

REGULATORY IMPACT ASSESSMENT

Prepared by the Department for Culture, Media and Sport

Licensing Bill

Extent: England and Wales

I PURPOSE AND INTENDED EFFECT

1. The Licensing Bill will reform and modernise the existing arrangements for licensing the sale of alcohol, the provision of public entertainment, including music, dancing and indoor sports, theatres, cinemas and the provision of late night refreshment between 11.00pm and 5.00am in England and Wales. The existing arrangements involve two separate licensing authorities: magistrates and local authorities. The Bill will integrate these diverse arrangements under the control of a single licensing authority – the local authority – and establish clear objectives for the regime. In general terms, the reforms should have a significant deregulatory impact and produce savings for the hospitality and leisure industry of £1.97 billion over the first ten years of operation and increased savings thereafter, while introducing greater democratic accountability for people directly affected by the decisions of the licensing authorities concerning sales of alcohol.

2. The Bill should also produce:

- 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;
- reductions in disorder, anti-social behaviour, and public nuisance particularly at the current fixed closing times which cause peak disturbance and disorder and prevent the easy dispersal of large numbers;
- a proper balance between the rights and responsibilities of individuals, business and the community;

- savings to charities, schools and community organisations that hold small temporary events requiring occasional licences; and
- benefits for the tourist economy by creating safer and more attractive town and city centres and improving our competitiveness with other European cities.

II INTRODUCTION AND BACKGROUND

3. In England and Wales, premises seeking the grant or renewal or variation of existing licences to sell alcohol under the extensive laws set out mainly 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 and some have their origins in the 19th Century. The purposes of the existing law are unclear, and it is impossible to establish the benefits to a modern society accruing from them or to judge the performance of the arrangements against any aims.

4. Certain aspects of the law in respect of fixed and artificially early closing times are generally agreed to contribute to public order and policing problems. Local licensing 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.

5. The law concerning the sale and consumption of alcohol by children is deeply confusing to parents, other members of the public and visitors to this country, and is largely discredited. In particular, the law governing the consumption of alcohol by minors relates only to the area in licensed premises described as the bar area, leaving children in other parts at liberty to consume alcohol there.

6. About 9,000 premises (of which about two thirds are nightclubs providing dancing) serving alcohol also require permanent public entertainment licences that operate in parallel and for which local authorities are responsible, but create duplication and unnecessary costs and bureaucracy. In addition, the hours during which alcohol may be sold and entertainment provided are frequently different, leading to absurdities where a bar must shut while dancing may continue for several hours. Large numbers of such licences are also granted in respect of premises where alcohol is not sold or consumed. Existing public entertainment licensing law lays down no procedures for the processing of applications and local authorities have been left

to create their own. This produces inconsistency between one local authority area and another and licences are granted under arrangements that sometimes appear to applicants to be procedurally unfair. For example, evidence from objectors which has not been previously disclosed to the applicant is accepted at hearings, leaving little opportunity for challenge. It is presently unlawful for local authorities to raise revenue through licensing fees. Fees should therefore do no more than recover the costs of the licensing regime. But there is also evidence that fees charged by some local authorities can be excessive, disproportionate and unjustified.

7. The existing law prevents any integration of the two systems. Separate licensing arrangements apply to other forms of public entertainment for which local authorities are responsible. Cinemas and theatres are licensed separately even though the essential considerations are similar and relate primarily to fire and other safety issues.

8. Other licensing systems apply to the licensing of night cafes and late night refreshment houses (premises opening between 10.00pm and 5.00am in some instances, 11.00pm and 5.00am in some others and midnight and 5.00am in others), even though concerns about disturbance to local residents and public order are equally relevant to all of the licensing arrangements described above. There is evidence of considerable confusion about the applicability of these licensing regimes. Different regimes apply inside and outside Greater London without any obvious justification. Local authorities have widely varying attitudes and approaches to the enforcement of these licensing regimes. Some focus on cafes and takeaway outlets serving hot food and hot drink as was originally intended by Parliament. Other local authorities insist on spreading the licensing net to cover small grocery and convenience shops and supermarkets which open late at night and sell sandwiches and other produce which can be consumed without cooking.

9. Venues providing hospitality and leisure are diversifying and providing services to the public that 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.

10. In April 2000, the Government published a White Paper ("Time for Reform: Proposals for the Modernisation of Our Licensing Laws" Cm 4696) setting out proposals to remedy the failures of the existing licensing regimes. A public consultation followed to which over 1200 individuals and organisations responded. In May 2001, the Government announced its intention to implement its proposals by means of primary legislation. Only two changes were made to the

original White Paper proposals in the light of the consultation. Appeals against the decisions of the licensing authority would go to the magistrates' courts (not to the Crown Court) and each local authority would be required to publish a licensing policy every three years. Some of the White Paper proposals were implemented by the Criminal Justice and Police Act 2001. These were:

- the introduction of new police powers to close down disorderly and excessively noisy pubs and nightclubs instantly for up to 24 hours;
- test purchasing of alcohol being placed on a statutory footing to increase the risk of detection for those selling alcohol to minors;
- changes in the defences which may be mounted against charges of selling alcohol to minors, which made it easier to secure convictions; and
- changes to the offences in respect of permitting drunkenness on licensed premises so that managers of premises as well as licensees were responsible.

11. The Licensing Bill is intended to implement the remaining White Paper proposals. The repeal of the existing legislation and the Bill will deliver the following:

- a single integrated scheme for licensing premises which sell alcohol, provide entertainment (including theatres and cinemas) or provide refreshment late at night;
- a new system of personal licences which allows holders to sell alcohol for consumption on or off any premises covered by a "premises licence" in the same way that a driving licence permits the driving of any car;
- personal licences to be issued for ten years to those aged 18 years or over without a relevant criminal record following a test of knowledge of licensing law and social responsibility;
- the sale of alcohol to minors would be made unlawful anywhere and not just in licensed premises¹;
- the repeal of the vague "fit and proper" test following a hearing in court in current licensing law;
- premises licences to incorporate operating conditions limited to crime and disorder, public safety and public nuisance factors and

¹ An exception will allow 16 and 17 year olds supervised by an adult to consume beer, wine (which includes made wine), and cider (which includes perry) with a table meal on licensed premises.

set locally on the basis of the balance of operator's requirements, residents' views and police and fire authority assessments;

- national "permitted hours" to be abolished, with the potential for up to 24 hours opening 7 days a week, subject to consideration of the impact on local residents;
- a presumption that children be allowed access to any part of licensed premises, but licensing authorities to have discretion to restrict (for example, by requiring adult supervision) or to deny access for children to unsuitable licensed premises;
- a new "light touch" system of temporary permissions (up to 72 hours) for small scale events involving simple notification to the police and licensing authorities;
- personal and premises licences to be issued by local authorities making the regime democratically accountable to local people;
- an avenue of appeal for adversely affected parties to the local magistrates' courts;
- licences to be supported by a more flexible range of graduated sanctions instead of the present single all or nothing sanction of loss of licence;
- fees to be set centrally by the Secretary of State to ensure consistency and fairness and to do no more than fully recover the costs of administration, inspection and enforcement;
- abolition of a range of archaic exemptions;
- new requirements for licensing the sale of alcohol, provision of entertainment or late night refreshment on boats travelling within the United Kingdom;
- new arrangements for non-profit making "registered" clubs supplying alcohol to their members which preserve their special status and important traditions;
- powers for the Secretary of State to establish common hours by statutory instrument for premises selling alcohol, providing entertainment or late night refreshment on special national occasions to avoid the widespread need for variations of licences;
- the abolition of the Welsh Sunday Opening Polls which are held every seven years and inhibit investment and reduce employment opportunities in certain Welsh districts.

III OPTIONS

(a) Identified options

12. In developing the White Paper "Time for Reform" proposals and in preparing the Licensing Bill four options were identified. These were:

Option 1

- leave all the relevant legislation relating to the sale of alcohol, provision of public entertainment, theatres, cinemas and late night refreshment unchanged.

