 330ml bottles of 4% ABV lager; a pint of 5% ABV beer)
- c) Up to 5 units
(e.g. a 750ml bottle of 13% ABV wine between two people or a 250ml bottle of spirits between two people)
- d) More than 5 units (e.g. allowing more than a bottle of wine between two people)
- e) Don't know

⁶ Alcohol By Volume

Regulations will set a limit on the frequency with which a community group can provide alcohol under their CAN. This is similar to the provisions for using TENs, which are currently limited to 12 per year per premises (with an increase to 15 proposed in the Deregulation Bill).

Question 6: how frequently should a community group be allowed to provide alcohol under their CAN?

- a) Once per month
- b) Twice per month
- c) Once per week
- d) More than once per week
- e) No restriction / daily
- f) Don't know

The following question is for licensing authorities only to answer

Licensing fees will need to be set at a level which reflects the licensing authority's costs associated with providing the service. The CAN proposal is designed to keep costs as low as possible (by keeping administration, monitoring and other compliance activity light-touch). The Government has estimated that a fee set at between £20 and £50 should be enough to cover costs.

Question 7: What level of fee do you think would be necessary to meet the costs incurred by licensing authorities as a result of administration, monitoring and other compliance activity associated with the CAN?

- a) Fee: £_____
- b) Don't Know

Please explain the reason for your answer, setting out the costs you have considered
[open text question]

Information about you

Question 8: Please indicate in what capacity you are responding to this consultation:

- Small accommodation provider / bed and breakfast / guesthouse
- Community / voluntary group
- Charity
- Large accommodation provider / hotel
- Police
- Licensing authority
- Licensed trade / trade organisation
- Environmental health
- Member of the public
- Other

ANNEX A

Responses: Confidentiality & Disclaimer

1. The information you send us may be passed to colleagues within the Home Office, the Government or related agencies. Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).
2. If you want other information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard any information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department. The Department will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Consultation Co-ordinator

3. If you have a complaint or comment about the Home Office's approach to this consultation, you should contact the Home Office Consultation Co-ordinator.

The Co-ordinator can be emailed at: HOConsultations@homeoffice.gsi.gov.uk, or alternatively you can write at:

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