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Foreword by the Secretary of State for Culture, Media and Sport

The Licensing Act 2003 marks the end of the existing outdated licensing regimes. The activities covered by the new legislation will be carried on in a modern, vibrant society that deserves a more responsive and flexible system. The 2003 Act integrates six existing licensing regimes into a single, streamlined and more efficient system of licensing that will significantly reduce red tape.

The legislation provides a clear focus on the promotion of four statutory objectives which must now be addressed when licensing functions are undertaken. They are:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm.

But the modernisation of the legislation has also been pursued to support a number of other key aims and purposes. These are of vital importance and should be principal aims for all involved in licensing work. They include:

- the introduction of better and more proportionate regulation to give business greater freedom and flexibility to meet their customers' expectations;
- greater choice for consumers, including tourists, about where, when and how they spend their leisure time;
- the encouragement of more family friendly premises where younger children can be free to go with the family;
- the further development within communities of our rich culture of live music, dancing and theatre, both in rural areas and in our towns and cities;
- the regeneration of areas that need the increased investment and employment opportunities that a thriving and safe night-time economy can bring; and
- the necessary protection of local residents, whose lives can be blighted by disturbance and anti-social behaviour associated with the behaviour of some people visiting places of entertainment.

Through the legislation, we hope that local people and visitors to this country will have better opportunities to enjoy their leisure time safely while on, or arriving at or leaving a huge range of venues.

Some licensing in the past has been unfocused and led to disproportionate standard conditions and routine inspection which has hindered the development of business and local economies without any positive gain for society. The Act ensures that premises which are causing problems within our communities can be dealt with appropriately but provides a much lighter touch for those businesses and community activities which benefit and enhance people's lives by providing important opportunities for the enjoyment of leisure time. Similarly, in terms of enforcement, we expect to see a sharp focus on premises failing in terms of the licensing objectives, with other businesses left to go about their legitimate activities without unnecessary interference.

This Guidance is intended to aid licensing authorities in carrying out their functions under the 2003 Act and to ensure the spread of best practice and greater consistency of approach. This does not mean

that we are intent on eroding local discretion. On the contrary, the legislation is fundamentally based on local decision-making informed by local knowledge and local people. Our intention is to encourage and improve good operating practice, promote partnership and to drive out unjustified inconsistencies and poor practice.

The Act provides tough powers to enable licensing authorities and the police to bring the minority of badly managed premises into line with the best. Through the review procedures and the extended closure powers, we are equipping the authorities and the enforcement agencies with the tools that they need to deter behaviour that produces disorder or generates public nuisance or threatens public safety or the well being of our children. We prize the protection of children very highly. The risk of harm to children remains a paramount consideration and we are therefore providing extensive guidance on the relevant issues after consultation with a range of children's organisations and the police.

The Prime Minister's Strategy Unit Interim Analytical Report, published in September 2003, refers to alcohol misuse costing the economy up to £20bn a year, of which the crime and disorder costs are up to £7.3bn a year. Alcohol misuse is also a very substantial contributor to the rise in violent crime and the British Crime Survey shows that 47% of victims of violence described their assailant as being under the influence of alcohol at the time. There is also a strong link between alcohol and domestic violence, and even more so between alcohol and low level intimidatory behaviour. It is therefore important that the new licensing regime is used proactively alongside existing measures to tackle all levels of alcohol misuse.

The new legislation goes to the heart of many of this Government's policies. It is fundamentally about recognising rights and the acceptance of responsibilities. This modernisation of the licensing laws removes obstacles to the further development of the tourism, retail, hospitality, and leisure industries, but this is not being achieved at the price of weakening their social responsibilities. The new legislation provides industry with greater freedom and flexibility to meet the needs of consumers but balances that with clear responsibilities for the industry and strong powers for the police to control any disorderly premises and for licensing authorities to protect residents from disturbance. We expect the right balances to be struck and this Guidance is intended to help the licensing authorities achieve them.