Option 2

- integrate alcohol and public entertainment licensing (where alcohol is sold at the venue), but leave public entertainment (where no alcohol is sold), theatres and cinemas, night café and late night refreshment house licensing unchanged.
 - Option 2a would involve magistrates as the licensing authority
 - Option 2b would involve local authorities as the licensing authority

Option 3

- integrate alcohol, public entertainment, cinema, and theatre licensing, but leave night café and late night refreshment licensing unchanged
 - Option 3a would involve magistrates as the licensing authority
 - Option 3b would involve local authorities as the licensing authority

Option 4

- Integrate alcohol, public entertainment, cinema, theatre, night café and late night refreshment licensing into a single licensing scheme
 - Option 4a would involve magistrates as the licensing authority
 - Option 3b would involve local authorities as the licensing authority

(b) Summary of option assessments

13. Following a full public consultation, Option 4b was judged by the Government to be most beneficial overall and it forms the basis of the Licensing Bill. The Government's assessment of the Options was as follows:

Option 1

14. 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 in the case of alcohol licensing, court attendance. Tourists would remain confused and dissatisfied by the rules under which licensed premises in England and Wales operate. Permitted hours would continue to contribute to police problems of controlling public order at 11pm and 2am (3am in London) in town and city centres. Purchase and consumption of alcohol by minors would not improve. Measures to improve public disorder would be inhibited and their effectiveness reduced by the maintenance of fixed closing times. Concerns highlighted by the Thames Safety Inquiry about the exemption of pleasure boats from alcohol licensing controls would not be addressed. However, there would be no upheaval for industry, local government and the police associated with the transition to any new arrangements.

Options 2a and 2b

15. Most of the benefits described in Section IV below would arise and most of the savings of £1.97 billion over a period of ten years, described in Section VI below, would be achievable. Unnecessary bureaucracy and inconsistent decision-making would all be significantly reduced for businesses whose main activity is selling and serving alcohol. Savings to industry would accrue from the elimination of the overlaps at the intersection of the alcohol and public entertainment licensing systems. Flexible licensing hours would improve public order problems. Underage purchase and consumption of alcohol would be reduced. If Option 2b were implemented local residents would have a more accessible and accountable system for pursuing problems of nuisance and annoyance caused by premises licensed for the sale of alcohol. Option 2a would leave the position on accessibility and accountability unchanged. The industry would also be encouraged to develop more family- and tourist-friendly environments within pubs. The arrangements would be self-financing with 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 respondent, as appropriate, by the

magistrates' court (Option 2b) or the Crown Court (Option 2b). The exclusion from the modernisation process of public entertainment not involving alcohol, theatres, cinemas, night cafes and late night refreshment houses would maintain bureaucratic disincentives to diversification and the development of multi-purpose leisure complexes.

Options 3a and 3b

16. The advantages and disadvantages of Options 2a and 2b would be supplemented by better streamlining across the whole area of hospitality and leisure. It would better match business strategies, remove disincentives to 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 consumers gather late at night into an overall licensing strategy for controlling public order, nuisance and general disturbance late at night.

Options 4a and 4b

17. The advantages of Options 3a and 3b would be combined under Option 4 with the ability of a single licensing authority to ensure that the conditions and hours attached to licences for the range of premises operating during the day and night were targeted on the achievement of the same objectives. These are the prevention of crime and disorder; the assurance of public safety; the minimisation of public nuisance, particularly late at night; and the protection of children from harm. Full integration would allow industry maximum flexibility to develop as the market dictates with only necessary, fair and proportionate regulatory burdens imposed, while ensuring that local residents have easy access to the procedures.

18. The advantages of Option 4b over Option 4a are that:

- opportunities to integrate local licensing policies with local authority lead crime prevention, planning, transport and cultural strategies are enhanced;
- appeal procedures can be made cheaper, faster and more accessible for all parties as it would not be necessary to involve the Crown Court acting as a Court of appeal;
- there would be greater opportunities for deregulation under an administratively based licensing regime than one which is court and judicially based; and
- the system would be more accessible and democratically accountable to the local electorate who are directly affected by the

licensing decisions taken, which is an essential element of any modernisation of the existing regimes.

19. Following the publication of the White Paper and a widespread public consultation, the Government concluded that Option 4b was the most beneficial. The rest of this Regulatory Impact Assessment therefore examines the merits of Option 4b.

IV BENEFITS

20. Broadly, the measures in the Bill coupled with the re-enactment of "White Paper" proposals introduced by the Criminal Justice and Police Act 2001 should produce the following beneficial and measurable outputs and anticipated outcomes:

- savings to the retail, hospitality and leisure industries of £1.97 billion over a ten year period, resulting from a reduction in compliance costs (see below)
- a more gradual and orderly pattern of dispersal of peak densities of consumers between the hours of 11pm – 12 midnight, and 2am and 3am in urban centres;
- significant reductions in reports of drink-related disorder and in arrests for related offences;
- reductions in binge drinking prior to fixed closing times and related drunkenness on the streets;
- increased availability of refreshment and transportation facilities due to more evenly spread demand;
- increased competition in the late night economy;
- a decrease in reports of nuisance and noise in direct proportion to the lower densities of consumers leaving licensed premises at any given time;
- an increase in successful prosecutions for selling to minors;
- a decrease in levels of underage drinking for 11 – 15 year olds by ending the exempted places where the purchase and consumption of alcohol by minors is presently permitted;
- an increase in the number of foreign visitors using licensed premises by extending opening hours and making premises more family- and child-friendly;

- an increase in the number of children visiting licensed premises by ending the present restrictions;
- a reduction in legal costs 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.

21. The Licensing Bill should also provide the following benefits for the important stakeholders described below:

Residents and the local community

- 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
- increased democratic accountability in terms of decision-making through local authority control
- more scope for intermediate punishments – end of single revocation option - to ensure problem premises can be brought into line
- better planned and more attractive town and city centres
- better integration of licensing arrangements with local crime prevention, transport and cultural strategies
- benefits of an improved tourist economy, including local investment and employment

Consumers

- greater diversity and choice within the late night economy providing wider attractions for wider age groups (because the current licensing regimes essentially mean that only music and dancing venues may open later catering almost exclusively for younger age groups)

- more convenient shopping reflecting modern lifestyles
- a recognition that Sunday is now a day of leisure on which people expect to be entertained in ways that they choose
- increased competition by allowing pubs, bars, wine bars, cafes and restaurants to open later and compete with nightclubs and discotheques
- more facilities for family entertainment
- better facilities and attractions for people on holiday
- improved safety on and a safer environment when leaving licensed premises
- greater clarity on laws for parents accompanying children

Retail, hospitality and leisure industries

- reduced bureaucracy and applications for extension of hours, variation, renewal and permission to operate occasionally away from licensed premises
- reduced hearings, time away from business and associated legal costs
- fair and consistent fee setting
- greater clarity and transparency on what's legal
- grocery shops and supermarkets selling sandwiches and cold foodstuff which can be consumed immediately being taken outside of the night café/late night refreshment house regime
- more assured professional standards
- increased opportunities for professional musicians by removing deterrents to obtaining public entertainment licences by making them easier and cheaper to obtain
- improved standardisation and consistency across licensing districts
- greater flexibility to deliver what the public wants and when the public want it

- reduction in losses arising from trade in smuggled goods
- end of the Welsh Sunday Opening Polls which inhibit investment and reduces employment opportunities in certain Welsh districts

Local Government

- control of the licensing of premises selling alcohol which impact on local communities in terms of disorder and nuisance
- greater scope to integrate licensing policies with strategies on crime prevention, public protection, planning, transport and culture
- greater scope to meet the concerns of local residents
- improved investment in local economies and improved employment opportunities
- freedom to develop 24 hour cities
- safer and more attractive town and city centres, and ability to attract more tourist income
- powers to control late night refreshment houses outside London without the need to resort to closing orders
- reduced potential costs of staging Sunday Opening Polls in some Welsh Districts

The Police

- powers to close down instantly for up to 24 hours disorderly and excessively noisy licensed premises
- powers to seek court orders to close licensed premises for a limited period in specific geographical areas where widespread disorder is anticipated
- greater leverage to bring problem premises into line through graduated system of sanctions
- end of the mass exodus from licensed premises at fixed closing times which generates problems of disorder and other policing difficulties

- power to seek a review at any time of any licence on grounds of the need to prevent crime and disorder and to seek changes to licence conditions or its revocation

Musicians/Performers

- end of the disincentive to seek music and dancing licences because of integration of the licence regimes and inconsistent and often excessive charges for those licences
- incentive for all licensed premises to add permissions in respect of music and dancing to licences at no additional cost over and above other permissions sought
- therefore more opportunities to perform in licensed premises

V RISKS

22. Failure to modernise in this area could seriously inhibit 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 are 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. Where there is a concentration of clubs and discotheques, similar crime peaks occur between 2am and 3am on those days. The most recent British Crime Survey showed that 16 per cent of all violent incidents took place in and around pubs and clubs. A study in Southampton showed that 21 per cent of all offences of violence and disorder were associated with specific pubs and clubs, and where offences were explicitly violent, the proportion rose to 1 in 3. The same study showed that six pubs out of scores in Southampton accounted for 50 per cent of all the violence and disorder associated with licensed premises there.

