

CMS 24960/mk



To all Members of Parliament

7 October 2005

Dear Colleague

Implementation of the 2003 Licensing Act

I am writing to update you on progress on the Licensing Act during recess.

Before recess, there were concerns from colleagues about whether premises would apply in time to have their licences renewed by 24 November. I am glad to be able to reassure colleagues that over 90% of those who will require licences have now applied, including virtually all pubs, supermarkets and registered members clubs. We expect over 95% to have their licences by 24 November when we plan for the Act to come in to force. The majority of those who do not apply will have decided to do so because they do not require a licence – for example a take-away that doesn't open after 11pm, or an organisation that decides to operate using Temporary Event Notices rather than a full licence. There will inevitably be some premises that fail to apply, but we are confident that the worries about administrative chaos will have been averted. The Secretary of State and I have written to all local councils to thank them for their ongoing efforts on this process.

In that letter, we also outlined that we had agreed with the Local Government Association that we want to learn from the experience that is being accumulated about the operation of the Act. By 24 November, 190,000 applications should have been processed, and the need for some technical changes to the Guidance to the Act will have become evident. We have therefore agreed with the LGA that the review of this Guidance should start at the end of November. I would be interested in any suggestions that colleagues have based on their local experience, for example about whether Members of Parliament have sufficient opportunity to protect the interests of their constituents where they are not personally affected by an application.

The Act is founded on the principle that decisions about licensing hours should be made locally, rather than in Whitehall. Councils are better placed than Ministers to make those



decisions, in the light of local circumstances and so that they can be co-ordinated with other local policies on crime, transport and town centre management. In the letter to councils, we stressed that the Act devolves these decisions to the local level and that it does not have a presumption for longer hours over the objections of local residents.

Local councils are using the powers given to them by the Act. Our initial evidence is that around two thirds of objections are being resolved by negotiation and that where objections come from residents, in 95% of cases licensing committees are responding by adding conditions and/or adjusting the requested hours. There also appears to be genuine variety in opening times, contrary to the fear that the Act is leading to a uniform but later closing time. There is also little evidence of more than a handful of pubs and bars applying for 24 hour licences.

Responsible authorities such as the police or environmental health are taking a lead role in influencing licences whether through early discussion with applicants or when making representations on particular applications. As a result, more premises are installing CCTV, signing up for police pager schemes or employing door staff. National Pubwatch tell us that there has been a big increase in joining and setting up schemes as a direct result of the licensing changes. There are also examples of premises being refused a licence because of police concerns about their history of crime, such as causing disorder or encouraging drug dealing. These were premises that only last year had their licence renewed under the current system for another three years, but will now be closed down as a direct result of the 2003 Act's focus on objectives such as crime and disorder.

From full implementation of the Act on 24th November, an important new mechanism will take effect which will allow the police, residents or council officers responsible for issues such as noise nuisance to seek a review of a licence at any time problems occur. The outcome of such a review can involve the agreement or imposition of a wide range of conditions to do with how premises operate and the hours within which they do so. It can also lead to the revocation of a licence.

This new system of reviews is a significant strengthening on the previous regime, and should change the incentives facing licensees, as they will know that flouting the licensing objectives really does risk action that will impact on their business.

Anyone who is not sure whether they need a licence, or wants help getting started, can contact the Licensing Act information line on 020 7072 7447. If colleagues require further information about the operation of the Act so they can answer constituents' enquiries, DCMS officials are able to help on (020 7211 6351/6380). There is also information available at www.culture.gov.uk/alcohol_and_entertainment

As a matter of courtesy, I also wanted to let you know that shortly after the start of Recess I made an Order under the Licensing Act 2003 confirming the 'Second Appointed Day'. Subject to completing the negative resolution process, the Order will come into force on 24th November and this will be the date from which all licences and club certificates granted by the local authorities under the terms of the 2003 Act will have effect.

I know that Opposition colleagues are urging delay. But delaying the Act at this late stage would mean that the work done and fees paid by hundreds of thousands of village halls, sports clubs, members' clubs, pubs, restaurants and bars would have been wasted. It would cause administrative chaos over Christmas and the New Year as more than 100,000 premises would need to apply for and pay for over 400,000 special permissions to sell

alcohol late just to cover Christmas events over the festive period. This could threaten the livelihood of many businesses.

... Most of all, delay would prevent the police getting new powers, which are listed in the Annex. That is why both the Association of Chief Police Officers and the Local Government Association also want the Act brought in as planned in November. It is now time to implement the Act and give those who are responsible for it on the ground the opportunity to use the new legislation and to test the new powers.

We are, of course, committed to monitoring closely all aspects of the reforms to ensure they achieve our aims and objectives. I look forward to receiving views from colleagues about our review of the Guidance and the implementation of the Act.

A handwritten signature in black ink, appearing to read 'JP', with a large loop at the bottom left.

JAMES PURNELL MP
Minister for Creative Industries and Tourism

NEW POWERS GIVEN EFFECT BY THE LICENSING ACT 2003

- i. **Expanded closure powers for police**, to close all licensed premises within a specified area for up to 24 hours where disorder is occurring or anticipated. The power will cover all entertainment premises, night cafés and night take-aways, as well as premises licensed to sell alcohol.
- ii. **Increased penalties for breach of licence condition**, a person faces a maximum fine of £20,000 or imprisonment for up to 6 months or both.
- iii. **Increased penalties for selling alcohol to children**; maximum fine on conviction increased to £5000 and the ability to suspend or forfeit personal licences at first offence, rather than on second conviction as is the case now. Plus the removal of an array of exceptions and exemptions, for example, in clubs and on river and coastal "booze cruises".
- iv. **Increased penalties for members of the public**, who obtain or attempt to obtain alcohol for a person who is drunk; maximum fine on conviction of £1000.
- v. **Courts to suspend or declare forfeit personal licences following convictions for relevant criminal offences** set out in Schedule 4 to the 2003 Act, including theft, trafficking in stolen goods etc and any offence under the Act itself.
- vi. **Increased rights for local residents, the Police and other interested parties to make objections to applications** for all new licences or licence extensions, with the final decisions made by elected Councillors accountable to local voters.

- vii. **New mechanism for reviewing any existing licence and club premises certificates** when problems relating to the four statutory licensing objectives, including the prevention of crime and disorder, arise. The review arrangements will be backed by an extended range of measures which impact on businesses and their profits.

- viii. **Tougher penalties for irresponsible retailers**– maximum £1,000 fine and the potential suspension for up to six months or forfeiture of personal licences, following conviction for offences of allowing disorderly conduct on the premises or making or allowing sales of alcohol to people who are drunk.

- ix. **Proposed additional powers for police in the Violent Crime Reduction Bill;** complement the Licensing Act 2003, and include expedited reviews of licensed premises; adding conditions which require licensed premises to search customers for guns and knives; and the power to close premises that persistently sell alcohol to children for up to 48 hours.