

# LICENSING Countdown



Keeping you informed throughout the implementation of the Licensing Act 2003.

FEBRUARY 2005

## One hundred and eighty...!

Yes, that's how many days you've got to convert your licence after 7th February, so there's no need to panic! Following public consultation last year, the Secretary of State laid the Regulations under the Licensing Act 2003 on 13th January. The Regulations provide the detail about how the new licensing regime will operate and came into force on 7th February. The fee levels were laid on 20th January. This puts in place the final pieces of the jigsaw. Are you on target for licensing reform?

**Further information about the regulations and fee levels inside.**



**Copies of the regulations and forms are available to print or download from the DCMS website: [www.culture.gov.uk/alcohol\\_and\\_entertainment](http://www.culture.gov.uk/alcohol_and_entertainment)**

# Drinking Responsibly

The joint consultation document, 'Drinking Responsibly: The Government's Proposals' was unveiled on 21st January by Culture Secretary Tessa Jowell and Home Office Minister Hazel Blears. It comes as a result of evidence from the recent 'alcohol misuse enforcement campaigns' and presents the Government's plans to tackle 'binge' and underage drinking. It builds on measures outlined in the Government's 'Alcohol Harm Reduction Strategy for England', and the tough new powers that will exist under the Licensing Act 2003. The proposed measures include:

- New 'Alcohol Disorder Zones' to recover costs for policing from premises that cause the most disorder.
- 24 hour banning orders on selling alcohol for premises persistently selling alcohol to underage drinkers.
- 'Drinking Banning Orders' for anyone who has been issued with three fixed

penalty notices, or alcohol and disorder related criminal convictions.

- Extending fixed penalty notices to cover young people attempting to buy alcohol under age and staff in licensed premises serving people who are drunk.
- Review of the penalties associated with alcohol related offending to ensure the right penalties exist.
- Supporting the alcohol industry's code of practice, which provides guidance to owners and operators on banning irresponsible drinks promotions.

Copies of 'Drinking Responsibly: The Government's proposals' can be accessed from the Home Office's website: [www.homeoffice.gov.uk/inside/consults/current/index.html](http://www.homeoffice.gov.uk/inside/consults/current/index.html)

The consultation runs from 21st January to 28th February 2005.

The Christmas 'Alcohol Misuse Enforcement Campaign', coordinated by the Home Office's Police Standards Unit and the Association of Chief Police Officers (ACPO), targeted alcohol related disorder and underage drinking in 188 communities across the country. During the last two weeks in December, police and trading standards officers carried out sting operations against nearly 1,000 licensed premises, targeted nearly 4,000 troublemakers with fixed penalty notices and confiscated alcohol from more than 1,800 adults and juveniles. For more information about the campaign, visit: [www.policereform.gov.uk/psu](http://www.policereform.gov.uk/psu)



## Each Licensing Countdown will feature 'Frequently asked Questions' In this issue we discuss transitional matters

**Q.** *I live on the Scottish borders, but run a pub in England. Where do I apply for my personal licence?*

**A.** Ordinarily, personal licence applications should be sent to the licensing authority for the area in which the applicant is resident. In cases where an applicant is not ordinarily resident in England and Wales, the application may be sent to any licensing authority. Once a personal licence is issued in a particular licensing authority area, it will be valid for use anywhere in England and Wales.

**Q.** *Are 'supper hours certificates'; 'residential licences for guesthouses' and 'Part IV residential licences for restaurants and guesthouses' convertible under grandfather rights or will applicants have to vary to provide the same service they do now?*

**A.** Premises that have a 'supper hours certificate', 'residential licence for a guesthouse or a 'Part IV residential licence for restaurants and guesthouses' in force on 7th February will be able to convert that licence or certificate, and any conditions attached to it, under grandfather rights. Applicants will need to vary their licence if they wish to remove conditions from any converted premises licence.

