

REGULATORY IMPACT ASSESSMENT 2

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1. 2 Title

White Paper – Time for Reform: Proposals for the Modernisation of our Licensing Laws

2. 2 Purpose and Intended Effect of the Measure

(i) **Issue:** Premises seeking new or variations of existing licences to sell alcohol under the complex laws set out in the Licensing Act 1964 are engaged in complex bureaucratic procedures which generate unnecessary costs and court hearings, and considerable duplication with planning and health and safety requirements of the law. There have been no substantive changes to these laws for almost 40 years. The purposes of the existing law are unclear, and it is impossible to establish the benefits to society accruing from them or to judge the performance of the arrangements against any aims. Certain aspects of the law appear to contribute to public order and policing problems. Local justices who are the licensing authorities are not accountable to the local residents whose lives are directly affected by the decisions they make. Some of the decisions taken appear arbitrary and inconsistent to both industry and residents. The law concerning the sale and consumption of alcohol by children is deeply confusing to parents and other members of the public, and is largely discredited. Many premises serving alcohol also require public entertainment licences that operate in parallel under the Authority of Local Authorities, but create duplication and unnecessary costs and bureaucracy. Licences are granted under arrangements that often appear procedurally unfair. Fees can be excessive and unjustified. The existing law prevents any integration of the two systems. Public entertainment licensing also involves venues not involved in the sale of alcohol, and separate licensing arrangements apply to cinemas and theatres even though the essential considerations are similar. Other licensing systems apply to the licensing of night cafes and late night refreshment houses, even though concerns about disturbance to local residents and public order are equally relevant to all of the licensing arrangements described above. Venues providing hospitality and leisure are diversifying and providing services to the public, which cross the boundaries of the various licensing systems within a single leisure centre or facility. The existing laws are too inflexible to meet these modern developments, and the effect is to generate significant costs to industry without delivering any worthwhile benefits or protections to the public.

(ii) **Objectives:** The White Paper proposals should produce:

- a licensing scheme which modernises and integrates the existing liquor, public entertainment, cinema, theatre, night café and late night refreshment house licensing laws. This is intended to reduce bureaucracy, associated costs to industry and the courts, and provide local residents with accessible, transparent and accountable arrangements focused on preventing crime and disorder, ensuring public safety and reducing unjustified public nuisance.

- reductions in underage purchase and consumption of alcohol, and the long term damage that does to individuals in terms of educational attainment, poor health, job prospects, and the propensity to commit crime; and to society in terms of disorder, anti-social behaviour, and public nuisance.
- a proper balance between the rights and responsibilities of individuals, business and the community.

(iii) 2 Risk assessment: 2 Failure to modernise in this area would damage the development of the hospitality, late night refreshment and leisure industries, hindering their attempts to diversify and become more attractive to families, tourists and to children. Diversification is important to rural life where village pubs are often the social hub of the area, and more will close if they unable to use the premises for a wide range of purposes. Maintaining fixed closing times would also leave associated public order incidents un-addressed. Research suggests that over 50 per cent of all recorded public order incidents occur between 11pm and 12 midnight on Friday and Saturday nights; and similarly over 50 per cent of all arrests for drink-related crimes occur at these times. 47 per cent of all incidents of violence and disorder in pubs similarly takes place at closing time on Friday and Saturday. Where there is a concentration of clubs and discotheques, similar crime peaks occur between 2am and 3am on those days. Enforcement of laws relating to underage purchase and consumption of alcohol – over 20 per cent of 11-15 year olds drink regularly – is unlikely to improve while prosecutions against those selling to children can be thwarted using loopholes in the existing law.

3.2 Options

(i) Identify options: 2 Four options have been identified:

Option 1 - leave all of the relevant legislation in relation to liquor, public entertainment, theatre, cinema, night cafe and late night refreshment house licensing unchanged.

Option 2 - integrate liquor and public entertainment licensing (where liquor is sold at the venue), but leave public entertainment (no liquor involved), theatres, cinemas, night cafes and late night refreshment houses unchanged.

2a 2 - licensing authority to be local justices

2b 2 - licensing authority to be local authorities

Option 3 - integrate liquor, public entertainment, cinema, and theatre licensing, but leave night café and late night refreshment house licensing unchanged.

3a - licensing authority to be local justices

3b - licensing authority to be local authorities

Option 4 - integrate liquor, public entertainment, cinema, theatre, night café and late night refreshment house licensing into single licensing scheme.

- 4a 2 - licensing authority to be local justices
- 4b 2 - licensing authority to be local authorities

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4. 2 Benefits and disadvantages 2

(i)Identify benefits and disadvantages: 2 Option 1 would leave the position unchanged. With regard to the other options, the benefits and disadvantages affect four groups of stakeholders to varying degrees: local residents and the local community, the customer, industry and Government.

