

# **Policing and Crime Bill**

## **Alcohol provisions**

### Background: the Licensing Act 2003

1. The Licensing Act 2003 (“the 2003 Act”) applies to England and Wales, and provides for the regulation of four ‘licensable activities’. These are:
  - the sale by retail of alcohol;
  - the supply of alcohol in a members’ club;
  - provision of regulated entertainment; and
  - provision of late night refreshment (hot food and hot drink after 11pm).

There are various types of authorisation under the 2003 Act including personal licences, which are granted to an individual, and premises licences which are issued in respect of particular premises..

2. Licensable activities must be authorised under a premises licence, a club premises certificate, a Temporary Event Notice (TEN), or a Community and Ancillary Sales Notice (CAN), for use by small businesses and community groups (CANs are not yet available).
3. The sale of alcohol often has an impact on the wider community and on crime and anti-social behaviour. Premises licences with authorisation for alcohol sales must therefore specify the ‘Designated Premises Supervisor’ (DPS) for that premises. The DPS must hold a personal licence, and will normally be the person with day-to-day responsibility for running the premises.
4. Licensing authorities (unitary or district councils) administer the licensing regime in their respective areas and must exercise their functions with a view to promoting the statutory licensing objectives. These are:
  - the prevention of crime and disorder;
  - public safety;
  - the prevention of public nuisance; and
  - the protection of children from harm.

### Amendments to the Licensing Act 2003

5. The 2003 Act contains a number of safeguards to promote the licensing objectives and protect the public. The provisions in this Bill will help to make the licensing system more effective in preventing crime and disorder, enabling licensing authorities and the courts to act swiftly when those operating licensed premises are involved in crime or disorder, and preventing abuse of the licensing system.

### *Licensing authorities to have powers to revoke or suspend personal licences*

6. Currently a personal licence may be suspended or forfeited by a court on conviction of a relevant offence. Relevant offences are listed in Schedule 4 to the 2003 Act and include violent and sexual offences, drugs offences and firearms offences. However, the evidence suggests that the courts are not routinely exercising their powers in this regard, often because they are not aware that an offender holds a personal licence (only 16 personal licences were suspended or forfeited in 2013/14).
7. The Institute of Licensing wrote to the Home Office in March 2015 expressing their concern that courts are failing to check whether defendants are personal licence holders or taking appropriate action. The Institute consulted their members for views and examples of problems that have occurred. They received 114 responses to their survey, principally from licensing authorities, and the police. 75% of those who responded said they have experienced problems with the existing arrangements. The examples given included:
  - A personal licence holder convicted of selling non-duty paid alcohol in their shop, was fined £33,000. The police asked the court to order forfeiture of the licence but the court decided the defendant had been punished enough. Six months later the same individual was convicted and fined for a second offence of selling counterfeit alcohol. In future, the licensing authority will be able to revoke the licence after the first offence.
  - A personal licence holder convicted of sex offences failed to notify the court of the personal licence. The police interviewed him under caution for failing to notify the court of the licence, and he voluntarily surrendered his personal licence to the licensing authority. Under the new arrangements the licensing authority will be able to revoke a licence in these circumstances.
8. This provision will allow licensing authorities to suspend or revoke a licence. Courts will retain their existing powers. Where a licensing authority decides to suspend or revoke a licence, the licence holder will have the opportunity to make representations to the licensing committee, and will have a right to appeal to a magistrates' court.

### *The list of 'relevant offences' to be updated*

9. Conviction for a relevant offence can be grounds for refusing a new personal licence, or for suspending or revoking an existing licence. Currently, there are some serious offences which are not included in the definition of "relevant offence". The following offences will be added to the definition by the Bill:
  - the sexual offences listed in Schedule 3 to the Sexual Offences Act 2003;
  - the violent offences listed in Part 1 of Schedule 15 to the Criminal Justice Act 2003;
  - the manufacture, importation and sale of realistic imitation firearms contrary to section 36 of the Violent Crime Reduction Act 2006;
  - using someone to mind a weapon contrary to section 28 of the Violent Crime Reduction Act 2006; and

- the terrorism-related offences listed in section 41 of the Counter-terrorism Act 2008.

*Remove legal ambiguity on the procedure for summary reviews following serious crime or serious disorder at licensed premises*

10. Section 53A of the 2003 Act allows the police to make an application for a summary review of a premises licence, if the relevant premises are associated with serious crime or serious disorder. The licensing authority must consider within 48 hours whether it is necessary to impose interim steps (temporary conditions on a licence). The hearing to review the premises licence must take place within 28 days of receipt of the application. The decision taken at the review hearing only comes into effect once the time limit for appealing (21 days) has expired or any appeal has been disposed of. There is ambiguity in the 2003 Act about whether the interim steps remain in place during this period. This has resulted in licensed premises, closed due to serious problems, re-opening pending the outcome of an appeal.
11. This amendment to the 2003 Act will require the licensing authority to determine at the review hearing what interim steps should be in place pending the outcome of any appeal, or the expiry of the time limit for making an appeal. These arrangements will allow licensing authorities and the police to take effective enforcement action, and will be fairer for businesses. Licensees and the police will be able to appeal the interim steps to a magistrates' court.

*Amend the definition of alcohol to include powdered and vaporised alcohol*

12. Powdered alcohol was authorised for sale in the USA in March 2015, although as far the Government is aware it is not yet on sale in the USA or anywhere else. Alcohol is defined in the 2003 Act as "spirits, wine, beer, cider or any other fermented, distilled or spirituous liquor". This definition focuses on alcohol as a liquid and therefore it is not clear whether powdered alcohol is covered by the 2003 Act. Vaporised alcohol is on sale in a few licensed premises as a novelty product; the Government is not aware of any business attempting to sell it without a licence. The Bill amends the definition of alcohol so as to remove any legal ambiguity about whether alcoholic liquor which is no longer in a liquid form but which has been changed into another state, for example, into a powder or a vapour, is covered by the licensing regime. In making clear that it is, the changes will ensure the public is protected from potentially harmful sales of alcohol. This will mean that offences such as the sale of alcohol to a child under the age of 18 will apply to these products.

*Remove the requirement for guidance to be laid before Parliament when it is updated*

13. Section 182 of the 2003 Act requires the Secretary of State to issue guidance to licensing authorities on the discharge of their functions under the Act, and that the guidance be laid before Parliament and be subject to the negative resolution procedure every time it is updated. The licensing framework has been in place for ten years, and in that time changes to the guidance have not been subject to parliamentary debate. The requirement to lay revised guidance before Parliament

is therefore considered unnecessary and at odds with many other statutory guidance provisions.

**Home Office**  
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