

# Briefing Notes

Committee name: Licensing Committee

Date: 1 August 2014

Responsible officer: Louis Krog, Licensing & Business Support Team Leader

## Law Commission Report and Draft Taxi & Private Hire Services Bill

On the 23<sup>rd</sup> of May, the Law Commission published its report and draft Taxi & Private Hire Services Bill.

### Background

The Law Commission project, to review the legal framework relating to taxis and private hire vehicles across England and Wales, was originally proposed by the Department for Transport, which has policy responsibility in this area.

The purpose of the project was to make the legal framework relating to taxis and private hire vehicles simpler and more modern given that the two pieces of primary legislation relating to these date back to 1847 and 1974.

### Recommendations

The Law Commission made 84 recommendations in total. Attached to this briefing note is a summary of the proposals for Members' information.

The full (280 page) report and draft Bill is available on the Law Commission's website (<http://lawcommission.justice.gov.uk/areas/taxi-and-private-hire-services.htm>).

### Moving forward

The Government has one year to consider the report and draft Bill but has already stated that it does not intend to introduce the new Bill before the next general election in May 2015. Whether the Bill will be introduced and when will largely depend on who is in Government after the next election and what their priorities are.

In any event, it is not expected that the draft Bill will be introduced for at least 18-24 months.

The Committee will be kept up to date as and when required.

## Deregulation Bill

The Deregulation Bill is the Coalition Government's flagship Bill for pushing through its cutting red tape agenda.

The Bill is currently making its way through the Parliamentary process and the purpose of this briefing note is to outline the Bill's licensing deregulatory proposals.

## **Alcohol/entertainment licensing**

- Temporary Event Notices (TENs) - increasing permitted number of TENs from 12 to 15 per calendar year (to have effect for the year 2016 and subsequent years);
- Personal Licences - abolishing the need to renew personal licences;
- Liqueur Confectionary - repealing the offence of selling liqueur confectionary to under 16s;
- Late Night Refreshment - enabling Licensing Authorities to make certain exemptions for Late Night Refreshment including exemptions for part of their areas or for certain types of premises or during a designated period between the hours of 23.00 and 05.00;
- Reporting loss or theft of licence – removal of requirement to report loss or theft of premises licence, TEN or personal licence to Police before a duplicate can be issued;
- Exhibition of films - Deregulating film exhibitions at community premises subject to certain conditions including that films must be provided between 08.00 and 23.00 and for an audience of no more than 500 persons;
- Community and Ancillary Seller Notices – introduce a new “light touch” procedure for authorising the sale of alcohol where the sale is ancillary to a community event or to the provision of other goods or services by a business.

## **Taxi/Private Hire licensing**

- Private Hire vehicles - to lift the restriction on who can drive a Private Hire vehicle so to allow anyone with an ordinary driving licence to drive a private hire vehicle when it is off duty.
- Taxi and private hire vehicles - proposal to amend the standard duration of driver's licences (private hire and hackney carriages) to three years and the standard for private hire operator's licence to five years.
- Private Hire operators - proposed changes to allow private hire operators to sub contract bookings to other operators licensed in different local authority areas.

## **Licensing General**

- No later than the end of the period of six months beginning with the day on which this Act is passed, the Secretary of State must commence a cross-government review of all legislation relating to local authority licensing, consents, permits and registrations.
- The review must include a review of whether, and if so, how the legislation can be simplified and consolidated.
- A report on the review must be presented to Parliament by the Secretary of State no later than the end of the period of 24 months beginning with the day on which the review is commissioned.

Members are to note that these deregulatory proposals are only proposals at this stage and again officers will continue to update Members at the appropriate times.

## **Mandatory Licence Conditions – Sale/Supply of Alcohol**

*Licensing Act 2003 (Mandatory Licensing Conditions) (Amendment) Order 2014*

Each and every alcohol licence is issued with a number of mandatory licence conditions. These relate to:

1. banning certain drinks games and promotions;
2. requirement on premises to make free tap water available to customers;
3. mandatory age verification policies; and
4. requirement to make alcohol available in smaller measures.

The Government has now made changes to these mandatory conditions which are due to come into effect in October 2014.

The main changes are set out in the table below:

### **2014 Order**

### **2010 Order**

Schedule 1(1) "The responsible person **must** ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises."

The responsible person **shall take all reasonable steps** to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

Schedule 1(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—

In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises ~~in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children—~~

Schedule 1(2)(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic **in a manner which carries a significant risk of undermining a licensing objective;**

provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic ~~(other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);~~

Schedule 1(2)(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less **in a manner which carries a significant risk of undermining a licensing objective;**

provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

Schedule 1(2)(d) – Completely removed in 2014 order, i.e.:

provision of free or discounted alcohol in

relation to the viewing on the premises of a sporting event, where that provision is dependent on—

(i) the outcome of a race, competition or other event or process, or

(ii) the likelihood of anything occurring or not occurring;

Schedule 1(2) The responsible person ***must*** ensure that ***free potable water*** is provided on request to customers where it is reasonably available. The responsible person ***shall*** ensure ***that free tap water*** is provided on request to customers where it is reasonably available.

Schedule 1(3)(1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

**(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.**

(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and ***either—***

(a) a holographic mark, or

**(b) an ultraviolet feature.**

Schedule 1(4) The responsible person ***must*** ensure that— The responsible person ***shall*** ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

(i) beer or cider: ½ pint;

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml;

(iii) still wine in a glass: 125 ml; and

**(b) these measures are displayed in a**

**(b) customers are made aware of the availability of these measures.**

**menu, price list or other printed material which is available to customers on the premises; and**

**(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.”**

## **Entertainment Deregulation**

*The Legislative Reform (Entertainment Licensing) Order 2014*

The Government has proposed further deregulation of regulated entertainment **due to come into force in April 2014.**

The Legislative Reform Order (“LRO”) will:

1. Extend current exemptions for **live music** in alcohol licensed premises, workplaces and community premises (i.e. exempt if it takes place between 08:00-23:00 on the same day for audiences of up to 500).
2. Exemption for travelling circuses, except an exhibition of a film or a boxing or wrestling entertainment, where the entertainment or sport takes place between 08:00-23:00 on the same day with no audience limit.
3. Greco-Roman and freestyle wrestling will be deregulated between 08:00-23:00 for audiences of up to 1000 people.
4. Unconditional exemption for the exhibition of a film where the exhibition is incidental to another activity that is itself not regulated entertainment.

The fifth aspect of this round of deregulation is a complete deregulation for “trusted partners” that includes local authorities<sup>1</sup>. The effect of this exemption is that **any** entertainment put on either on behalf of, or by the local authority, and on premises/land owned by the local authority, will be completely exempt from requiring an entertainment licence.

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<sup>1</sup> Other “trusted partners” includes health care providers and schools.