Residents and the local community

Benefits

- greater clarity and transparency on what is legal
- more targeted protection for the young and vulnerable
- reduced underage drinking and associated disturbance
- power to act to force control of public nuisance, disturbance and annoyance
- greater accountability in terms of decision-making (if local authority control)
- more scope for intermediate punishments – end of single revocation option
- better planned town and city centres

Risks

- some increased scope for disturbance late at night with later closing times
- lack of regard for religious holidays / Sundays

Customers

Benefits

- more convenient shopping reflecting modern lifestyles
- increased competition
- more flexible pub/club hours providing greater choice
- more facilities for family entertainment
- better facilities and attractions for people on holiday
- improved safety
- greater clarity on laws affecting accompanying children

Risks

- none identified

Retail, hospitality and leisure industries

Benefits

- reduced bureaucracy, numbers of applications for issue, variation and renewal
- reduced hearings and legal costs
- greater clarity and transparency on what's legal
- more assured professional standards
- improved standardisation and consistency across licensing districts
- greater flexibility to deliver what the public wants
- reduction in losses arising from trade in smuggled goods

Risks

- reduced control over competition (no objections to new licences on commercial, need or demand criteria; level playing field for pubs/clubs etc)
- increased vulnerability to prosecution re underage purchase and consumption (for example, because of test purchasing)
- end of single revocation option may mean more penalties
- fear of local authority involvement following experience in public entertainment field
- reduced opportunities for musicians to work as a result of abolition of two musician exemption rule

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Benefits

- modernised area of law widely held to be obsolete and obscure
- provides less regulated and more competitive environment
- balances consumer choice against clear accountability (if local authorities are the licensing authority) for protection of local community against disorder and nuisance
- supports aims on reducing youth crime
- supports aims on health, education and employment with regard to young people
- supports aims to reduce illegal trade in smuggled alcohol
- improved tourist trade
- improved public protection, particularly for the young

Risks

- public concerns over children having greater access to licensed premises
- residents concerns about longer trading hours

(ii) Measurable outputs and anticipated outcomes: A modernised licensing regime should produce the following key outcomes:

- savings to industry of £1.9 billion over a ten year period (see below);
- a more gradual, and orderly, pattern of dispersal of peak densities between the hours of 11pm – 12 midnight, and 2am and 3am in urban centres;
- significant reductions in reports of drink-related offences and in arrests for such offences;
- reductions in binge drinking and drunkenness on the streets;
- increased availability of refreshment and transportation facilities due to more evenly spread demand;
- a decrease in reports of nuisance and noise in direct proportion to the lower densities at any given time;
- an increase in successful prosecutions for selling to underage drinkers;
- a decrease in levels of underage drinking for 11 – 15 year olds;
- an increase in the number of foreign visitors using licensed premises;
- an increase in the number of children visiting licensed premises;
- faster decisions on licence applications;
- a reduction in legal charges incurred by individual businesses for processing licence applications and variations of licences;
- a reduction in the administrative costs associated with processing licence applications ; and
- a mid- to long-term reduction in fee expenditure incurred by individual businesses.

5.2 Compliance costs

(i) 2 Business sectors affected: The sectors affected are the retail, hospitality and leisure sectors. Transport services such as taxis to a lesser extent would also be affected. There are currently 156,000 premises and 23,000 registered clubs permitted to sell alcohol for consumption off or on those premises. The number of venues licensed for public entertainment or to serve refreshment late at night, where no liquor sales are involved, is uncertain. In London, night cafes include “sit down” cafes not serving alcohol, take-aways, and similar fast food outlets. Some boroughs have sought to use the vague definitions to justify licensing grocers and garage forecourt shops. Outside London, late night refreshment houses refer solely to “sit down” cafes not serving alcohol. Many late night refreshment retailers, take-aways and cafes currently close before pub closing times to avoid the peak density of disorderly males and the uneven spread of demand. Similarly, in many towns transport systems, including taxis, stop running to avoid similar problems.

The hospitality and leisure industry broadly employs around 2.3 million people. The country spends around £25 billion per annum on alcohol that generates around £10 billion in tax revenue. Most alcohol is purchased for home consumption and sold by existing off-licences. Levels of alcohol consumption should not increase as a result of licensing changes. It is the cost of alcohol that more directly impacts on consumption.