We will monitor the impact of the 2003 Act on crime and disorder and the other licensing objectives. If necessary in the light of these findings, we will introduce further legislation with the consent of Parliament to strengthen or alter any provisions.

Tessa Jowell

Secretary of State for Culture, Media and Sport

1 Background

1.1 Section 182 of the Licensing Act 2003 (“the 2003 Act”) provides that the Secretary of State must issue, and from time to time, may revise guidance to licensing authorities on the discharge of their functions under the 2003 Act. This document represents the Guidance and is issued by the Secretary of State for Culture, Media and Sport. The Guidance has been published on the DCMS website and on UK Online. Any local authority or other organisation is free to publish the Guidance on its own website or provide an appropriate link to either of these websites.

1.2 The Guidance has been prepared in consultation with other Government Departments, executive agencies and an Advisory Group comprising representatives of the following organisations:

- Alcohol Concern
- Arts Council
- Association of Chief Police Officers
- Association of Licensed Multiple Retailers
- Association of London Government
- British Beer and Pub Association
- Bar, Entertainment and Dance Association
- British Institute of Innkeeping
- British Marine Federation
- British Retail Consortium
- Business in Sport and Leisure
- Cinema Exhibitors Association
- Chartered Institute of Environmental Health
- Committee of Registered Clubs Associations
- Editor of Paterson’s Licensing Acts
- Federation of Licensed Victuallers Association
- Guild of Master Victuallers
- Justices’ Clerks Society
- Licensed Victuallers of Wales
- Local Authorities Coordinators of Regulatory Services (LACORS)
- Local Government Association
- The Magistrates’ Association
- The Musicians Union
- National Parliamentary Committee of the Licensed Victuallers Associations
- The Restaurant Association
- Theatrical Management Association
- The Society of London Theatre

1.3 In addition, the Guidance takes account of the views of over 650 other interested organisations, residents’ associations, businesses and public bodies that have written to the Government about licensing reform and this Guidance. It does not, of course, precisely reflect the views of

all these bodies. Some views and comments have inevitably been incompatible with others and the Secretary of State has attempted to balance them carefully to ensure that appropriate advice is given to licensing authorities.

- 1.4 The Guidance is provided for licensing authorities carrying out their functions. Furthermore it provides information for magistrates hearing appeals against licensing decisions. It is also being made widely available for the benefit of operators of licensed premises, their legal advisers and the general public. It is a key mechanism for promoting best practice, ensuring consistent application of licensing powers across the country and for promoting fairness, equal treatment and proportionality. The police remain key enforcers of licensing law. The Guidance has no binding effect on police officers who, within the terms of their force orders and the law, remain operationally independent. However, the Guidance is provided to support and assist police officers in interpreting and implementing the 2003 Act in the promotion of the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm.
- 1.5 Part 8 of the 2003 Act also significantly extends the existing powers of the police (a) to seek court orders closing licensed premises in a geographical area that is experiencing or likely to experience disorder; and (b) to close down instantly individual licensed premises that are disorderly, likely to become disorderly or are causing nuisance as a result of noise from the premises. Ministers have previously given undertakings to Parliament that guidance would be issued to police officers about the operation of those powers. Chapter 11 of this Guidance therefore constitutes that guidance.
- 1.6 The Guidance will be kept under constant review in consultation with key stakeholder groups and will be amended or supplemented as necessary at any time to address problems affecting local communities, licensing committees, the police, applicants for licences and club premises certificates, those giving temporary event notices and performers.
- 1.7 Nothing in this Guidance should be taken as indicating that any requirement of licensing law or any other law may be overridden (including the obligations placed on the authorities under human rights legislation). The Guidance does not in any way replace the statutory provisions of the 2003 Act or add to its scope and licensing authorities should note that interpretation of the Act is a matter for the courts. Licensing authorities and others using the Guidance must take their own professional and legal advice about its implementation.