23. In addition, the following risks associated with the Bill for individual stakeholder groups have also been identified:

Residents and the local community

- some scope for disturbance later into the night than presently observed

- a lack of regard for religious holidays (Good Friday, Christmas Day etc) and Sundays
- a lack of regard for other days observed by other religions
- failure of complimentary Government policies addressing disorder and anti-social behaviour in the streets away from licensed premises
- light touch arrangements and minimal qualification for temporary events causing disturbance
- concerns over unaccompanied children having increased access to licensed premises

Consumers

- failure of licensed premises to take advantage of longer opening hours
- failure of licensed premises to take advantage of increased opportunities to admit children and families
- failure of licensed premises to take advantage of easier permissions for the provision of entertainment such as music and dancing

Retail, hospitality and leisure industries

- a more competitive late night environment threatening some businesses (pubs, restaurants and other businesses becoming free to operate post-midnight in a market currently dominated by nightclubs and casinos)
- increased vulnerability to prosecution and conviction regarding sales to minors
- greater liability to sanctions because of their graduated nature and end of single penalty of revocation
- excessive use by police of powers of closure
- increased regulation of late night food take-away and fast food outlets outside London
- overly zealous enforcement by local authorities

- indirect costs associated with licence conditions prove higher than anticipated

Local Government

- insufficient funding to manage efficiently and enforce the licensing regime if Secretary of State sets licence fees too low to allow for full cost recovery
- limited control and discretion for licensing committees if local residents, police, environmental health officers and other interested parties fail to raise objections to licensee's proposals for the operation of their premises
- lack of control over small and temporary events permitted under the light touch arrangements
- undermining of licensing policy by appeal decisions in the magistrates' courts
- removal of fixed closing times and introduction of extended opening hours fails to deliver expected benefits in terms of noise nuisance

The police

- removal of fixed closing times fails to deliver anticipated benefits in terms of improvement in alcohol related crime and disorder and does not ease pressure on police at current closing times
- failure of complimentary Government policies (e.g. fixed penalty notices) addressing disorder and anti-social behaviour in the streets away from licensed premises

Musicians/performers

- venue operators fail to take advantage of increased opportunity to provide live music at no additional cost following abolition of the "two musicians" rule
- venue operators favour other licensable and non-licensable forms of entertainment

24. The Government considers that all of these risks can be controlled and managed through mechanisms incorporated into the Bill, its associated secondary legislation and guidance issued by the Secretary of State, which licensing authorities and appeal bodies

would be obliged to take into account under the terms of the legislation. All of these risks are therefore considered to be low.

VI COMPLIANCE COST ESTIMATES

Background to the businesses affected

25. There is no individual business which can properly be described as typical of the retail, hospitality and leisure sectors affected because the new licensing regime covers such a wide-range of business outlets.

26. In England and Wales, there are currently 110,000 premises licensed for the sale of alcohol for consumption on the premises. These include pubs, nightclubs, restaurants, hotels, wine-bars and café bars. Some are operated by major companies which own as many as 5,000 outlets. Others are single businesses. There are also about 45,000 shops, stores and supermarkets licensed to sell alcohol for consumption exclusively off the premises. Once again the businesses range from major chains of supermarkets (about 8,000) to small corner shops (about 32,700) run individually. In general, garage forecourt convenience stores find it difficult to obtain such licences because of special provisions and considerations. Only about 540 petrol stations hold such licences. Just over 22,000 non-profit making registered members' clubs hold certificates granted by magistrates' courts permitting them to supply alcohol for their members and guests for consumption off or on those premises. Membership of such clubs varies from as few as twenty-five members to several thousands. Just over 200 theatres are also licensed to sell alcohol. The 155,000 licensed premises are required to renew their licences every three years. The registered clubs normally renew their certificates every ten years but are often required by magistrates to renew them more regularly. Full details are provided in Table 1 below.

Table 1

Premises licensed for the sale of alcohol	England	Wales	Total
Pubs, bars, wine-bars etc	66,551	4,848	71,399
Nightclubs and casinos	6,601	540	7,141
Restaurants	19,203	1,127	20,330
Residential	4,215	307	4,522
Combined residential and Restaurant	2,694	422	3,116
Proprietary membership clubs (commercial)	3,487	261	3,748
Registered members' clubs (non-profit making)	20,487	1,550	22,037
Theatres	201	17	218
Supermarkets	7,421	633	8,054
Shops and stores	30,615	2,112	32,727
Other off-licensed premises	3,231	138	3,369
Garages/petrol stations	475	71	546
Total	165,181	12,026	177,207

27. These businesses and clubs are restricted by permitted hours which require them to close at fixed times, normally 11.00pm on weekdays and 10.30pm on Sundays. Special restrictions apply on Christmas Day and Good Friday. Any extension of these times must be authorised by magistrates in the form of special orders of exemption, general orders of exemption, special hours certificates, supper hour certificates and extended hours orders. Some of these may only be sought if other facilities are to be provided at the premises. For example, special hours certificates are restricted to premises holding music and dancing licences issued by the local authority or with permission to operate as a casino. Some extensions are also time-limited. Special hours certificates may not normally be granted after 2.00am (or 3.00am in the West End of London only). Casinos can however obtain such a certificate until 6.00am. At times, this leads to absurdities whereby a public entertainment licence permits dancing until 4.00am but no sales of alcohol are permitted after 2.00am.

28. Each year about 7,500 new licences (off-licences and on-licences) to sell alcohol are sought and about 6,500 are granted. In addition, about 1,100 new club registration certificates are sought and about 1,000 are granted.

29. The licences and certificates above concern premises where alcohol is sold or supplied on a regular basis. In addition, about 22,000 organisations each year seek "occasional permissions" from magistrates to sell alcohol temporarily at premises which are normally unlicensed. These organisations include, for example, charities, schools and local community groups. Around 41,000 occasional permissions are sought each year by these organisations and just over 40,000 are granted.

30. The number of venues licensed for public entertainment on a permanent basis is relatively limited. The vast majority also sell alcohol. Just over 9,000 on-licensed premises and registered members' clubs hold "permanent" public entertainment licences (or "certificates of suitability" as they are called for registered clubs), and about 6,000 of the premises holding such licences are nightclubs which provide dancing or the "clubbing" experience. The businesses affected again vary considerably from small independent clubs with capacities in the low hundreds to major chains and a small number of very large nightclubs with capacities up to 3,000. These licences must be renewed annually by application to the local authority. There are also about 600 cinemas in England and Wales employing about 13,000 people. Each holds a cinema licence issued by the local authority which must be renewed annually.

31. Figures for the number of temporary public entertainment licences issued to a wide variety of businesses, organisations, public bodies, schools and charities are uncertain. CIPFA estimates that 46,000 public entertainment licences are issued in England and Wales annually of which it can be assumed that about 37,000 are of a temporary nature. This Assessment adopts these estimates in the absence of any other centrally held data.

32. Figures for the number of premises licensed as night cafes or for the provision of late night refreshment (where no alcohol is involved) are uncertain as no central data is maintained, and many local authorities maintain only paper records. In London, night cafes include “sit down” cafes not serving alcohol, take-aways, and similar fast food outlets. The interpretation of which premises should be so licensed under the legislation is unclear with local authorities taking widely differing attitudes. Some London boroughs have sought to use the vague definitions to justify licensing grocers, supermarkets and garage forecourt shops. Outside London, late night refreshment houses refer solely to “sit down” cafes not serving alcohol, but the authorities have powers to issue closing orders in respect of take-aways causing disturbance in the community. 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. The range of premises affected is extremely diverse, including sandwich bars, coffee shops, cafes, fish and chip shops, mainstream chicken, burger and pizza suppliers, and a huge range of ethnically diverse takeaway meal providers. These businesses range from major chains to small independents. There are estimated to be 23,500 takeaways in the United Kingdom of which about 9,000 are fish and chip shops, but the figures are questionable because the uncertainty about which premises are being included. The number that open later than 11.00pm is unknown and as has been pointed out above, many choose not to open later because of the problems associated with the exodus of vast numbers of people from public houses simultaneously.