**Q.** *Where can I get hold of an application form?*

**A.** Application forms will be available on request from your licensing authority (usually within your local authority). Licensing authorities may also provide electronic copies of the forms on their website. DCMS will also make the forms available on their website. Applications for premises licences and club premises certificates, and for provisional statements, must be made to the licensing authority whose area the premises are situated in. However, licensing authorities cannot reject an application or notice simply because it was obtained from another licensing authority or from the DCMS website,



but which complies with the requirements of the Regulations.

**Q.** *Can licensing authorities ask supplementary questions?*

**A.** A licensing authority may ask supplementary questions of the applicant, however, where there is no requirement under the Act for that information to be supplied, they cannot reject the application because the applicant has failed to provide it.

**Q.** *What permitted hours apply (and are therefore convertible) when the clocks change at the end of British Summer Time?*

**A.** Under current law, where an existing licence holds a special hours certificate to serve until 2am and the clock goes forward from 1:59am to 3am under British Summer Time, there is a provision for the substitution of references to permitted hours from 2am to 3am for that night only. This means that licensees are not breaking the law for serving to 3am because the clocks have changed. This provision will be convertible under Grandfather rights to all existing holders of a special hours certificate, as it forms part of

their current permitted hours.

However, this will not apply to new applications made after the first appointed day, so applicants will have to factor this into their operating schedules.

**Q.** *If I convert my justices on-licence and children's certificate, then get my existing licence revoked during the transitional period, what happens to my newly converted licence?*

**A.** In such circumstances, the new premises licence that has been granted will lapse automatically.

**Q.** *Do I need to include consumption areas on my plans during transition?*

**A.** During the transitional period, an application for a justices' on-licence to be converted into a premises licence and an application to convert an existing club certificate, must be accompanied by a plan of the premises that shows the location(s) on the premises used for the consumption of alcohol on the licensed premises. When new applications for premises licences and club premises certificates are made, there will be no such requirement in the plans. Instead a written description of this information

will be required on the application form.

**Q.** *If a provisional justices' licence has been granted prior to the first appointed day, do I have to apply for a new licence, or can I convert the provisional licence during the transitional period?*

**A.** If the provisional grant of a justices' licence has not been declared final before 7th February 2005, or in cases where a provisional justices' licence is granted after the first appointed day, applicants will need to apply for a new premises licence and will not be able to convert the provisional grant. However, in this situation, where the provisional grant of the justices' licence has not been declared final, and the premises have been completed in a manner which substantially complies with plans deposited under the 1964 Act, or with modifications consented to under section 6(3) of that Act, then the licensing authority must have regard to the provisional grant of the

justices' licence when determining the application for the grant of the premises licence. This special provision will end on the first anniversary of the second appointed day.

**Q.** *When will I have to pay the annual fee?*

**A.** The annual fee for premises licences and club premises certificates will become due and payable each year on the anniversary of the date of the grant of the licence or certificate.

**Q.** *Will DCMS be producing guidance for applicants?*

**A.** DCMS plans to produce guidance for applicants, which will be available to print or download from the DCMS website shortly. This guidance will also be translated into Welsh. There are also a number of other 'guidance documents' designed to help specific industry members, or responsible authorities prepare for reform, and DCMS will make a list of the various guidance documents available on its website.

## On course for licensing reform

**On 7 February the Secretary of State accredited the first 2 personal licence qualifications under the 2003 Act. They are:**

- BIIAB Level 2 National Certificate for Personal Licence Holders. For further information visit [www.bii.org](http://www.bii.org); and
- GOAL Level 2 Certificate for Personal Licence Holders. For further information email: [customerservice@ediplc.com](mailto:customerservice@ediplc.com)

Applicants for personal licences who do not have grandfather rights or an exemption will need to obtain an accredited qualification first. The aim of the qualification is to ensure that licence holders are aware of licensing law and the wider social responsibilities attached to the sale of alcohol.

