

APPENDIX 1

A Summary of the Historical Development of Licensing the Sale of Alcohol 2

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1. The regulation of the sale of alcoholic drink is older than Parliament itself and began with local controls linked to curfew. Parliament first became involved in the 13th Century to impose controls as to purity and price. It also began to look at public order issues, the need to provide for wayfarers and travelling craftsmen, ways to keep the labour force sober and productive, and ways of controlling immorality.

2. From the 1660s alcohol increasingly came to be recognised as a source of revenue. Taxes were imposed on beer as they were on coffee, chocolate and tea. But an



unforeseen by-product of making beer and ale a source of revenue, while leaving spirits and “dram shops” un-taxed, was to increase vastly the consumption of spirits. Drunkenness became common at all levels of society. This was the era of Hogarthian excess and the “gin houses”. In an attempt to counter this trend very high duties were imposed on the retail of spirits from 1729 (a

retailer’s excise licence was set at £20, and later increased to £50), and justices were required to license premises on which spirits were consumed.

3. Few retailers could afford these high duties, and gin-houses increasingly operated outside the law. In 1743 Parliament changed its approach. Licence fees were reduced, but justices were given discretion to look at the need for an outlet in the district. It was presumed that this would constrain the number of drinking houses but still meet public demand within licensed premises producing revenue. However, justices licences were issued in great numbers and consumption continued to increase.
4. During this period taverns also increasingly came to be seen as dens of iniquity and “nurseries” of highwaymen and street robbers. Between 1760 and 1780 there was virtually no enforcement of laws against “tippling”, to prevent drinking during the hours of divine service on Sundays, against indecency or to enforce closing times. In 1787, the Home Secretary circulated to all justices a Royal Proclamation on vice and immorality. Public houses were suppressed without compensation on the ground that they were disorderly, or ill-constructed or improperly situated or superfluous. In Sheffield all “dram shops” were closed at one sessions, and in Devonport the 200 public houses were reduced by half. The measure was judged a success. Licentious living, disorderly conduct, and overt acts of crime and disorder were all said to be reduced. There was to be no return to the period of high consumption.

5. In 1828 an Act regularised all the proceedings of justices in respect of the grant, transfer and renewal of licenses, and established annual sessions – “The Brewster Sessions” – for these purposes. Two licences were required to sell alcohol. A justices licence and an excise licence for premises on which alcohol was consumed. Only an excise licence was required for consumption for sales for off the premises. The off-licence was therefore entirely about producing revenue.
6. Since the early 19th Century the basic principles governing licensing law have not changed significantly. Although alcohol consumption in this country had by then been falling for over 50 years, the Temperance Society in the mid-19th Century pressed for tighter restrictions. Hours were in some places reduced and punishments increased. Victorian reformers also began to address the question of whether children should be drinking. In 1872 it was made illegal to sell spirits in licensed premises to children under 16 years of age. In 1886 sales of any alcoholic drink for consumption on licensed premises to children under 13 was made illegal. For the sake of context, it is important to remember that at this time, a girl of 12 and a boy of 13 could lawfully marry. In 1901 the sale of any alcohol to children under 14 was banned with some exceptions. The present age limit of 18 years was introduced in 1923, as was the law permitting those 16 and 17 to buy beer, porter, cider and perry with a meal.
7. Several emergency statutes about sale and consumption during war-time were passed in 1914-15. A Central Control Board was also established. Specific hours were introduced during which pubs had to be closed.
8. In 1921 the universal “permitted hours” came into being. During the working week, nine hours of opening were permitted in London, and eight elsewhere. These open hours had to take place between 11am and 10pm (or 11pm in London), and there had to be a break of two hours during the afternoon. Five hours only were permitted on Sundays, except in Wales and Monmouthshire where Sunday closing prevailed.
9. Sales on credit were also prohibited, unless alcohol was bought with a meal, and this remains the law today.
10. Restaurant, residential and combined restaurant and residential licences were introduced in 1961. The same Act introduced “drinking up” time of ten minutes. The Licensing Act 1964 was a consolidating measure and is the main statute now in need of reform.
11. In 1967 a Finance Act abolished the requirement for an excise licence to be taken out for the sale of intoxicating liquor by retail, or for the supply of such liquor by a registered club to its members. The justices licence or club registration certificate became the sole authority for sale or supply. Wholesalers continued to need an excise licence, but not a justices licence.
12. In 1983 the jurisdiction of justices to grant licences for music and dancing and similar entertainment in restaurants and hotels was abolished and replaced by a system under which the district councils became the licensing authorities. Football hooliganism prompted new laws in 1985 to prohibit the carriage of alcohol on trains and buses to and from designated sports grounds, and the supply of alcohol in such grounds was closely regulated. In 1988 weekday hours were extended to permit “all day opening”. 2

13. Since 1994 a number of minor deregulatory measures have been introduced, including a special extension of hours for the Millennium. But few fundamental changes have been made to the basic legal approach that has stood for almost two centuries. **2**