33. Private and public transport services such as buses, train and underground services, taxis and mini cabs to a lesser extent would also be affected by the reform of the licensing regimes. In many towns transport systems, including taxis, gear their operation to "permitted hours". Many public transport systems therefore end their services soon after the 11.00pm exodus. Many taxi firms also stop running around 11.00pm to avoid the problems associated with the peak densities at pub closing times. In addition, with two fixed closing times - 11.00pm and 2.00am (3.00am in the West End of London) - there is no extended market throughout the night for transport companies, sometimes making it uneconomic to run services on a continuous basis. However, recent changes to taxi fare structures in London have made “black cabs” more readily available in the early

hours of the morning; and London also continues to develop its night bus services.

34. The hospitality, leisure and entertainment industries broadly employ around 2.3 million people, of whom about 1 million are employed in alcohol licensed premises. As many as 1 in 5 of all new jobs created in recent years have been in the hospitality sector. The retail sector employs very large numbers but not all of these staff (for example, in a supermarket) are engaged in the sale of alcohol. The country spends over £30 billion per annum on alcohol that generates over £12 billion in duty and VAT revenue. Most alcohol is purchased for home consumption and is sold by existing off-licences rather than purchased at on-licensed premises.

Current compliance costs for a typical business

35. Table 2 below sets out the compliance costs of the current licensing regimes of a range of businesses and charities operating varied licensable activities. Figures are also given for the costs over a period of ten years. This is because the compliance costs of the arrangements in the Licensing Bill occur "up front" in the life of a business, with dwindling costs in subsequent years. Accordingly, later in this Assessment, it will be necessary to compare current and new compliance costs over a reasonably lengthy period and ten years is an appropriate period. This would avoid any misleading annual comparison.

Table 2

Summary table of current compliance costs for individual businesses		
Type of business	Approximate annual cost of licensing	Costs over ten years
On-licensed premises (a pub or restaurant), without permissions for public entertainment	£1000 - £7,000	£10,000 - £70,000
On-licensed premises (a nightclub), with extended permitted hours and public entertainment licence	£1,200 - £32,000	£12,000 - £320,000
Charity with two occasional permissions to sell alcohol each year	£120 - £320	£1,200 - £3,200
Charity with two occasional permissions to sell alcohol and two temporary public entertainment licences each year	£420 - £620	£4,200 - £6,200
Pleasure boat providing alcohol and entertainment on permanent or temporary basis	£nil	£nil
Ordinary person or business	£355	£3,550

seeking a single temporary public entertainment licence for a small event annually		
Cinema without bar	£500	£5,000
Cinema with a bar or bar with cinema	£1,500 - £7,500	£15,000 - £75,000
Theatre (bar only for patrons) purely presenting plays	£600 - £2,750	£6,000 - £27,500
Theatre (bar only for patrons) presenting plays and other public entertainment	£700 - £25,000	£7,000 - £250,000
Night café inside London operating between 11.00pm and 5.00am	£750 - £3,100	£7,500 - £31,000
Take-away inside London operating between 11.00pm and 5.00am	£750 - £3,100	£7,500 - £31,000
Late night refreshment house outside London operating between 10.00pm and 5.00am	£180 - £2,500	£1,800 - £25,000
Take-away outside London operating between 10.00pm and 5.00am	£nil	£nil

36. Accordingly, within the business sectors affected, comprising companies with a market value exceeding £70 billion, there is no typical business. Alcohol licence fees are set centrally by the Lord Chancellor's Department. An alcohol licence, valid for three years, now costs £30. Renewal similarly now costs £30. Over ten years the cost is therefore £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 variation. Each application for variation can generate similar legal costs as those incurred on application, but sometimes lower: therefore between £75 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. Only 4 per cent of on-licensed premises hold such certificates and the number sought and granted has declined markedly in each year since 1995. Total costs of compliance with the existing alcohol licence laws over ten years for an average public house are therefore estimated to be between £10,000 and £70,000 at current prices (or £1,000 and £7,000 annually). For a major operator owning 300 pubs, the figures

would be between £3 million and £21 million. Finally, these cost estimates have not included the unquantifiable costs of time spent by licensees and managers attending court in respect of applications, renewals, variations and extensions. These costs are unquantifiable because court practice varies, with some requiring court attendance by the applicant and others accepting written applications in certain circumstances. The industry, however, regards these costs as significant.

37. The 40,000 occasional permissions granted each year to 22,000 organisations (often charities, schools and societies) require the payment of a fee of £10. Applicants are normally required to attend court which adds an unquantifiable cost in personal time, and occasionally legal representation could be necessary costing between £50 and £150. Over ten years, assuming two applications per year by each organisation, the compliance cost would be between £1,200 and £3,200 (or £120 to £320 annually).

38. The courts do not incur costs from their superintendence of the alcohol licensing regime because their costs are recovered through licensing fees.

39. Full details of current alcohol licensing fees are given in Table 3 below.

Table 3

Alcohol licensing permission	Fee (£)
Grant of children's certificate	16.00
Grant of new licence (including provisional grant)	30.00
Ordinary removal	30.00
Special removal	30.00
Affirming provisional grant	10.00
Declaring provisional grant final	10.00
Renewal (every three years)	30.00
Transfer	30.00
Insertion or revocation of six day or early closing condition	10.00
Insertion, variation or revocation of condition relating to restriction of part of the premises to off-sales	10.00
Insertion, variation or revocation of seasonal licensing condition	10.00
Extending existing licence to additional types of liquor	16.00
Provision of a certified copy	10.00
Registration as owner	5.00
Consent to modification of deposited plans	16.00
Consent to alteration of licensed premises	16.00
Making, variation or renewal of order for extended hours in restaurants, providing entertainment	25.00
Making, variation or renewal of order for extended hours in premises of registered clubs providing entertainment	25.00
Endorsement of memorandum of protection order on justices' licence or on copy	10.00
Grant of a certificate in respect of extension of hours in	

restaurants	25.00
Grant of a general order of exemption	16.00
Variation or revocation of a general order of exemption	16.00
Grant of a special order of exemption	10.00
Grant of an occasional licence	10.00
Grant of a special hours certificate	25.00
Grant of a provisional special hours certificate	25.00
Declaring provisional grant of a special hours certificate final	10.00
Revocation or variation of a disqualification order	10.00
Issue, variation or renewal of club registration certificate	16.00
Revocation or variation of order disqualifying club premises	10.00
Seaman's canteen licence grant, renewal or transfer	16.00
Seaman's canteen consents to modification of deposited plans, alteration of premises and declaration of provisional grants final	10.00
Grant of an occasional permission	10.00

40. The police have the major role in enforcing alcohol licensing law. It is difficult to calculate the police costs because they are marginal to and indivisible from their general role of policing the community, particularly at night. Associated police costs mainly arise from the policing of the streets after customers leave the controlled environment of licensed premises. There is no doubt however that fixed closing times contribute to binge drinking shortly before 11.00pm and 2.00am. At these times, there is a simultaneous exodus on to streets of large numbers of people suffering peak intoxication, following which people queue for fast food and transport in congested circumstances that lead to friction and dispute. This puts the police under serious resource pressures at these times. The police also incur costs associated with court attendance in respect of applications, renewals, variations, extensions of alcohol licences and of course, in respect of related prosecutions. As court practice varies around the country in terms of the extent to which police presence is required by magistrates, it is not possible to provide a useful estimate of the overall costs. However, it must be recognised that the business sectors affected contribute to the costs of police enforcement in ways other than through licence fees. Duty and VAT on sales on alcohol exceed £12 billion annually. In addition, other taxes and business rates contribute towards policing costs, as does the income tax of the customers of licensed premises who expect to be kept safe when visiting town and city centres in their leisure time.

41. Pleasure boats providing alcohol to passengers on inland or coastal waters while travelling within the United Kingdom are exempt from alcohol licensing. Although they may operate as floating pubs or nightclubs, they incur no costs whatsoever arising from alcohol licensing.