# Licensing Act advice

## LACORS

LACORS are producing a set of leaflets for 'responsible authorities' and licensing officers. The leaflets give details of the role of each responsible authority; an example of the type of representation they may make; and what they should be doing now to prepare for the implementation of the Act. Separate leaflets are currently available for:

- fire authorities;
- the police;
- health and safety;
- marine agencies; and
- social services

A more extensive guidance document about child protection duties under the Act has also been produced, and a similar document for health and safety enforcement agencies will be available shortly. LACORS have also produced a 'Members Guidance' and 'Committee

Guidance' and are in the process of producing a leaflet for Trading Standards officers. The leaflets and guidance are available to local authorities and responsible authorities via the LACORS website: [www.lacors.gov.uk](http://www.lacors.gov.uk), or by emailing: [daren.atkinson@lacors.gov.uk](mailto:daren.atkinson@lacors.gov.uk).

## Wine and Spirits Association

The Wine and Spirits Association (WSA) is also producing guidelines about the Licensing Act. Four separate guidance documents are being produced:

- A distance seller's guide (selling either by telephone, mail order or the internet)
- A retailer's guide
- A wholesaler's guide
- A wine producer's guide

They will be available free of charge to members, and to non-members for a fee, from the WSA website: [www.wsa.org.uk](http://www.wsa.org.uk).



# What the regulations say

The Regulations laid before Parliament on 13th January provide details about how the new licensing regime will operate. Outlined below are some of the aspects they contain.

The regulations concerning personal licences prescribe persons who will not be required to hold the personal licence qualification in order to qualify for a personal licence. They also clarify that personal licence applications should be accompanied by a certificate issued under the 1997 Police Act or the results of a subject access search under the Data Protection Act 1998(b) of the Police National Computer by the National Identification Service.

The regulations concerning premises licences and club premises certificates outline the documents and information that must accompany applications, such as plans of premises and the content of those plans. One of the key changes from the draft regulations is that there will be no requirement to show areas where consumption of alcohol takes place on licensed premises. Instead a written description of this information will be required on the application form. However, this will not apply when existing licences are being converted during the transition period.

Another important difference is that licensing authorities will no longer be required to advertise reviews in newspapers circulating in local areas. However, applications for the grant or variation of a premises licence, club premises certificate and provisional statements will still need to be advertised in local newspapers.

Another significant modification confirms that the Mayor of London (and other similar mayors) and Crime and Disorder Reduction Partnerships will not be prescribed as responsible authorities, and Inspectors of Weights and Measures (trading standards officers) will be.

The hearings regulations confirm the period of time during which hearings must take place; the information that must accompany notices of hearings and the action to be taken by parties on receipt of such notices.

## Licensing Act 2003 – Main elements of fee levels

Band	A	B	C	D	E
<b>Non domestic rateable value</b>	None-£4,300	£4,301-£33,000	£33,001-£87,000	£87,001-£125,000	£125,001+
<b>Premises Licences*</b>					
Conversion, new application and variation (except relating to alcohol during transition)	£100	£190	£315	£450	£635
Multiplier applied to premises used exclusively or primarily for the supply of alcohol for consumption on the premises (Bands D & E only)	N/A	N/A	N/A	X2 (£900)	X3 (£1905)
Additional fee for variation relating to alcohol during transition	£20	£60	£80	£100	£120
Annual charge*	£70	£180	£295	£320	£350
Annual charge multiplier applied to premises used exclusively or primarily for the supply of alcohol for consumption on the premises (Bands D & E only)	N/A	N/A	N/A	X2 (£640)	X3 (£1050)
<b>Club Premises Certificates</b>					
Conversion, new application and variation	£100	£190	£315	£450	£635
Annual charge	£70	£180	£295	£320	£350
Personal licence	<b>£37</b>	Temporary event notice			<b>£21</b>

\*There are additional fees for premises licence applications and annual fee, for exceptionally large scale events (5,000 people +), unless certain conditions apply. Please read regulation 4(4) & 4(5) of The Licensing Act 2003 (Fees) Regulations 2005.

