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Your Ref

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Dear Mark

LICENSING ACT 1964: EMBEDDED RESTRICTIONS

Following the meeting of the High Level Group on 23 May, James Purnell has asked me to provide you with the attached note and table which set out DCMS' view on the embedded restrictions in the Licensing Act 1964 that carry over into a converted licence where sales and supplies of alcohol are involved. I hope that you will feel able to circulate both this letter and the note to your membership.

As you will see, the attached note emphasises that it is for licensing authorities to decide on the basis of their own advice what embedded restrictions should be included on the face of a converted licence. The note and table represent an opinion on issues that are self-evidently open to interpretation. We do not wholly share the views expressed in the advice on the same subject provided by Phillip Kolvin and Rory Clarke to the Association of London Government, which I am aware has been given a wider circulation among licensing authorities.

If you intend to circulate the information to your members, it would also be helpful to stress that these papers do not require any licensing authority to re-open applications which they have all ready decided or withdraw existing published advice in their areas. Following the encouragement of the Advisory Group, we are providing this view to inform those licensing authorities that are still considering these matters, are actively re-considering their policies or are actively seeking advice from you and others on this subject. We hope that it may facilitate a consensus on this issue.

I am copying the paper to all members of the High Level Group and of the Advisory Group. We have no objection to individual members giving the document wider circulation and we shall be placing it on our web site.

Yours sincerely,

Andrew Cunningham



Department for Culture, Media and Sport

Head of Licensing Policy Branch



EMBEDDED RESTRICTIONS IN THE LICENSING ACT 1964

General

1. The administration of the licensing arrangements in the Licensing Act 2003 has been devolved to licensing authorities and it is for them, in the first instance, to interpret the requirements of the Act on the basis of their own legal advice. Ultimately, where there is any dispute over interpretation, it would be for the courts to decide what any terms used in the 2003 Act mean. The DCMS cannot therefore direct licensing authorities to adopt any particular interpretation and any views expressed by the Department have no greater weight than any other opinion expressed.
2. DCMS has however been asked to express views on the issue of embedded restrictions in the Licensing Act 1964 which would carry forward into premises licences and club premises certificates converted under the terms of Schedule 8 to the Licensing Act 2003 in order to assist applicants and licensing authorities in adopting a reasonably consistent approach to the matter during the period of transition.
3. Against the background of paragraph 1 above, DCMS has therefore been considering the question of what embedded restrictions are carried over. We have also been grateful for sight of the advice prepared by Philip Kolvin and Rory Clarke for the Association of London Government which, with respect, we do not wholly agree. We do however fully accept that this is an area open to argument and we emphasise that our views are merely one opinion with which some others will inevitably disagree.
4. It should also be noted that the term "embedded restrictions" can itself be subject to some subjective interpretation. For example, the holder of a justices' licence permitting consumption of alcohol on the premises is entitled to provide recorded music or the reproduction by wireless (including television) broadcasts without the need for a public entertainment licence. This can be viewed as an embedded right to be carried over on conversion of an existing licence to a premises licence because it amounts to a relaxation of the normal requirements. Alternatively, some may view it as a restriction because only recorded music may be provided etc. We regard this as an embedded right (save in the context of live music about which Schedule 8 makes particular



provision) and therefore not relevant to discussions of embedded restrictions.

5. The relevant parts of Schedule 8 to the 2003 Act which affect our consideration are:

- Schedule 8 paragraph 6(8) which provides:

"The new licence must also be granted subject to conditions which reproduce the effect of any restriction imposed on the use of the premises for the existing licensable activities under the relevant existing licence or licences by any enactment specified for the purposes of this Part."

- Schedule 8 paragraph 18(5) which provides (in the case of club registration certificates):

"The new certificate must also be granted subject to conditions which reproduce the effect of any restriction imposed on the use of the premises for the existing qualifying club activities by any enactment specified for the purposes of this Part."