(ii) 2 Compliance costs for a typical business

Currently

Within the business sector affected, comprising companies with a market value approaching £43 billion, there is no typical business. Liquor licence fees are set centrally by the Lord Chancellor’s Department. A liquor licence, valid for three years, now costs £30. Renewal similarly now costs £30. Over ten years the cost is therefore now £100 in terms of basic fees. Associated legal fees are between £150 (uncontested) and £5000 (contested) or between £500 and £15,000 over ten years. There are however over 40 other permissions that may have to be sought during that period which generally involve some variation – either temporary or permanent – of the licence. Some may be needed several times each year: others may be required rarely. Fees vary between £10 and £30 for each change. Each application for variation can generate similar legal costs as those incurred on application: between £150 and £5,000. We estimate that over ten years, the additional fees would amount to about £750. The additional legal fees over ten years would be between £5,000 and £50,000. A children’s certificate presently costs £16 with associated legal costs between £150 (uncontested) and £5000 (contested). The conditions attached to the grant of a children’s certificate do however produce a range of hidden compliance costs: for example, the installation of low-level urinals. As a result very few children’s certificates are issued. Total costs for compliance with the existing liquor licence laws over ten years for an average business involving only one set of premises are therefore estimated to be between **£10,000 and £70,000** at current prices. For a major operator owning 300 pubs, the figures would be **£3 million to £21 million**.

Public entertainment licence fees are set by local authorities and vary enormously. Fees are between £50 and £20,000, depending on the venue or the scale of the event. Renewal – where the licence does not concern a one-off event – is required annually.

Legal costs could again be between £150 (uncontested) and £5,000 (contested). There are again significant hidden costs of compliance because of the need to meet a range of health and safety requirements: for example, a discotheque might be required to install a sophisticated air conditioning system costing £100,000, which would not normally have been required under planning regulations. Ignoring these hidden costs of compliance, we estimate that for the average nightclub style business involving only one set of premises over ten years the cost of compliance with the requirements of public entertainment licensing would be between **£2,000 and £250,000**.

For a business providing both liquor and entertainment the combined costs over ten years would therefore be potentially anything between **£12,000 and £320,000** at current prices.

Under the new regime

The new regime involves a personal licence and a premises licence. The cost of a personal licence for ten years (if no breaches of the law) may fall to an individual or might be met by a business. Costs would need to cover training that we estimate at between £150 and £175; and the licence fee (covering administration – between £20 and £30 and a PNC check – between £10 and £20). The fee would therefore be set at between £30 and £50. No renewals would be required within a period of ten years. The total cost would be between **£180 and £250 (all falling in the first year of validity, and assuming no subsequent breaches of licensing law)**. The premises licence could cover any combination of permissions for liquor, public entertainment, children, theatre and cinema, and non-alcoholic refreshment at night. Some hidden costs of compliance would therefore remain. No renewals would be involved and only very rare variations. The premises licence fee would need to cover administration and a hearing (if contested). We envisage licence fees being set centrally within a series of bands: for example, rising from an ordinary pub to a multi-bar leisure and entertainment facility. We estimate that fees would range between **£100 and £500**. As the licence would be valid for the life of the business an annual charge would be needed to maintain a revenue stream, with a maximum set centrally, to cover inspection and enforcement. We think that these charges should also be banded, and estimate that the charge would be no more than **£50** for a small business (an ordinary pub or restaurant) up to **£150** for a larger entertainment complex. The payment would cover, for example, additional fire, police and trading standards inspection and enforcement (not the whole amount for which all businesses will be paying through central and local taxation). These costs would be between **£500 to £1500** over ten years. Legal costs are likely to be between **nothing** (uncontested) and **£5,000** (contested) in the first year, but costs would be relatively small in subsequent years. For the purpose of comparison with the existing arrangements, we therefore estimate that for an average business the cost of compliance with the new requirements over a ten year period would be between **£700 and £7000** at current prices.

(iii) Total compliance costs

There are currently 156,000 premises licensed to sell alcohol and 23,000 registered clubs (180,000 premises and 156,000 potential personal licence holders). In addition, 8000 new applications could be expected each year of which 7,000 might be granted, while at the same time some businesses would cease to trade. We think it is reasonable to assume a net increase of 4,000 new premises licences per year, giving 40,000 new licences over a ten-year period. The costs of these would be between £32 million and £280 million. The

number of public entertainment licences issued where alcohol is not involved is not known. Over ten years we estimate that the cost of compliance for the hospitality, refreshment and leisure sector would fall between **£176 million** and **£1.4 billion**. There are significantly more smaller businesses than the larger high capacity city centre bars. We consider that a reasonable estimate would be:

£600 million over ten years - £500 million generally falling in a transitional period of perhaps three years; £10 million for new applications recurring annually producing £100 million.

We also consider that the scheme proposed will place an ever greater burden on industry to improve professional standards and train staff working on pub premises. For example, the greater responsibility placed on licensees to prevent underage purchases could be expected to generate new training costs. There are around 1 million people working in the industry with a fairly high staff turnover. We think it is reasonable to assume that the additional training cost each year would be of the order of **£150 million** annually or **£1.5 billion** over ten years.