### Additional fees applied to premises licence applications and the annual fee, for exceptionally large scale events

Number in attendance at any one time	Additional fee payable	Annual fee payable if applicable
5,000–9,999	£1,000	£500
10,000–14,999	£2,000	£1,000
15,000–19,999	£4,000	£2,000
20,000–29,999	£8,000	£4,000
30,000–39,999	£16,000	£8,000
40,000–49,999	£24,000	£12,000
50,000–59,999	£32,000	£16,000
60,000–69,999	£40,000	£20,000
70,000–79,999	£48,000	£24,000
£80,000–89,999	£56,000	£28,000
£90,000 and over	£64,000	£32,000

They also prescribe certain procedures that must be followed in hearings.

The transitional order requires that converted licences and certificates must be granted subject to conditions that reproduce the effect of any restriction imposed by certain enactments prescribed by the order.

The regulations concerning licensing registers prescribe the additional information and documents licensing

authorities are required to keep. The additional information primarily relates to operating schedules, club operating schedules and plans that accompany applications. However, in the context of applications made during the first six months, they also require a record to be kept of the existing licensable activities authorised by converted licences and certificates and plans of premises that accompany applications.



The First Appointed Day has now arrived, heralding the beginning of the end for our outdated licensing laws. It has taken nearly 18 months to get here and a tremendous amount of hard work from all those preparing for reform. I know that the transition period will be equally challenging, but I am confident that the dedication and professionalism of those involved will help ensure that the new licensing regime is a success. I wish you well in your efforts.

The consultation on fee levels generated over 400 responses and gave us a better picture of the likely costs of the new regime. The key finding was that the overall level of premises fees – the main generator of income for licensing authorities – was insufficient to recover the administration, inspection and enforcement costs of the new regime. This resulted in a general uplift in the level of premises fees.

We were also persuaded that larger premises that mainly serve alcohol require greater levels of inspection and enforcement and were more likely to generate representations and therefore costs to licensing authorities. This is why we decided to apply a multiplier to premises in bands D and E used exclusively or primarily for the supply of alcohol for consumption on those premises.

But we did not simply increase fees all round. We reduced the proposed additional fees for most large events to better reflect the evidence available. Big events which aren't themselves licensable,

such as agricultural and country shows or outdoor sporting events, are unlikely to be affected by the additional fee for large events. Where they include licensable activities, we are confident that those activities can in the main be licensed separately, and not therefore trigger the additional fee.

Some concerns were raised about the fact that the 2003 Act does not allow local authorities to reduce or waive the fee for large scale community and voluntary events. However, if local authorities currently choose to waive these fees, they can continue to subsidise events through other routes, such as internal charging or direct subsidy.

The consultation on fees was a genuine consultation and we have listened to the evidence that it generated. While I am confident that we have now got the balance right, we remain committed to an independent review 12 months after the new regime has become fully operational. If this finds the fees are too high or too low, we will adjust them accordingly.

## Institute Illuminates Blackpool

The Institute of Licensing, whose members will be at the sharp end of implementing the 2003 Act, held its annual conference in Blackpool's Imperial Hotel at the end of November.

160 delegates attended the conference which was officially opened by the Mayor of Blackpool, Councillor Mrs Maxine Callow JP. The keynote speaker was John Denham MP (Chairman of the Home Affairs Select Committee). Delegates were addressed by 34 expert speakers including:

- the Civic Trust, Central Norwich Residents' Association and the Network of Residents' Associations on the prevention of nuisance;
- Pat Varley of the Home Office Crime Reduction Centre on crime reduction in licensed premises;
- Lancashire Fire & Rescue Service on fire safety; Mendip Council on licensing Glastonbury Festival under the Act; and Julian Bentley of MRL Ltd on the

importance of safety co-ordinators at large-scale events; and

- Michael O'Connor of the Association of Directors of Social Services, who introduced some new guidance to licensing authorities on the protection of children from harm, jointly produced with LACORS.

Brigid Simmonds of Business in Sport and Leisure; Malcolm Eidmans of National Pubwatch; and Gillian Anderson and Frank Fender of the Bed:Safe scheme all described how licensing authorities could work closely with the licensed trade. Other sessions concentrated on areas such as committee procedures, judicial review and

statutory noise nuisance. Questions surrounding the health and other effects of alcohol were also posed in addresses by Alcohol Concern, who recently launched a licensing toolkit for local authorities, and the Institute of Alcohol Studies.