6. In the Licensing Act 2003 (Transitional provisions) Order 2005, the enactments specified for the purposes of the above provisions are:

Children and Young Persons Act 1933

Cinematograph (Safety) Regulations 1955

Licensing Act 1964

Sporting Events (Control of Alcohol Etc) Act 1985

7. Paragraph 11 of Schedule 8 to the 2003 Act (*Opening Hours*) is also relevant to our consideration as it would be unhelpful to interpret the other parts of the Schedule in ways that produce conflict and vice versa.

8. We do not consider that the words "use of the premises" can be separated from its full context which is "...the use of the premises for existing licensable activities under the relevant existing licence or licences by any enactment specified....."



Accordingly the issue is not simply whether any specified enactment restricts the use of the premises. The question is what are the restrictions on the use of the premises for existing licensable activities under the relevant existing licence or certificate by any

enactment specified. The "existing licensable activities" are the licensable activities authorised by the licence, and any other licensable activities which may be carried on at the premises in respect of which the licence has effect, by virtue of the existence of the licence (see paragraph 1 to Schedule 8 to the 2003 Act).

9. It is worth mentioning here that we note that the advice given to the Association of London Government appears to draw some lines in the sand that are not wholly explained. Some offence provisions in the Licensing Act 1964 are mentioned as imposing "restrictions" for the purposes of paragraphs 6(8) and 18(5) of Schedule 8, but not others. The authors argue that where offences are replaced by similar offences in the 2003 Act, they should not be reproduced as conditions in the premises licence. But when one examines the table provided with the advice, we note the inclusion of the offence of permitting a person aged under 14 to be in the bar area of licensed premises (which is replaced by similar provisions relating to the presence of children in certain premises in the 2003 Act), but not the prohibition on prostitutes being allowed to assemble there (which is not replaced by a similar offence provision in the 2003 Act). We presume therefore that the authors have made this slightly contradictory division on grounds of "common sense" rather than applying the principles that they describe in all cases. In other words, there is a policy dimension to their interpretation. While we wholly agree that common sense and rationality should shape the interpretation of the provisions, we do not wholly agree where the lines have been drawn in that advice.

10. We consider that examining the provisions of paragraphs 6(8) and 18(5) of Schedule 8 in their full context, it is clear that embedded restrictions from the Licensing Act 1964 relate to the effect of a licence issued under that Act in restricting or limiting the use of the premises. For example, limitations in the 1964 Act on the hours during which the licence has effect to permit sales of alcohol on the relevant premises clearly fall into this category. However, we agree with the authors of the advice that there is a fundamental difference between a prohibition (an offence provision), the aim of which is to prevent criminality and a restriction on the effect of the licence provided in the statute. We fully accept that there will be some grey lines between different types of provision in the 1964 Act, but a reasonable guide would be to examine the extent to which the 2003 Act has created provisions which either repeal offences of the kind provided in the 1964 Act or replace them with alternative offences dealing with the same or



similar issues. We also consider that it would make no sense to require conditions to be attached to premises licences or club premises certificates which effectively duplicate the offence provisions of the 2003 Act.

Specific

International ports and airports/ approved wharfs

11. We strongly disagree with the inclusion of premises selling alcohol at approved wharfs and within the examination station of airports in the table provided with the advice to the ALG. These premises are exempted by the effect of section 173 of the 2003 Act and therefore do not require a premises licence or club premises certificate from the second appointed day. We can think of no reason why they should have been included in the table attached to the advice provided to the ALG. There is therefore no reason why such premises should apply to convert an existing licence at all and we have concluded that these premises were included in the table in error.

Children

12. With regard to children, our starting point is that the 2003 Act replaces all the existing offences relating to the presence on licensed premises of children, sales of alcohol to them, unsupervised sales by them and purchase and consumption by them. The new offences are set out in sections 145 - 154 and will apply to all premises carrying on licensable activities under premises licences or club premises certificates as appropriate. We do not therefore consider that it is either necessary or sensible to carry forward the offence provisions relating to the presence of under 14 year olds in bar areas as a restriction for the purposes of paragraphs 6(8) of Schedule 8 on converting a justices' licence or club registration certificate. The offence provisions in respect of the presence of children would be those in the 2003 Act.