42. Public entertainment licence fees are set by local authorities and vary enormously. Some are based on the capacity of the venue and some vary according to the type of entertainment involved. Some are

based on a fixed rate with an add-on based on capacity. Fees for permanent licences are between £50 and £20,000 (though a small number exceed this figure), depending on the venue and the local authority. Renewal – where the licence does not concern a one-off event – is required annually². Legal costs could again be between £150 (uncontested) and £5,000 (contested). There are significant hidden costs of compliance because of the need to meet a range of public safety requirements: for example, a discotheque might be required to install sophisticated air conditioning or sound proofing systems costing over £100,000, which would not normally have been required under planning or building regulations. These indirect costs are not quantifiable, but can impact disproportionately on smaller venues and businesses where local authorities take the approach of imposing standardised conditions. Ignoring these hidden costs of compliance, we estimate that for a 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 (or £200 to £25,000 annually). These costs would be additional to the costs of their licence and permissions to sell alcohol for extended hours. Fees for temporary licences again vary enormously. The range of events requiring a temporary permission is similarly wide-ranging from a major pop festival to a small local event. There are an estimated 37,000 temporary public entertainment licences issued each year.

43. CIPFA estimate that local authority expenditure on public entertainment licensing fees in England and Wales is around £23.5 million for 46,000 licences. This produces an average licensing cost of just over £500 or a cost of £5,000 over a period of ten years if renewal is sought annually. Charities tend to be charged at the lower end of the local authority fee charges.

44. CIPFA estimates that the income to local authorities in England and Wales from public entertainment licensing fees is around £16 million annually. This suggests that each licence issued by the issuing authority costs only £155 on average. The Home Office and the Local Government Association issued a circular in April 2000 expressing concern about the level of fees being charged by some local authorities. It does not appear that the circular made any significant impact on local authority practices in this area. Accordingly, the best available estimate (which must be treated with considerable caution) is that public entertainment licensing costs local authorities in England and Wales about £235 million over a period of ten years, but they currently derive income of £160 million over an equivalent period.

² Events such as the Glastonbury Festival generate one-off fees well in excess of the figures quoted above, but such events are rare and need not affect the calculations here.

45. Pleasure boats, while in motion, are again exempt from public entertainment licensing as they do not fall within the definition of "premises" or "place" used in the current legislation. As such, although some may provide extensive clubbing and dancing facilities for the paying public, they incur no licensing costs.

46. For a business providing both alcohol and music and dancing, as many nightclubs do, the combined costs over ten years of the licensing regimes would therefore be potentially anything between £12,000 and £320,000 at current prices (or £1,200 to £32,000 annually).

47. There are about 600 cinemas in England and Wales which pay a fee annually which may not under the terms of the relevant legislation exceed £600. Licences are issued by the local authority. Most fees are set at this level, though renewal fees are sometimes lower at around £450. For a cinema without a bar selling alcohol, the costs of licensing are around £500 annually or £5,000 over a period of ten years. For the cinema industry, however, the real costs to the industry arise from indirect costs associated with licensing conditions, many of which are laid down in secondary legislation in standard form and are archaic, and most of which focus on public safety, particularly fire safety. For a cinema with a bar, additional costs arise from the need to obtain an alcohol licence which would not be dissimilar from those falling on a traditional pub. The costs to such a cinema would be £1,500 - £7,500 annually or £15,000 - £75,000 over a period of ten years.

48. There are 218 permanent theatres registered with licensing justices as selling alcohol at performances. There is no reliable central data of the number of theatres operating which do not have bars. Each theatre has to be licensed by the local authority for the performance of plays (which includes, for example, ballet). However, a large number of theatres also put on productions in which music and dancing is presented which does not form part of a play. Such theatres require both a public entertainment licence and a theatre licence. Fees relating to theatre licences vary as widely as public entertainment licence fees. Fees are as low as £75.00 - £100.00 in parts of Wales, but are commonly set more commonly between £500 and £2,500 depending on the capacity of the theatre. Some fees are considerably higher in London. Some local authorities merely charge an "add-on" fee over and above the public entertainment licence fee and some charge both independently. An alcohol licence fee is not required by a theatre selling alcohol immediately before and during performances. If the theatre wishes its bars or restaurants to operate normally for the benefit of the public as well as theatre-goers a full justices on-licence would be required. The fee for renewal of a theatre licence is normally similar to the fee for grant. Accordingly, it is estimated that the compliance costs of licensing to the average theatre

with associated legal costs are between £600 and £2,750 annually or between £6,000 and £27,500 over a period of ten years, assuming it does not operate a bar open a bar or restaurant open to the general public and presents only plays. For a theatre presenting plays and other presentations involving music and dancing, we estimate that the annual costs including legal costs are between £700 - £25,000 annually or £7,000 and £250,000 over a period of ten years.

49. The variable and high annual cost of public entertainment licences also has a serious impact on self-employed performers and entertainers such as musicians. Many premises licensed exclusively for the sale of alcohol are reluctant to obtain public entertainment licences because of the uncertainties of recovering their outlay through profits resulting from the entertainment in question. Only about 5 per cent of premises holding alcohol licences hold permanent public entertainment licences. These high costs therefore currently function as a deterrent to the employment of such performers. This impact is partially off-set at present by the exemption in the Licensing Act 1964 which allows two musicians to play live (and no more, even if they appear as separate acts) in on-licensed premises without the need for a public entertainment licence. This exemption further acts as a disincentive to licensees to seek a public entertainment licence allowing more significant performances of music involving more entertainers on their premises.

50. The costs to an average business associated with night café and late night refreshment are difficult to estimate because of the wide variations in the fees charged by local authorities. For example, the fee for a late night refreshment house licence in Barrow-in-Furness is charged at the flat rate of £35, while a similar licence for a night café licence in Islington in London is charged at the flat rate of £615. Differences of 1700 per cent cannot readily be explained on the basis of local cost differences. There are instances of fees exceeding £1,000 annually but these are rare. Legal costs are estimated to be between £150 (uncontested) and £2,500 (contested or when contesting a closing order). Some holders of night café licences in London claim that the regime costs their businesses more than £3,500 annually. However, costs appear to be substantially less outside London. In addition, late night takeaway premises are not licensed outside London, though they can be made subject to closing orders. Total costs of compliance for a night cafe in London over ten years are therefore estimated to be between £7,500 and £31,000 (or £750 and £3,100 annually). Outside London, the total costs of compliance for an average business within the licensing regime over ten years are estimated to be £1800 and £25,000 (or between £180 and £2,500 annually).

51. There are also costs to society generally from the failure of the existing licensing regimes to achieve their purposes and aims. The

problems of disorder associated with fixed closing times for on-licensed premises produces costs for the National Health Service, and particularly in respect of the pressure on Accident and Emergency Departments. It is not possible to quantify these costs as it remains unclear what elements are directly attributable to the failure of the licensing regimes. However, 125,000 facial injuries are suffered by people in Britain every year in violent circumstances. In 61 per cent of cases either the victim or the assailant had been drinking alcohol. Half of all facial injuries sustained by persons between the age of 15 and 25 years were the result of assaults. Nearly half of these were in or near bars and 40 per cent were severe enough to necessitate specialist surgery.

52. In addition, many local residents believe that the existing alcohol, public entertainment and late night refreshment licensing laws do not adequately protect them from disturbance at night. However, the majority of complaints made by local residents at night do not concern disturbance from licensed premises directly but from people in the street who have been in licensed premises earlier and are now beyond the control of the licensee.

53. Finally, the failure of the alcohol licensing laws to prevent the sale to and consumption by minors of alcohol has a wide-ranging impact. Underage purchase and consumption of alcohol has been shown to do long term damage in terms of educational attainment, poor health, job prospects, and the propensity to commit crime. Professor Paul Willner of the University of Wales conducted test purchasing studies using 13 and 16 year olds which were published by the Alcohol and Education Research Council in August 2000. Each of the children involved held a valid and well-known proof of age card showing his or her correct date of birth. In 80 per cent of the cases – higher for girls – the 16 year olds were successful in making a purchase. Almost a third of the 13 year olds were similarly successful. As many as 60 per cent of the 16 year olds were not even challenged for proof of age.

54. In December 2001, the Government placed the test purchasing of alcohol on a statutory footing for the first time and amended the defences which can be mounted on prosecution for offences concerning sales of alcohol to minors to make it easier to secure convictions. These measures will be re-enacted by the Licensing Bill. The intention was that these measures should act as a strong deterrent against unlawful sales. Because of the deterrent effect, particularly of test purchasing, no major increase in prosecutions and consequential costs to the Crown Prosecution Service and the courts was anticipated. There were expected to be some costs for trading standards officers in mounting "test purchase" operations, but it was not anticipated that these would need to be undertaken on any significant scale. This is already an area of enforcement for which the police have responsibilities and no additional costs to them were

anticipated. It is currently too early to say whether these anticipated outcomes have been proven.