Over the course of the conference, delegates took the opportunity to talk to exhibitors including representatives from DCMS licensing and gambling teams.

Institute membership is available to anyone with an interest in licensing. For more information see: [www.instituteoflicensing.org](http://www.instituteoflicensing.org) or email [licensing\\_circles@hotmail.com](mailto:licensing_circles@hotmail.com)



# Preparing for change



**Mitchells & Butlers (formerly Six Continents Retail and Bass Taverns) operates over 2,000 managed pubs and restaurants and employs over 38,000 people. Its brands include O'Neills, All Bar One, Ember Inns, Harvester, and Vintage Inns.**

Director of Risk and Compliance, Andy Smith, told us about Mitchells and Butlers preparations for licensing reform "The Company welcomes the modernisation of the licensing system and our preparations for implementation are now gathering pace. As we have 322 Local Authorities to deal with, not having the secondary legislation available sooner has added to the major logistical challenge. In addition, we also have concerns that a number of licensing policies go beyond the powers conferred by the Act which makes decision making and communications more complex."

The major areas of preparation to date have been:

- Preparing the information required for applications.
- Planning training for new personal licence holders.
- Participation in consultation exercises
- Reviewing opportunities offered by the new regime.
- Preparing the communication plan for the business.

With the scale and geographical breadth of operations, Andy believes communication and training are of vital importance "The new legislation sweeps away the old and familiar framework and vocabulary and our communication plan has to address this. Managers and their teams will be regularly briefed and there are more comprehensive workshops planned in summer 2005. Existing training and reference materials will be updated to reflect the new Act."

As a national managed retailer, the Company's applications and operating schedules will be prepared centrally with local overlay. Andy is confident these will build on Mitchells and Butlers' success in being named 'Most Responsible On-Trade Retailer' at the recent Morning Advertiser Awards "Our applications will demonstrate how the Company's robust policies and procedures support the Licensing Objectives and reflect our responsible approach to managing our businesses."

"We expect 2005 to be a very challenging year for everyone involved in the licensed industry. It has taken a very long time to get us to this point, but the die is now cast and our view is that the sooner we can commence the formal period of transition, the better for everyone involved."

### February

Launch of the 'Live Music Kit'. Date and venue to be confirmed  
[www.musiciansunion.org]

### 3 March

Welsh Music Foundation licensing seminar, at the Millennium Centre, Cardiff  
[lisa@welshmusicfoundation.com]

### 12 – 13 April

The Restaurant and Bar Show 2005 at the GMEX centre in Manchester  
[www.restaurantandbar.co.uk]



## PROPOSED TIMETABLE FOR IMPLEMENTATION

10th July 2003	7th July 2004	7th Jan 2005	13th Jan 2005	20th Jan 2005	7th Feb 2005	March 2005	6th Aug 2005	Nov 2005
The Licensing Act 2003 receives Royal Assent.	DCMS issues Guidance under section 182 of the Act. Licensing Authorities begin preparing and consulting on policy statements.	Start of 'three year period'. Licensing Authorities must have published their licensing policy statements by this date.	Secretary of State makes regulations (except for fees), following public consultation (15th September - 10th November 2004)	Secretary of State makes fee regulations following public consultation (4th November - 23rd December 2004)	<b>First appointed day.</b> Licensing Authorities begin processing applications.	Consultation on draft regulations on permitted temporary activities.	Last date on which applicants/ clubs can exercise their right to apply to convert existing licences to premises licences and club premises certificates	<b>Second appointed day.</b> End of old licensing laws. New premises licences and club premises certificates given effect.

**Next issue – March 2005. For more information about the Licensing Act 2003 and how it will affect you, visit our website at [www.culture.gov.uk](http://www.culture.gov.uk). If you have any comments or suggestions for articles email: [licensing.newsletter@culture.gsi.gov.uk](mailto:licensing.newsletter@culture.gsi.gov.uk)**

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