This gives an estimated **total compliance cost of around £2.1 billion over ten years.**

Based on our knowledge of the market, this compares with a current compliance costs over a similar period of:

130,000 @ between £10,000 and £70,000 = between £1.3 billion and £9.1 billion over ten years

45,000 @ between £1,000 and £15,000 = between £45 million and £1.9 billion over ten years

4,000 @ between £12,000 and £320,000 = between £48 million and £1.3 billion over ten years

40,000 varied new applications mostly @ between £1,000 and £15,000 = between £40 million and £600 million over ten years

Total compliance cost over ten years can therefore be very broadly estimated at between **£1.4 billion** and **£13.2 billion** depending on the number of legal disputes. Consultations with industry suggest that the cost of compliance currently may well be £400 - 500 million annually. We therefore estimate the compliance cost to be:

£4 billion over ten years, with these costs spread relatively evenly over the period.

We therefore estimate overall **savings** to industry of £1.9 billion over ten years or £190 million annually. Spread over 200,000 businesses, an average pub or club would therefore be just under £1000 better off each year. With no renewable procedures attaching to the premises licence, we expect some increase in the savings in subsequent periods of ten years.

6.2 Other costs 2

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There should be no costs to residents or to customers. Virtually all local government costs should be wholly recovered through the licence fees and through the annual charges. There would be a **training cost** in the period prior to implementation for local councillors (or local justices) who are to be members of licensing committees. We broadly estimate these costs to be **£0.8 million**, but they will require more research. The costs of the Crown Court in respect of appeals should be wholly recovered through awarding costs on a win or lose basis. A great proportion of the saving of £190 million annually for industry would be in the form of income lost to the legal profession. Some other existing income for the legal profession, up to a further **£160 million** annually would also shift to businesses marketing appropriate training packages. Finally, it is impossible to say what the costs to industry may be of the sanctions discussed in the White Paper, and the associated legal costs. These costs will of course be controllable. They should be negligible for well-managed and socially responsible businesses.

7.2 Summary and Recommendations

Option 1

Costs to industry would remain at an estimated £400 million annually. Levels of bureaucracy, unnecessary costs to industry, and inconsistent decision-making, would remain as they are now. Residents would remain dissatisfied with the inaccessible nature of the procedures, requiring court attendance. Tourists would remain confused by the rules under which licensed premises here operate. Permitted hours would continue to contribute to police problems of controlling public order at 11pm and 2am (3am in London) in city and town centres. Individuals would continue to evade prosecution for selling to those underage or purchasing on their behalf. Measures to improve public disorder would be inhibited and their effectiveness reduced by the maintenance of fixed closing times.

Option 2 2

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Most of the benefits described in Section 4 above would arise. Most of the savings of £190 million annually would be achieved. Unnecessary bureaucracy and inconsistent decision-making would all be significantly reduced with regard to businesses engaged in selling or serving alcohol. Savings for industry would accrue from the elimination of the overlap at the intersection of the two licensing systems. Staggered hours would improve public order problems. Underage purchase and consumption of alcohol would be reduced. If option 2b were implemented, residents would have a more accessible and accountable system for pursuing problems of nuisance and annoyance associated with premises licensed to serve alcohol. Option 2a would leave the position on accessibility and accountability unchanged. Changes would also encourage industry to develop more family and tourist friendly environments within pubs. The arrangements would be self-financing with the costs of administration, inspection and enforcement recovered from licence fees and annual charges. The costs of appeals would be recovered by the award of costs against the appellant or the respondent by the Crown Court. This would also serve to deter appeals without merit. The exclusion from the modernisation process of public entertainment not involving alcohol, theatres, cinemas, night cafes and late night refreshments houses would maintain bureaucratic disincentives to diversification and the

development of hospitality and leisure multi-purpose complexes, which is the direction industry wants to go.

Option 3

The advantages of option 2 would be supplemented by better streamlining of the whole area of hospitality and leisure. It would better match business strategies, promote diversification and ease the bureaucratic burden across the board in the field of alcohol and entertainment. Excluding night cafes and late night refreshment houses would miss an opportunity to integrate the licensing of premises where people gather late at night into an overall strategy for controlling public order problems, nuisance and disturbance.

Option 4 2

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The advantages of Option 3 would be combined with the ability of a single licensing authority to ensure that the conditions and hours attached to licences for the whole range of premises and venues operating during the day and night were targeted on the achievement of the same aims: protecting the public, particularly the young and vulnerable, from crime and disorder; ensuring public safety; and minimising public nuisance and disturbance, particularly late at night. Full integration would allow industry maximum flexibility to develop as the market dictates with only necessary and fair regulatory burdens, while ensuring that local residents have easy access to the procedures.

The Home Secretary accordingly favours Option 4b, and industry should expect to achieve savings of £1.9 billion during the first ten years of operation.