55. It has been unlawful to sell alcohol to people under eighteen years old since 1923. No sensible estimate can be made of the income the industries derive from unlawful sale of alcohol to minors. The regime introduced in December 2001 provides a stronger deterrent for licensees who are selling unlawfully to minors because they would be at greater risk of arrest and prosecution. Existing penalties on conviction are a fine up to a level 3 (£1,000); and on a second or subsequent conviction for an offence committed by the holder of a justices' licence, the licence may be forfeited.

56. Since the 19th Century, it has been a requirement of licensing legislation that licensees should not allow their premises to fall into disorder. It is also an existing offence to allow drunkenness on licensed premises, and unlawful to sell alcohol to a person who is drunk. Licensees who allow such developments will be failing to comply with the terms, restrictions and conditions of their licences and with licensing law generally. In December 2001, the Government introduced new police powers to close down disorderly or excessively noisy pubs or clubs instantly for up to 24 hours. Police action to close down licensed premises which are disorderly is not to be taken in cases where the police are satisfied that the licensee has acted lawfully and promptly to involve the police where problems arise. In most cases, early closure of premises by sensible licensees is taken on a voluntary basis in co-operation with the police. Where the police powers are used, the business affected incurs commercial losses relative to the period of closure. This could be less than an hour or take up much of the next day's opening hours in extreme cases. Accordingly, potential losses could range from £100 (closure for less than one hour in a small public house) to £50,000 (closure of a 2,000 capacity "superpub" for a period of 24 hours at a weekend). The licensee will also be likely to incur legal costs as he is required to appear before the licensing justices as soon as possible after the event. The legal costs of these proceedings might be between £1,000 (no appeal) to £10,000 (with appeals). These costs do not include the legal costs arising out of criminal prosecutions, which might be taken against the licensee. In cases where the licensee is found by the justices to be seriously at fault, his licence can be revoked, which can involve the loss of his/her livelihood.

57. These measures primarily act as a strong deterrent against the development of disorder on licensed premises. Because of the deterrent effect, the police powers rarely need to be deployed. When these powers were enacted, the Government estimated that less than a dozen closing orders each year were likely to be made after the powers came into force. There was not expected to be any major increase in the work of the licensing justices in following up the police

action. Where the police do use the powers to close licensed premises, the burden of monitoring those premises for the rest of the night is reduced. It was further estimated that there would be no compliance costs for businesses which maintain orderly premises and which do not unlawfully permit drunkenness and disorder. For a small percentage of businesses which were expected to continue to allow such developments despite the risks (less than 1 per cent of the 110,000 on-licensed premises), the costs were estimated to be between £1,100 and £60,000 in terms of commercial losses during the period of closure and legal costs associated with subsequent revocation proceedings. The costs to a business of the potential loss of licence following a court hearing were unquantifiable, involving both owners of businesses and salaried managers. It is too early to confirm whether these estimates were correct. However, the Government assurance that the numbers of closing orders would be low appears to be accurate in that no more than 4 closing orders were made in the first six months of operation and none of these led to the revocation of the business' licence.

Estimated compliance costs for a typical business under the new regime

58. Table 4 sets out the estimated compliance costs for a range of businesses currently engaged in licensable activities and for those entering this business area anew following the coming into force of the new legislation.

Table 4

Summary table of estimated compliance costs for individual businesses under the new regime		
Type of business	Approximate annual cost of licensing first year	Costs over ten years
Existing on licensed premises (a pub, restaurant) without permissions for public entertainment (assuming personal licence cost incurred)	£130 - £5,560	£580 - £7,000
New on-licensed premises (a pub, restaurant) without permissions for public entertainment (assuming personal	£300 - £5,760	£800 - £7,000

licence cost incurred)		
New on-licensed premises (a nightclub) with extended permitted hours and providing public entertainment	£300 - £5,760	£800 - £7,000
Charity holding two events at which alcohol is sold each year	£40	£400
Charity holding two events at which alcohol is sold and music and dancing provided	£40	£400
Pleasure boat selling alcohol and providing entertainment on permanent basis	£300 - £5,760	£800 - £7,000
Pleasure boat selling alcohol and providing entertainment four times per year	£80	£800
Ordinary person or business staging a single small (less than 500 people) event involving public entertainment each year	£20	£200
New cinema without bar	£100 - £5,100	£550 - £6,350
New cinema with bar	£300 - £5,760	£800 - £7,000
New theatre (bar only for patrons) purely performing plays	£300 - £5,760	£800 - £7,000
New theatre (bar only for patrons) presenting plays or other public entertainment	£300 - £5,760	£800 - £5,760
Night café inside London operating between 11.00pm and 5.00am	£100 - £5,100	£550 - £6,350

Take-away inside London operating between 11.00pm and 5.00am	£100 - £5,100	£550 - £6,350
Late night refreshment house outside London operating between 10.00pm and 5.00am	£100 - £5,100	£550 - £5,100
Take-away outside London operating between 10.00pm and 5.00am	£100 - £5,100	£550 - £5,100

59. The new regime involves a personal licence (for those selling alcohol) and a premises licence, which covers the sale of alcohol, provision of public entertainment (including music and dancing, indoor sports, theatre, and cinema). 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 falling on an applicant would need to cover the cost of the qualifying course that we estimate at between £150 and £175 and a Criminal Records Bureau disclosure certificate – £12. It is estimated that the fee, covering the cost of administration and licence production, would therefore be set at about £30. No renewals would be required within a period of ten years. The total cost would be between £200 and £230 (all falling in the first year of validity, and assuming no subsequent breaches of licensing law). Personal licences would only be required by people selling alcohol. There are 155,000 people holding such licences currently. The Government anticipates making transitional arrangements permitting the vast majority of current holders of justices' licences to obtain a new personal licence without the need to undertake the qualifying test or Criminal Records Bureau check. All have already satisfied the courts that they are “fit and proper” people to sell alcohol. The compliance cost in respect of the personal licence for these people would therefore be £30 each over the first ten years of the system operating. For all 155,000 existing alcohol licence holders, this produces a total compliance cost of £4.65 million in the first ten years. The number of other people who might want to obtain a personal licence is uncertain. Some may choose to obtain such a licence merely to include it on their curriculum vitae for career purposes. However, around 6,500 new alcohol licences are granted each year and this provides a useful guide to the throughput over time. Each new applicant would incur the full compliance cost of between £200 and £230 as a one off cost in the year of application, with no renewal costs arising for ten years.

60. The premises licence could cover any combination of permissions for alcohol, public entertainment, theatre and cinema, and late night refreshment after 11.00pm at night. No renewals would be involved and if an operating schedule was well prepared, only very rare variations should be necessary. The Government also proposes that all existing licence holders should have their existing permissions registered with the new licence authority during the period of transition and these would be guaranteed, save for a small number being currently challenged by the police on grounds of crime and disorder (probably no more than 200 out of about 182,000). These existing licence holders would simultaneously apply to vary their guaranteed licences, for example, to permit extended hours or allow greater access for children or to permit the performance of music. The fee for this registration and variation would be the same as the fee for obtaining a premises licence under the new regime. The premises licence fee would need to cover administration and a hearing (if contested) as well as inspection costs and some enforcement costs. Licence fees being set centrally by the Secretary of State 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 for permanent sites. Certain major events would also require premises licences, for example, major pop festivals. Exceptionally, very large major events might justify a higher fee because of the extensive inspections that might be involved. As the premises 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 continuing 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). In addition, some businesses would change hands, requiring simple notification of the holder of the new licence holder to the police and licensing authority, paying a fee of £10.00 for the registration. We believe that 10,000 each year could change hands in this way. Similarly, in the case of premises selling alcohol, notification of the appointment a new premises supervisor (a personal licence holder) would require similar notification for a fee of £10.00. Given the large number of managed pubs, shops and supermarkets, we also estimate that there would be up to 20,000 such notifications annually. Over the first ten years of operating the scheme, the costs for each business would be between £580 (if the cost of the personal licence is absorbed by the business) and £2,000. 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 £580 and £7000 at current prices.

61. For businesses not involved in the sale of alcohol, and therefore not having to absorb the costs of a personal licence, these costs would be slightly lower (see Table 4 for examples).

62. The scheme is designed so that the vast majority of decisions in respect of licensing decisions should be made without hearings, so that only applications giving rise to legitimate representations by local residents, the police, environmental health or fire authorities would give rise to a hearing. Accordingly, we estimate that the likely compliance cost to any average business would be at the lower end of the £580 to £7,000 range because of the reduced legal costs.

