

REPORT

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Cllr Brown : Cabinet Member for Environment & Transport

LICENSING ACT 2003 – CONSULTATION ON REGULATIONS AND ORDERS

1. Purpose of the Report

- 1.1. To advise Members of the provisions of the draft Regulations and Orders issued under the Licensing Act 2003 ("the Act") for consultation and to ask Cabinet for their views on the options put forward.

2. Background

- 2.1. Wholesale changes to the liquor & entertainment licensing regime are proposed by the Act. Cabinet will be aware that the Council has already set up a Licensing Committee as required.
- 2.2. Much of the detail of the procedures and forms of the Licences etc is not contained in the Act, but will be contained in Regulations & Orders made under the Act.
- 2.3. The Department for Culture, Media and Sport (DCMS) has issued a consultation draft of these Regulations and Orders. The consultation period ends on 10th November 2004. The first appointed day under the Act, i.e. the day when the new regime will start taking effect in so far as License Applications is concerned, is 7th February 2005. Therefore, one can assume that the Regulations & Orders will be made some time in the intervening period.

3. The Consultation draft

- 3.1. The Consultation document is lengthy and technical. A copy has been placed in the Members' room.
- 3.2. The main points in the draft Regulations are as follows:

(a) Applications for Personal Licences (i.e. licences relating to the sale of alcohol):

- The applicant has to include his/her current home address and home address(es) for the last five years. Details of any existing licence have to be submitted with the application.
- The applicant must give details of relevant or foreign offences (as defined in the Act).
- Two photographs must be included. The Regulations are very specific about photographs and one has to be endorsed by a Solicitor or other professional person

(b) Application for Premises License or Club Premises Licence

- The application must state whether the Applicant is an individual or a body such as a Limited Company or Charity etc.
- The application must state the form of entertainment to be provided; the performance of a play, exhibition, a film, performance of live music etc.
- The applicant must state whether the retail of sale of alcohol is to take place.
- Plans must be provided; there are detailed requirements for these and they must be in the standard scale (1 cm to 100 cm) unless the Licensing Authority agrees otherwise.

- 3.3. For the conversion of existing licences to new style licences there are transitional provisions. However, broadly the same sort of the information is required from Applicants.
- 3.4 The draft Regulations contain detailed provisions for any hearings and note that by and large, the Act only requires the Licensing Authority to hold a hearing in order to resolve an issue that is the subject of objection or representation. Various periods of time within which hearings must be held are given depending upon the nature of the application. The range is from 5 to 20 working days.
- 3.5 The Consultation document gives three options in respect of the Regulations and Order; do not implement the Act and continue with the existing regime, make the Regulations and Orders subject to variations arising through the consultative process or make the Regulations and Orders as proposed in the Consultation document. The DCMS has estimated the total compliance cost and total financial benefit over 10 years for each of the options. This estimate is set out in Appendix I.

4. The Options

- 4.1. It seems unlikely that the Government will follow the first option in view of the stage the implementation process has now reached. However if Cabinet considers that the proposed new regime is inappropriate for reasons such as the concern over the increased licensing hours with its attendant problem of nuisance then members may wish to prefer this option.
- 4.2. Some of the time limits proposed in relation to the hearings are very tight and officers are likely to make this comment. It also appears that there may be some anomalies in relation to the conditions that can be attached to licences, particularly in the transition phase. Therefore the second of the three options would be preferable over the third.
- 4.3. Cabinet is however requested to consider the options and decide accordingly.

5. Next Steps

- 5.1. It is suggested that the Officers respond to a Consultation draft in relation to the technical aspects of the Application forms, forms of Licences and Hearing times.
- 5.2. It is suggested however that the Cabinet consider the options referred to in paragraph 3.5 above and make a recommendation that will be forwarded together with the Officer comments on the technical aspects.

6. Recommendations:

- 6.1. That the Officers respond in relation to the technical aspects of the Regulations
- 6.2. The Cabinet considers and determines its preferred option of the three given in the Consultation.

7. Background Papers - Consultation of draft Regulations and Orders to be made under the Licensing Act 2003 published by the Department for Culture, Media and Sport in September 2004.

8. Implications:

- 8.1. Financial : In respect of the response to the Consultation there are none. A separate report before the Cabinet is looking at the financial implications of the new regime overall.
- 8.2. Legal : None, except to note that the Regulations to be finally published will govern the way within which Applications are dealt with in the future.
- 8.3. Personnel : There are no implications in respect of the Consultation itself. However, the separate report before Cabinet deals with the personnel issues of the new regime as a whole.
- 8.4. Human Rights : None
- 8.5. Environmental : In relation to the Consultation none
- 8.6. Community Safety : None in relation to this Consultation
- 8.7. Wards Affected : All

Options in consultation on the draft regulations and order to be made under the Licensing Act 2003.

Option	Total cost over ten years	Total benefit over ten years
1. Do not implement the Act, and allow the six existing licensing regimes to govern the licensable activities	<p>£4 billion to industry.</p> <p>Administrative costs of £160.7 million to police.</p> <p>16.6 million licensing processes.</p> <p>2.4 million hearings before licensing authorities.</p>	<p>None for most of the 180,000 businesses affected.</p> <p>Circuses, pleasure boats, late night take-aways outside London and travelling fairs would avoid new costs arising from the integrated licensing regime.</p>
2. Make the Regulations and Order, allowing the implementation of the Act, but subject to variations arising from the consultative process.	Similar to Option 3.	Similar to Option 3.
3. Make the Regulations and Order as proposed, allowing the implementation of the Act.	<p>£2.0 - £2.1 billion to industry.</p> <p>Administrative costs of £12.3 million to police.</p> <p>2 million licensing processes.</p> <p>40,000 hearings.</p>	<p>Savings of £1.9 - £2 billion to industry.</p> <p>Savings of £148.4 million to the police.</p> <p>14.6 million fewer licensing processes.</p> <p>2.3 million fewer hearings.</p>