13. We recognise that this view contradicts an example given in paragraph 13.7 of the Guidance issued under section 182 of the 2003 Act. However, the Guidance cannot override the terms of the statute itself. The fact of the matter is that it is clear that Parliament intended new and more restrictive rules to apply to the presence of children in licensed premises and created offence provisions relating to them. Accordingly, it would be arguably absurd if an unaccompanied 15 year old could be lawfully in the bar of licensed premises under the terms of the conditions written into its premises licence, but the 2003 Act provided that the child's



presence, because he was unaccompanied in certain premises, was unlawful. We therefore think that it is reasonable to conclude that the offence provisions relating to children do not carry over into converted premises licences.

Children's certificates

14. The advice provided to the ALG argues that it would be unreasonable if the restrictive provisions of children's certificates carried over into converted licences while the offence provisions relating to premises without such certificates did not. We recognise that the conversion of children's certificates carries with it restrictions that will not apply to premises without such certificates. However, we do not consider that this requires a departure from the principles we have adopted above.

15. A children's certificate has two main effects. The first is to provide an exemption from certain offence provisions contained in section 168 of the 1964 Act (see Section 168(3A) – (3C) of the Licensing Act 1964); and secondly, under Schedule 12A of the 1964 Act, it creates certain mandatory conditions which restrict the effect of the certificate and provides the licensing justices with discretion to impose any additional conditions they see fit to restrict the effect of the certificate. Paragraph 6(9) of Schedule 8 to the 2003 Act also states:

"In determining those restrictions [as described in paragraph 6(8) of Schedule 8], the relevant licensing authority must have regard to any children's certificate which accompanied (or a certified copy of which accompanied) the application and which remains in force."

16. Adopting the principles that we have explained above, we do not consider that offence provisions carry over on converting an existing licence. Accordingly, it would be unreasonable to argue that exemptions to offence provisions should carry over. Firstly, an exemption to an offence provision cannot be described as a "restriction" (it is a relaxation) and secondly, the offence provisions in the 2003 Act and any exemptions it includes will hold sway from the second appointed day. For the purposes of paragraphs 6(8) and 6(9) of Schedule 8, we consider that the restrictions on the effect of the certificate are those contained in Schedule 12A of the 1964 Act and any additional conditions that have been imposed by the justices under their powers in Schedule 12A. We therefore consider that the only embedded restrictions, relating to children's certificates, that should be reproduced in any converted premises licence are the following:



-
- At any times when the certificate is operational (normally 9pm or any later time approved by the licensing justices), meals and beverages other than intoxicating liquor [alcohol] must be available for sale for consumption in the area of the premises covered by the certificate at all times when the certificate is operational; and
 - Any additional conditions that have been imposed by the justices under the terms of Schedule 12A to the 2003 Act.

Drinking Up Time

17. Under the Licensing Act 1964, normal permitted hours are primarily set out in section 60. These hours are enforced primarily through the offence provisions set out in section 59. "Drinking up time" is detailed in section 63. The section describes an exception to normal requirements of permitted hours. Indeed, the words of the section actually state "..., section 59 does not prohibit or restrict –". Accordingly, we do not consider that the provisions of section 63 of the 1964 Act can in any way be described as a "restriction". On the contrary, they are a relaxation of the normal rules. They cannot therefore be regarded as a "restriction" for the purposes of paragraphs 6(8) and 18(5) of Schedule 8 to the 2003 Act. In effect, they are an embedded right.