63. Similarly, as it would be possible for applicants to discuss operating schedules with the key authorities (police, environmental health officers, fire authorities) before submitting proposals to the licensing authority representations should be rare; and the number of

appeals should be low. This reinforces our view that the likely compliance cost for a typical business would be at the lower end of the £580 to £7,000 range over ten years.

64. With regard to the licensing of temporary events, it has been noted above that there are 40,000 occasional permissions granted to about 22,000 organisations (often charities, societies or schools) each year for the sale of alcohol on normally unlicensed premises. There are also an estimated 37,000 temporary public entertainment licences granted. Many of these temporary licences will cover the same event (and licences are sought from both the magistrates and the local authority under present arrangements). The administration in respect of “temporary event notices” (which would affect events lasting no longer than 3 days and attracting no more than 500 people) would be minimal and the fee for each such event notice should not exceed £20. Save in very exceptional circumstances, there would be no hearing and no legal costs. Assuming that each organisation continued to make around two applications each year, compliance costs for individual organisations over ten years would be £400.

Total compliance costs

65. There are currently 155,000 premises licensed to sell alcohol and 22,000 registered clubs (177,000 premises and 155,000 potential personal licence holders). In addition, 7500 new applications for both personal and premises licences (6,500)/club premises certificates (1,000) could be expected each year, while at the same time some businesses would cease to trade and clubs would close. We think it is reasonable to assume a net increase of about 4,000 new premises licences per year, giving 40,000 new premises licences over a ten-year period. In addition, there would be 65,000 new personal licences over a similar period. We also estimate that there would be 100,000 notifications of new holders of the premises licence and 200,000 notifications of the designated premises supervisor each of which would require registration over a period of ten years.

66. These 65,000 new personal licences would produce a compliance cost of **£13 million to £15 million** during each period of ten years or £1.3 million to £1.5 million every year. As explained in paragraph 59 above, the initial transition would result in virtually all 155,000 existing alcohol licence holders receiving personal licences during the first year following Royal Assent. This produces a compliance cost of £4.65 million in respect of these licences over ten years (but all payable in the first year of those ten). Renewal of these licences, which would all fall for renewal in a single year, would cost a similar amount, but the cost would fall outside the ten year period on which our calculations are based for comparison with the existing regime. In respect of all personal licences, the total compliance cost would be

between **£18 million** and **£20 million** during the first ten years of operation. It does not follow that all of these costs would be absorbed by businesses as some would be borne by private individuals. However, for the purposes of this Assessment, we have assumed that these would be costs falling on businesses.

67. The compliance costs for the 40,000 new premises licences would be between **£23.2 million** and **£280 million** over the period of ten years. In addition, 177,000 businesses and registered clubs would register their existing licences and permissions and club premises certificates following Royal Assent and apply to vary them. The total compliance cost for these businesses and clubs would be between **£103 million** and **£1.24 billion**. No figures are available in respect of night cafes and takeaway outlets, and it is difficult to provide meaningful estimates. However, we can estimate on the basis of the numbers available that out of 23,500 take-aways perhaps up to 5,000 might seek to open after 11.00pm. This would add a compliance cost of between **£3 million** and **£32 million** over ten years. There are also 600 cinemas which are not currently included in the alcohol statistics that would have a compliance cost over ten years of between **£0.3 million** and **£4.2 million**. Finally, according to figures provided by the Maritime and Coastguard Agency, there are estimated 600 pleasure boats and ships operating in inland and coastal waters of which we assumed that one third might want to provide alcohol and/or music and dancing for the passengers. This would produce an estimated compliance cost for them of between **£0.2 million** and **£1.4 million**. To these figures must be added the costs of 100,000 notifications of a change in premises licence holder (e.g. following the sale of a business), which would be **£10 million**; and the cost of 200,000 notifications of changes in the designated premises supervisor (a personal licence holder), which would be **£20 million**. Accordingly, the total compliance cost in respect of premises licences over the first ten years of operation would be between **£159 million** and **£1.6 billion**. For the reasons cited in paragraphs 62 and 63 above, we consider that it would be reasonable to assume that the actual cost would be at the lower end of this range. In addition, there are significantly smaller businesses than the larger high capacity city centre bars. More significantly, current licensing figures relating to revocation, non-renewal and warnings show that disputes are relatively infrequent, meaning that legal costs under the new regime would only be incurred at low levels. The high end of our estimates in respect of premises licence assume that a serious legal dispute occurs for all premises. We consider that a reasonable estimate for premises licence costs would therefore be **£610 million over ten years**, (comprising £500 million generally falling in the initial transitional period and £10 million for new applications recurring annually and producing an additional £100 million over ten years). To this should be added the costs associated with personal licences set out in paragraph 66. This produces a total compliance cost for the retail,

hospitality, entertainment and leisure business sectors affected of about **£630 million**.

68. The Government hopes the scheme proposed will encourage the industry to improve professional standards and train staff working on premises which might give rise to disorder or disturbance, mainly because of the sale of alcohol. This should involve training over and above the qualification required for a personal licence. There are around 1 million people working in the hospitality and leisure industry where the sale of alcohol is the principle activity with a fairly high staff turnover. Although incurring these costs would be entirely voluntary for the industries affected, we have included in our assumptions additional training expenditure each year of the order of **£100 million** or **£1.0 billion** over ten years.

69. As the changes in the law concerning test purchasing and the police powers to close down disorderly and excessively noisy pubs and nightclubs were introduced in December 2001, any costs arising from them would not be a new cost arising from the impact of the Licensing Bill.

70. We can therefore reasonably and conservatively estimate that the total compliance cost for the retail, hospitality, entertainment and leisure business sectors affected would be **£1.6 billion** over the first ten years of operating the new licensing regime.

71. Based on our knowledge of the market, Table 5 shows the total compliance cost associated with the current licensing regimes over a period of ten years for all businesses.

Table 5

Existing licensing costs over a period of ten years			
Nature of business	Number of Premises	Estimated costs over ten years for each business	Total over ten years
Mainly pubs, restaurants, bars, hotels, registered clubs etc	123,000	£10,000 - £70,000	£1.2 billion - £8.6 billion
Shops, stores and supermarkets	45,000	£1,000 - £15,000	£45 million - £1.97 billion
Nightclubs, pubs and bars holding PELs	9,000	£12,000 - £320,000	£108 million - £2.9 billion

New licences granted	40,000	£1,000 - £15,000	£40 million - £600 million
Cinemas	600	£5,000	£3 million
Passenger boats	600	£nil	£nil
Night cafes, take aways and late night refreshment houses	2,000	£7,500 - £31,000	£15 million - £62 million
Take-aways outside London	3,000	£nil	£nil
Total estimated compliance cost over ten years			£1.4 billion - £14 billion

72. Total compliance cost over ten years can therefore be very broadly estimated at between £1.4 billion and £14 billion depending on the number of legal disputes. Such a broad estimate is not particularly helpful. As when discussing the compliance costs of the proposed new regime, we accept that serious legal disputes are not that widespread. However, because such a heavy percentage of the premises sell alcohol, they are involved in a court based process which increases the need for legal assistance. We therefore consider that a more reasonable estimate lies at the lower end of the range described in Table 5. We have therefore tested our assumptions in consultations with various parts of the industry. The outcome of these consultations, involving samples of more than 4,000 premises selling alcohol and samples of the other business areas strongly suggests that the cost of compliance currently is between £400 - £500 million annually. A reasonable estimate of the total current compliance cost is therefore of **£4 billion over ten years**, with these costs spread relatively evenly over the period.

73. £4 billion over ten years less the total estimated compliance cost of £630 million for the new regime over a similar period indicates a saving of £3.4 billion, with the most diversified businesses saving most. From this it is reasonable to deduct £1.0 billion (although it would be voluntary expenditure), which the Government wishes to see the industry spend on training to improve professional standards. In addition, the existing licensing regimes will run in parallel to the new ones for 12 months during the anticipated period of transition, which as we have estimated above would cost £400 million. Accordingly, we therefore estimate overall savings to industry of **£1.97 billion** over ten years (£4 billion minus £630 million for the new system for ten years, minus £400 million for one year of the old regimes, minus £1 billion for training) or £197 million annually. However, it could be misleading to describe this as an annual saving evenly spread over the initial period of ten years. Under the new arrangements costs are front ended with dwindling costs over subsequent years. Spread over

185,000 businesses, an average business would therefore be just over £10,000 better off at the end of a ten year period or just over £1,000 per year if the saving was evenly spread. With no renewable procedures attaching to the premises licence, we expect some increase in the savings in subsequent periods of ten years.

