

VIOLENT CRIME REDUCTION BILL: ALCOHOL DISORDER ZONES

The Violent Crime Reduction Bill provides for the Secretary of State to make regulations on:

- the formula to be used by local authorities in charging premises for the services provided in an Alcohol Disorder Zone (ADZ) (clause 12(2));
- the arrangements for collecting the charge, and appeals by premises against the charge (clause 12(9)); and
- supplemental procedures for designating the ADZ (clause 12(6) and (7)).

We are not able to provide Committee members with draft regulations at this stage. However, we continue to discuss with stakeholders in local government and the drinks industry the detailed arrangements for implementing the provisions on ADZs. Accordingly, this document sets out the process that we have made on those aspects of the process which the Bill allows to be contained in regulations.

1. Alcohol Disorder Zones – the framework

The ADZ process is set out in the diagram at Annex A. The two principal stages of this process are firstly the creation of an Action Plan, and subsequently the designation of an ADZ.

The activity which we expect to see in an Action Plan (with voluntary payments based on local agreement) is shown at Annex B.

The type of activity undertaken using the compulsory charge will primarily be the provision of additional enforcement activity specifically targeted at premises in the zone. These activities provide an alternative to those in the Action Plan, and will affect all premises in the ADZ. (See Annex B for typical activity.)

This note covers the compulsory charging arrangements, and the exemptions from the charge.

2. Charging Formula

Following our discussions with stakeholders, we have concluded that a centrally determined formula, with exhaustive tables of enforcement costs to apply to particular types of premises in different geographical locations, is just not feasible.

This would be monolithic, difficult to maintain/ update, and would not reflect local variations.

On the other hand, there has to be an approach which is broadly consistent.

The intention is therefore to have a formula with three building blocks:

- **Interventions:** a list of chargeable activity with some scope for flexibility – principally, this will comprise targeted policing activity, trading standards operations, licensing enforcement, joint agency visits and noise enforcement.
- **Costs:** a clear, consistent framework for which costs can be included in determining the charge (e.g. basic pay, allowances, national insurance, superannuation and on-costs) – this would then be used to derive the local costs.
- **Apportioning the share of the cost to individual premises:** a method of apportioning the costs to premises to reflect the effort targeted at them, and the service received.

Detail will need to be finalised concerning the interventions and what costs should be included. However, the key issue revolves around apportioning costs to individual premises in such a way that:

The charging reflects

- The policy intention that, once compulsory charging kicks in, premises should receive specific enforcement visits.
- The process does not end up being bureaucratic to administer, but
- Premises pay for what they get (based as far as possible on the actual risk they pose).

The table below sets out the options for linking the costs, with the advantages and disadvantages:

Option	What it is	Pros	Cons
1. Charge individual premises for additional bespoke services	Premises are billed for additional services actually received (e.g. police visits)	Transparent – payment linked to what is required and what is received Charge linked to size of premises and risk of crime and disorder posed	Complexity of administering scheme at required level of detail (could be many premises involved) Could still roll up other costs (e.g. police patrols into charge)
2. Charge all premises at a flat rate	Total cost of services in ADZ divided by number of premises, and all pay equal share	Simple, and straightforward to administer	No direct link to requirements of individual premises
3. Charge premises using a ready reckoner	Premises billed for percentage of charge, based on proxy measure of service take-up (e.g. capacity or rateable value). A sub-option is to band premises using a proxy measure	Makes link between what premises need/get and what is paid Ease of administration	Lack of consistent proxy measures which can be obtained easily

The key points are:

- We have ruled out a flat rate charge (Option 2) – this would not meet our objectives.
- If we are to use Option 3, then rateable value is the data which is most readily available locally.
- **Our favoured approach is Option 1, and we are now working to develop this further.**

We are now undertaking further work with stakeholders to ensure that we get a system which is flexible and workable, but which provides some:

- Up-front indication of the enforcement effort targeted at particular premises, based on a risk assessment.
- Flexibility for adjusting both the operational effort and the costs to premises (perhaps within a fixed +/- percentage range). And which
- Builds in, and apportions, the costs of police patrols.

Another key issue is whether/ how far the charging framework should limit the total charged locally, perhaps by using a cap. Clearly, if ADZs are to be a last resort, then there needs to be a financial disincentive to the trade. For example, the annual costs of night time economy Business Improvement Districts (BIDS) range from 1-2% of rateable value – so there is an incentive to take this option rather than sit it out and wait for an ADZ. On the other hand, we would not wish to set the charge so that it throws people out of business or becomes unenforceable. We are considering this issue with stakeholders.

In terms of the costs which will fall on premises, under the compulsory charge, further work has shown that the estimated average cost of £200 per premises is a valid estimate of the cost per premise in a medium-size ADZ. This is based on a flat-rate charge. If we were to link it to individual premises, then some would pay more, and some less.