18. The question arises as to whether "drinking up time" should be carried over into the terms of the new licence for some other reason, for example, because it is an embedded right. We do not consider that this is necessary. Once it ceases to be necessary to consider the terms of paragraphs 6(8) and 18(5) of Schedule 8, it becomes important to examine the general context of the rest of the Licensing Act 2003 itself. The consumption of alcohol is not a licensable activity under the 2003 Act. A converted licence would be governed by the permitted hours relating to the sale or supply of alcohol. For example, such sales would have to cease at 11.00pm (or any other time if some variation of those hours was enjoyed). However, the period during which consumption of alcohol purchased during permitted hours is unrestricted because it is not a licensable activity. The advice given to the ALG implies that to take this view drives a coach and horses through the general principle taken in converting permitted hours. We do not agree. If any premises causes problems relating to the four licensing objectives because of allowing prolonged consumption, it would open itself to review on application by a responsible authority or an interested party. There is no reason to suppose that such an arrangement would therefore be abused.



Other exceptions relating to sale and consumption of alcohol

19. The table provided with the advice to the ALG also includes a number of other matters which relate to the sale and consumption of alcohol. These are derived from sections 63(2) – (3) of the 1964 Act. They are in all cases exceptions to general permitted hours and allowed by the 1964 Act:

- the sale and supply of alcohol to or consumption of the alcohol by any person in any premises where he is residing;
- the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- the sale of alcohol to a trader or club for the purposes of the trade or club;
- the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;
- the taking of alcohol from the premises by a person residing there;
- the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied; or
- the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

20. In all of these cases, the sales and supply are not restrictions and therefore there is no requirement for them to be included in the terms of the converted premises licence because of the requirements of paragraphs 6(8) and 18(5) of Schedule 8 to the 2003 Act. As with "drinking up time" they are exceptions or relaxations of the normal permitted hours and the expression "...does not prohibit or restrict" is used in section 63. However, unlike in the case of "drinking up time", sale and supply of alcohol (a licensable activity under the 2003 Act) is involved, we believe that they should be included in a converted licence or certificate because they limit the effect of the restrictions imposed through paragraphs 6(8) and 18(5). In other words, if the normal restriction was expressed in the premises licence it would be incomplete without these additions.



Part IV licences

21. We note that the table provided with the advice to the ALG includes a note stating that Part IV licences under the Licensing Act 1964 are issued subject to express conditions which should be reproduced in the converted premises licence. While the statement is correct, the 1964 Act also sets out different express conditions for different types of premises holding either Part IV restaurant licences or Part IV “restaurant and residential” licences. These are restrictions about the nature of the premises themselves and the circumstances in which alcohol may be sold there. In all cases, these are not offence provisions but conditions that are also restrictions for the purposes of paragraph 6(8) of Schedule 8 to the 2003 Act that should be reproduced in certain Part IV licences depending on the type of licence involved. For convenience, we have included the details more fully in the table below.

Credit Sales

22. The provisions of the 1964 Act relating to credit sales are contained in section 166 and are effectively repealed without replacement in the 2003 Act. Adopting the principles above, these are offence provisions and therefore not restrictions imposed on the use of the premises for the existing licensable activities under the relevant existing licence or licences by any enactment specified for the purposes of Schedule 8.

Conclusion

23. Broadly, with the greatest respect to its authors, we do not wholly agree with the advice provided to the ALG in respect of the following issues:

- ports and airports and approved wharfs;
- offences, including credit card sales;
- drinking up time;
- The presence of children on licensed premises; and
- Sections 94 – 95 of the 1964 Act in respect of Part IV licences.



24. A table which summarises the position regarding embedded restrictions in the Licensing Act 1964 should be somewhat shorter than that provided by the authors of the advice to the Association of London Government. We consider that the main restrictions that should be carried over on converting a licence and which should be reproduced as a condition of either a premises licence or club premises certificate, as appropriate, are as follows in the table attached to this discussion paper.

DCMS

May 2005



TABLE OF EMBEDDED RESTRICTIONS UNDER THE LICENSING ACT 1964

Legislation	Types of premises	Type of restriction	Suggested Wording of Condition	Notes
LICENSING ACT 1964				
s.59, 60, 63, 67A, 68, 70, 74, 76, 77, 78A, 80, 81A, 81AA LA 1964	On-licences.	Permitted hours	<p>Alcohol shall not be sold or supplied except during permitted hours.</p> <p>In this condition, permitted hours means:</p> <p>a. On weekdays, other than Christmas Day, Good Friday or New Year’s Eve, 11 a.m. to 11 p.m.</p> <p>b. On Sundays, other than Christmas Day or New Year’s Eve, 12 noon to 10.30 p.m.</p> <p>c. On Good Friday, 12 noon to 10.30 p.m.</p> <p>d. On Christmas Day, 12 noon to 3 p.m. and 7 p.m. to 10.30 p.m.</p> <p>e. On New Year’s Eve, except on a Sunday, 11 a.m. to 11 p.m.</p> <p>f. On New Year’s Eve on a Sunday, 12 noon to 10.30 p.m</p> <p>g. On New Year’s Eve from the end of permitted hours on New Year’s Eve to the start of permitted hours on the following day, which would be 11.00 a.m. if New Year’s Day falls on a weekday or 12 noon if a Sunday.</p> <p>The above restrictions do not prohibit: (a) during the first twenty minutes after the</p>	<p>1. Section 60(4) of the 1964 Act permits licensing justices to modify permitted hours within particular districts. Where hours have been so modified in any particular district, those hours should take precedence.</p> <p>2. Where the permitted hours are restricted by condition, the permitted hours are varied accordingly: s. 60(7) LA 1964. The permitted hours as varied by condition should be carried into the new licence or certificate.</p> <p>3. Where a restriction order is in place under s. 67A, the restricted hours would take precedence.</p> <p>4. Where a supper hours certificate is in place under s. 68, add (depending on whether one or both of the extensions in square brackets have been granted): “Alcohol may be sold or supplied [for</p>



Legislation	Types of premises	Type of restriction	Suggested Wording of Condition	Notes
			<p>above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;</p> <p>(b) consumption of the alcohol on the premises or the taking of sale or supply of alcohol to any person residing in the licensed premises;</p> <p>(c) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;</p> <p>(d) the sale of alcohol to a trader or club for the purposes of the trade or club;</p> <p>(e) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;</p> <p>(f) the taking of alcohol from the premises by a person residing there; or</p> <p>(g) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied; or</p> <p>(h) the supply of alcohol for consumption on the premises to persons employed there for</p>	<p>one hour following the hours set out above] [and on Christmas day, between 3 p.m. and 7 p.m.] to persons taking table meals in the premises in a part of the premises usually set apart for the service of such persons and for consumption by such a person in that part of the premises as an ancillary to his meal. For other purposes or in other parts of the premises the hours set out above shall continue to apply.”</p> <p>5. Where an extended hours order is in place under s. 70, add the following condition:</p> <p>“Alcohol may be sold or supplied until 1 a.m. in the morning following weekdays and 12.30 a.m. in the morning following Sundays to persons taking table meals in the premises in a part of the premises usually set apart for the service of such persons and for consumption by that person in that part of the premises as an ancillary to his meal. The alcohol must be sold or supplied at a time before a) the provision of entertainment by persons</p>



Legislation	Types of premises	Type of restriction	Suggested Wording of Condition	Notes
			<p>the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.</p>	<p>present and performing or b) the provision of substantial refreshment, has ended. For other purposes or in other parts of the premises the hours set out above shall continue to apply. This condition does not authorise any sale or supply to any person admitted to the premises either after midnight or less than half an hour before the entertainment is due to end, except in accordance with [the supper hours] condition number xyz above."</p> <p>6. Where there is a general order of exemption granted by justices under s. 74 LA 1964, the permitted hours should be varied accordingly.</p> <p>7. Where a special hours certificate is in force on all or certain days, replace the permitted hours condition for those days with the following:</p> <p>"(1) Subject to the following paragraphs, the permitted hours on weekdays shall extend until two</p>