3. Exemptions (from the compulsory charge)

Firstly, on a point of clarification, the term 'exemption' covers those premises which have licences to trade in alcohol but which, by the nature of their business, are not required to pay all of, or any part of, the compulsory charge in an ADZ. This is distinct from 'discount', which refers to any reduction in the compulsory charge (for those premises required to pay).

Of course, not all licensed premises will pay the charge. The Bill provides a double test for premises if they are to be exempt from the charge. The test (both limbs of which must be passed) focuses on:

- Principal use – whether a business’s main purpose is to sell alcohol.
- Patronage – whether the main reason why people enter or remain on the premises is the availability of alcohol (generally or at particular times of the day).

Accordingly, the following types of premises **will** be excluded from the compulsory charge on both tests:

- Restaurants
- Hotels
- Theatres
- Gyms.

In order support local decision making, we accept that further clarity is required around premises definition (to deal with grey areas), and how to apply the patronage test. The latter is particularly important for those premises licensed for off-sales, but whose business is not solely focused on these sales (e.g. convenience stores).

Inevitably, there will be a need for local discretion and decision making. We propose to provide a framework for this through regulations and guidance, along the lines of:

- **Premises definition** – use, **as guidance**, definitions applied for planning purposes to distinguish between eating and drinking establishments (to deal in the main with the grey areas such as, for example, gastro pubs) – this is seen as providing an objective way of defining premises.
- **Patronage test** - we propose to go for a time where there would be a rebuttable presumption that off-licensed premises open after that time would be liable to pay the charge (the onus would be on the premises to provide evidence that they should be exempt).

Some examples of criteria, drawn from the Town and Country Planning Uses Class Orders, which could be used in the premises definition, are:

- **Restaurants and Cafés**
The general definition of this class of premises is where the primary purpose is the sale and consumption of food and light refreshments. Restaurants which have a bar where drinks are served and consumed whilst people wait for tables etc. are included in this class, since the serving of the drink is ancillary to the purchase and consumption of a meal.

- **Drinking Establishments**

Certain factors can be considered when deciding whether to place the premises in this class – for example, whether the majority of customers on the premises are consuming alcoholic beverages exclusively, and whether there is any obligation or expectation for customers to consume a meal. Where the primary purpose of the premises is the purchase and consumption of alcohol, no account should be taken of the square footage given to dining, or the revenue gained from that.

Turning to the application of the patronage test and those retailers whose principal purpose is not the sale of alcohol, these are primarily the corner grocery shops which might also sell alcohol, or local supermarkets. Our preferred option in applying this is to have a temporal cut-off point in the evening. The rebuttable presumption would be that any off-licence premises open after that time would be liable for the compulsory charge. It would be open to the premises to provide documentary evidence to show that their customers, after this time, were not in the main visiting to purchase alcohol. We are considering with stakeholders what time might be the cut off point, and how far this would be a matter for local discretion.

4. Discounts

The Bill provides for discounts to be applied to the compulsory charge. We have concluded that, for the time being, we are unable to include provision for discounts. The reasoning behind this is that there is no consistent basis on which to administer a discount scheme.

The Alcohol Harm Reduction Programme (AHRP), being taken forward by the Home Office in partnership with the Department of Health, includes the development of a social responsibility scheme with the drinks industry. This includes the development of an Industry Code of Practice, which will give firm guidance on a range of good management practices. We expect that the Industry will publish the code shortly. Once this has been rolled out and widely adopted, then there will be a firmer basis for operating a discount scheme.

Of course, moving towards an option that will see us gearing charging towards the individual effort targeted at businesses, on the basis of a risk assessment, will mean that some account is taken of premises' track records. This will be reflected in the charge they pay.

5. Appeals

The Bill also provides for the regulations to cover appeals.

We are working hard to ensure that we make ADZs workable so that, while they are a last resort, they will be able to be applied quickly and effectively. We have been keen to provide checks and balances within the system, but to avoid complicated appeals processes, which would get implementation

bogged down in long and drawn-out consideration of cases (in particular, there could be many premises involved in and ADZ in a large city centre).

The key checks and balances are:

- Joint local authority/ police decisions to designate
- 28-day consultation periods
- 3-monthly reviews of designation
- Transparent charging linking services to premises.

In addition to this, we are working with stakeholders to ensure that there are mechanisms built into the process to ensure that premises will be able, if necessary, to challenge the compulsory charges.

Annex B

Anywhere Town – Action Plan

Additional High Visibility Policing

Application of Industry Principles and Standards Document (e.g. No ID, no sale, irresponsible drinks promotions, dispersal policy)

Use of toughened drinks glasses

Licensing enforcement

Pub Watch scheme, including radio pagers linking pubs to police

Installation of CCTV in premises

Employment of door staff

Employment of taxi marshals

Additional street cleaning services

Additional night time transport

Anywhere Town – ADZ Compulsory Charging Activity

Police enforcement work, including frequent visits to premises

Trading standards enforcement operations, including test purchasing at both off- and on-licensed premises

Environmental health visits to premises to deal with excessive noise

Installation of street CCTV outside licensed premises

Street cleaning directly outside licensed premises in the ADZ.