Legislation	Types of premises	Type of restriction	Suggested Wording of Condition	Notes
				<p>o'clock in the morning following [<i>three o'clock in the metropolis</i>¹] [<i>or, if an earlier hour is specified in the special hours certificate, that hour</i>], except that—</p> <p>(a) the permitted hours shall end at midnight . . . on any day on which music and dancing is not (<i>or, in the case of casino premises, gaming facilities are not</i>) provided after midnight; and</p> <p>(b) on any day that music and dancing end (<i>or, in the case of casino premises, gaming ends</i>) between midnight and two o'clock in the morning [<i>three o'clock in the metropolis</i>], the permitted hours shall end when the music and dancing end or, as the case may be, when the gaming ends;</p> <p>(2) In relation to the morning on which summer time begins, paragraph (1) of this condition shall have effect—</p> <p>(a) with the substitution of references to three o'clock in the morning [<i>four o'clock in the metropolis</i>] for references</p>

¹ The extra hours apply to the metropolis outside the City of London (LA 1964 ss 76(3) and 201).



Legislation	Types of premises	Type of restriction	Suggested Wording of Condition	Notes
				<p>to two o'clock in the morning [<i>three o'clock in the metropolis</i>] [<i>or one hour following the hour actually specified in the certificate where the certificate currently requires closure between 1 a.m. and 2 a.m.</i>]</p> <p>(3) Except on Sundays immediately before bank holidays, the permitted hours on Sundays shall extend until thirty minutes past midnight in the morning following [<i>or, if an earlier hour is specified in the special hours certificate, that hour</i>], except that—</p> <p>(a) the permitted hours shall end at midnight on any Sunday on which music and dancing is not (<i>or, in the case of casino premises, gaming facilities are not</i>) provided after midnight;</p> <p>(b) where music and dancing end (<i>or, in the case of casino premises, gaming ends</i>) between midnight on any Sunday and thirty minutes past midnight, the permitted hours on that Sunday shall end when the music and dancing end or, as the case may be, when the gaming ends.</p>



Legislation	Types of premises	Type of restriction	Suggested Wording of Condition	Notes
				<p>(4) On Sundays immediately before bank holidays, the permitted hours shall extend until 2 a.m. in the morning following [<i>3 a.m. in the metropolis</i>], except that—</p> <p>(a) the permitted hours shall end at midnight on any Sunday on which music and dancing is not (<i>or, in the case of casino premises, gaming facilities are not</i>) provided after midnight;</p> <p>(b) where music and dancing end (<i>or, in the case of casino premises, gaming ends</i>) between midnight on any Sunday and 2 a.m. [<i>3 a.m. in the metropolis</i>], the permitted hours on that Sunday shall end when the music and dancing end or, as the case may be, when the gaming ends.</p> <p>For casino premises:</p> <p>(5) The sale of alcohol must be ancillary to the use of the premises for gaming facilities and substantial refreshment.</p> <p>For other premises</p> <p>(6) The sale of alcohol must be ancillary to the use of the premises for</p>



Legislation	Types of premises	Type of restriction	Suggested Wording of Condition	Notes
				music and dancing and substantial refreshment.
s. 60, 63, 86 LA 1964	Off-licences and off-sales departments of on-licensed premises.	Permitted hours	<p>Alcohol shall not be sold or supplied except during permitted hours.</p> <p>In this condition, permitted hours means:</p> <ul style="list-style-type: none"> a. On weekdays, other than Christmas Day, 8 a.m. to 11 p.m. b. On Sundays, other than Christmas Day, 10 a.m. to 10.30 p.m. c. On Christmas Day, 12 noon to 3 p.m. and 7 p.m. to 10.30 p.m. d. On Good Friday, 8 a.m. to 10.30 p.m. <p>The above restrictions do not prohibit:</p> <ul style="list-style-type: none"> (a) during the first twenty minutes after the above hours, the taking of the alcohol from the premises, unless the alcohol is supplied or taken in an open vessel; (b) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered; (c) the sale of alcohol to a trader or club for the purposes of the trade or club; (d) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out 	See notes 1-2.



Legislation	Types of premises	Type of restriction	Suggested Wording of Condition	Notes
			under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;	
s.59, 60, 63, 67A, 68, 70, 74, 76, 78, 78A, 80, 81A, 81AA LA 1964	Club premises	Permitted hours	<p>Alcohol shall not be sold or supplied except during permitted hours.</p> <p>In this condition, permitted hours means:</p> <p>a. On weekdays, other than Christmas Day, Good Friday or New Year's Eve, 11 a.m. to 11 p.m.</p> <p>b. On Sundays, other than Christmas Day or New Year's Eve, 12 noon to 10.30 p.m.</p> <p>c. On Good Friday, 12 noon to 10.30 p.m.</p> <p>d. On New Year's Eve, except on a Sunday, 11 a.m. to 11 p.m.</p> <p>e. On New Year's Eve on a Sunday, 12 noon to 10.30 p.m.</p> <p>g. On New Year's Eve from the end of permitted hours to the start of permitted hours on the following day, which would be 11.00 a.m. if New Year's Day fell on a weekday or 12 noon if a Sunday.</p> <p>f. On Christmas day, as provided by the rules of the club and notified in writing by the chairman or secretary of the club to the licensing authority. The said hours shall:</p> <p>i. not exceed six and a half hours;</p>	<p>Notes 1 – 7 above apply, save that, as regards note 7, the casino provisions do not apply.</p> <p>8. S62 of the 1964 Act requires that the notification in writing in respect of Christmas Day hours (see f.) should go to the chief executive to the justices. Within the context of the 2003 Act this would make no sense, and accordingly it is reasonable to assume that such notifications in writing should be given to the licensing authority.</p> <p>9. The permitted hours exceptions in section 63(2)(b), (c) and (d) are not included because the activities they describe are not qualifying club activities.</p>



Legislation	Types of premises	Type of restriction	Suggested Wording of Condition	Notes
			ii. not begin earlier than 12 noon; iii. not end later than 10.30 p.m. iv. provide for a break of at least 2 hours, including 3 p.m. to 5 p.m.; v. not extend for more than three and a half hours after 5 p.m. The above restrictions do not prohibit the supply to, or consumption by, any person of alcohol in any premises where they are residing.	
S.87A LA 1964	On-licensed vineyards	Permitted hours		10. Licensing justices may by order vary permitted hours of on-licensed vineyards Check to see if this applies to premises, and adjust conditions accordingly.
S. 95 LA 1964	Restaurant licence. Restaurant and residential licence.	Permitted hours.	Alcohol may be sold or supplied: (1) On weekdays, other than Christmas Day, Good Friday or New Year's Eve from 11am to 12pm. (2) On Sundays, other than Christmas Day or New Year's Eve, and on Good Friday: 12 noon to 11:30pm (3) On Christmas Day: 12 noon to 11:30pm; (4) On New Year's Eve, except on a Sunday, 11 a.m. to midnight; (5) On New Year's Eve on a Sunday, 12 noon to 11.30 p.m. (6) On New Year's Eve from the end of	11. The s. 95 relaxation does not apply to residential licences under Part IV LA 1964.



Legislation	Types of premises	Type of restriction	Suggested Wording of Condition	Notes
			permitted hours on New Year's Eve to the start of permitted hours on the following day, which would be 11.00 a.m. if New Year's Day falls on a weekday or 12 noon if a Sunday.	
S. 156 LA 1964	Seamen's Canteens	Permitted hours	<p>Alcohol may be sold or supplied:</p> <p>(1) On weekdays, other than Christmas Day, Good Friday or New Year's Eve, from 11am to 11pm.</p> <p>(2) On Sundays, other than Christmas Day or New Year's Eve, and on Good Friday, from 12 noon to 10:30pm.</p> <p>(3) On Christmas Day, from 12 noon to 3pm and 7pm to 10:30pm</p> <p>(4) On New Year's Eve, except on a Sunday, 11 a.m. to midnight;</p> <p>(5) On New Year's Eve on a Sunday, 12 noon to 11.30 p.m.</p> <p>(6) Alcohol may be sold or supplied between 3pm and 7pm on Christmas Day to persons taking table meals for consumption as an ancillary to the meal.</p> <p>(6) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following,</p>	<p>12. Various express conditions and restrictions will be contained on the licence by virtue of ss 148 and 149. These should be reproduced in the new licence.</p> <p>13. See also note 3 above. The restriction order provisions are applied by virtue of s. 156A.</p>



Legislation	Types of premises	Type of restriction	Suggested Wording of Condition	Notes
			which would be 11.00 a.m. if New Year's Day falls on a weekday or 12 noon if a Sunday.	
S 94(1) LA 1964	Restaurant holding Part IV "restaurant" licence	On-sales	Alcohol shall not be sold or supplied: (a) unless the premises have been structurally and bona fide used, or intended to be used, for the purposes of habitually providing the customary main meal at midday or in the evening, or both, for the accommodation of persons frequenting the premises; (b) on the premises otherwise than to persons taking table meals there and for consumption by such a person as an ancillary to his meal.	14. Condition (b) effectively represents a prohibition on off-sales in premises currently holding Part IV "restaurant" licences.
S94(2) LA194	Hotel/Guest House holding "Residential" Part IV licence	On-sales	Alcohol shall not be sold or supplied: (a) unless the premises are bona fide used, or intended to be used, for the purposes of habitually providing for reward board and lodging, including breakfast and one other at least of the customary main meals; (b) on the premises otherwise than to persons residing there or their private friends bona fide entertained by them at their own expense, and for consumption by such a	



Legislation	Types of premises	Type of restriction	Suggested Wording of Condition	Notes
			<p>person or his private friend so entertained by him either on the premises or with a meal supplied at but to be consumed off the premises.</p>	
S94(3)	All premises holding Part IV "restaurant and residential" licences	On-sales	<p>Alcohol shall not be sold or supplied:</p> <p>(a) unless the premises have been structurally and bona fide used, or intended to be used, for the purposes of habitually providing the customary main meal at midday or in the evening, or both, for the accommodation of persons frequenting the premises; and unless the premises are bona fide used, or intended to be used, for the purposes of habitually providing for reward board and lodging, including breakfast and one other at least of the customary main meals;</p> <p>(b) on the premises otherwise than to persons taking table meals there and for consumption by such a person as an ancillary to his meal, or to persons residing there or their private friends bona fide entertained by them at their own expense, and for consumption by such a person or his private friend so entertained by him either on the premises or with a meal supplied at but to be consumed off the premises.</p>	15. Condition (b) effectively represents a prohibition on off-sales of alcohol to persons using the premises for the purpose only of taking a table meal. But the prohibition does not apply to persons residing at the premises or their private friends.



Legislation	Types of premises	Type of restriction	Suggested Wording of Condition	Notes
S. 94(5) LA 1964	All premises holding Part IV licences	On-sales	Alcohol shall not be sold or supplied unless suitable beverages other than alcohol (including drinking water) are equally available for consumption with or otherwise as an ancillary to meals served in the premises.	
S.157 LA 1964	Seamen's canteens.	Off-sales.	Alcohol shall not be sold or supplied for consumption outside the canteen.	
S.164 LA 1964	Off-licence	Consumption	Alcohol shall not be sold in an open container or be consumed in the licensed premises.	16. S 164 also makes it an offence to consume in adjoining premises belonging to the licensee and on the highway, but these are not restrictions on "the use of the premises" within Sch 8 para 6(8).
S.168, 168A, 171, 201, Sch 12A LA 1964.	On-licensed premises with children's certificates		In an area covered by the children's certificate (as shown on the plan attached to the licence) meals and non-alcoholic beverages must be available for sale for consumption in that area until 9pm.	17. Mandatory conditions may have been imposed under Schedule 12A para 4 LA 1964, together with discretionary conditions. These are carried onto the new licence. 18. The latest hour for operation of a certificate is 9 p.m. See Schedule 12A para 5(1) LA 1964. Where justices have imposed a later hour under Schedule 12A para 5(2), that should be reflected



Legislation	Types of premises	Type of restriction	Suggested Wording of Condition	Notes
				in the licence condition