VII OTHER COSTS/SAVINGS

74. A reasonable estimate would be that 50,000 temporary event notices would be issued under the terms in the Bill each year to about 22,000 organisations (the vast majority of which are not engaged in formal commercial activity) or 500,000 notices over ten years. This assumes a considerable overlap between current occasional permissions issued by justices (40,000) and temporary public entertainment licences (37,000) issued by local authorities. The total compliance cost for temporary notices over ten years would be about £10 million. This compares with the current compliance cost for 22,000 organisations in respect of alcohol of between £26.4 million and £70.4 million. As we believe that most of these cases do not give rise to legal dispute, a reasonable estimate is of £30 million over ten years for permission to sell alcohol occasionally. Additionally, these organisations currently meet the cost of the 37,000 temporary public entertainment licence fees which is about £130 million over ten years. We therefore estimate that the saving to these 22,000 organisations mainly involving charities, societies, community groups and educational institutions, would be about **£150 million** over the first ten years of operating the new regime.

75. As the powers described in the White Paper to combat underage purchase and consumption of alcohol and to allow the police to close down disorderly and excessively noisy pubs instantly are already in force, the Bill will have no new impact in this context and no new costs or savings should arise.

76. There should be no new costs to residents or to customers.

77. All local government costs arising from the new licensing regime would be recovered through the licence fees and through the annual charges. Fees would cover administration (including staff costs, accommodation, IT and training), inspection and enforcement. There would be a training cost in the period prior to implementation for local councillors who are to be members of licensing committees, which would have to be met from the licence fees when received. We broadly estimate these costs to be **£2.5 million**. The costs of the magistrates' courts in respect of appeals should be wholly recovered through awarding costs on a win/lose basis.

78. In the mid- to long-term, a substantial proportion of the savings on the current costs of around £400 million annually for industry

would be in the form of income lost to the legal profession because legal costs are the heaviest costs within the existing alcohol licensing regime.

79. However, of the existing income for the legal profession, up to **£100 million** annually, would shift to businesses marketing appropriate training packages to the staff of licensed premises. But this is dependent on businesses within the retail, hospitality, entertainment and leisure sectors choosing to reduce their risks of incurring sanctions or police action by investing in staff training.

80. It is impossible to say what the costs to industry may be of the sanctions which may be imposed on businesses in respect of premises and the associated legal costs. These costs will of course be controllable. They should be negligible for well-managed and socially responsible businesses. The costs should only arise where there have been persistent problems on the premises involving breaches of licence conditions or with disorder or with other criminal problems on the premises. The licensing authority would have powers to amend licensing conditions, which could reduce trading hours, or to suspend or revoke licence. Each year, CIPFA estimate that about 725 summonses or formal cautions are issued against a background of 46,000 public entertainment licences (or in 1.5 per cent of cases). In respect of alcohol, about 180 licences are revoked annually out of a total of around 155,000 licences (or 0.1 per cent of cases). We therefore think it is reasonable to assume that around 0.5 per cent of premises might find themselves subject to action by the licensing authority each year – about 1,000 premises out of a total of about 185,000. However, the costs could range from nothing, if a warning was given, to the loss of the business as a whole if the licence was revoked. We estimate that of the 1,000 premises affected, fewer than 250 would experience revocation of the premises licence or club premises certificate each year or 2,500 premises over a period of ten years.

81. It should be noted that while broadly the retail, hospitality and leisure industry would enjoy savings of £1.97 billion over the first ten years of operation, two sectors would incur costs. These costs are included in our overall estimates. They involve pleasure boats and take-away and other fast food outlets outside London. Pleasure boats are presently exempt from both alcohol and public entertainment licensing regimes; and late night take-away premises are exempt from the late night refreshment regimes outside London. We estimate that the costs to industry for 200 boats would be about £600,000 at most over a period of ten years. We also estimate that for about 2,000 take-away premises operating after 11.00pm at night the costs should not be more than £4 million over a period of ten years. These costs are justified either in the interests of public safety, in the case of

boats, or in the interests of preventing disorder and disturbance in the case of take-aways operating into the early hours of the morning.

82. The police would continue to have a major role in enforcing licensing law particularly in respect of premises licensed to sell alcohol. Their costs will continue to be marginal to and indivisible from their general role of policing the community, particularly at night. Associated police costs will also continue to arise mainly from the policing of the streets after customers leave the controlled environment of licensed premises. However, the abolition of fixed closing times and the prospect of a more orderly and gradual dispersal of customers should significantly reduce the number of public order incidents which the police currently are required to attend. Although the number of such incidents should be fewer, they could be expected to occur later and be more evenly spread throughout the night. There should be no increased costs for the police, but it is therefore unlikely that there would be significant savings. However, the new regime should provide much greater flexibility in the deployment of police resources at night and the ability to focus on other areas of crime. Under the current system, the police also incur costs associated with court attendance in respect of applications, renewals, variations and extensions of alcohol licences. These costs would be reduced as the number of hearings involving police officers should be very significantly reduced under the new arrangements. Police activity would become more administratively based.

83. Performers and entertainers should benefit significantly from the reforms proposed. Currently, the presentation of public entertainment in premises licensed to sell alcohol requires the venue to incur the additional costs of acquiring such a licence³. This deters 95 per cent of premises holding justices' on-licences from obtaining such licences. In turn, this reduces the income of entertainers and performers. Under the Bill, such premises would need to obtain permission to sell alcohol under a premises licence, but permission to put on public entertainments could be obtained without paying an additional fee. This should remove the main deterrent to the provision of public entertainment. Accordingly, there is a potential for the overall amount of income of performers and entertainers to increase.

VIII MONITORING AND REVIEW

84. As can be seen from the preceding paragraphs, the impact of the licensing laws cannot be seen in isolation from wider Government strategies. These include strategies addressing:

- alcohol, including consumption by minors

³ Except under the provisions of Section 182 of the Licensing Act 1964 which permits up to two live performers to perform in on-licensed premises without the requirement for a public entertainment licence.

- crime prevention generally
- youth crime
- drugs, particularly in the “clubbing” context
- measures to reduce alcohol-related crime, disorder and anti-social behaviour in the streets
- sales of contraband alcohol
- safety in public places
- noise disturbance
- popular culture, including music, dancing, theatre and films
- the tourism economy
- planning of town and city centres
- transport policy

85. While licensing law can and does contribute to the achievement of aims in all these areas of local and central government interest and activity, the success or failure of the Bill in terms of impact will in part depend on the successful delivery of these integrated policies and strategies.

86. As well as monitoring cross-Department interests, the Government has formed an Advisory Group to assist it in developing the Bill for presentation to Parliament involving all the major stakeholders. These include a broad cross-section of trade associations and professional bodies representing the business sectors affected, representatives of the club movement, representatives of the local authorities, the courts, the police, licensing law practitioners and groups with a general interest in the impact of alcohol on our society, like Alcohol Concern. This group will continue to advise the Government after Royal Assent and to consider the impact of the Bill after enactment. It will therefore assist the Government in monitoring, tracking developments and measuring impacts.

87. If the Bill is approved by Parliament in its present form, it should produce the measurable outputs and outcomes described and listed in Section IV.

88. These outputs and outcomes will be monitored by the

Department for Culture, Media for Sport and by the other Government Departments with the lead interest. For example, the Home Office are the lead Department in measuring and monitoring crime and anti-social behaviour; the Department of Health lead on monitoring the consumption of alcohol by minors, publishing figures annually; and DEFRA are the lead Department on measuring the effectiveness of mechanisms to prevent noise disturbance, whether they come from licensed premises or customers in the street after they have left such premises. Where the indications are that the Bill, following enactment and transition, is less effective than envisaged in delivering the outputs and outcomes described above, the Government will retain two key means of influencing change. The first is through national guidance to the licensing authorities, which those authorities would be required to take into account when forming their licensing policies, when carrying out any of their licensing functions or when making any licensing decision. The second is through secondary legislation and regulation. The Secretary of State would be empowered to change these regulations governing licensing procedures and processes and, for example, licensing fees if it was clear that this was necessary.

IX COMPETITION ASSESSMENT

89. The Licensing Bill should increase competition in the night economy. Currently, nightclubs (mainly discotheques) dominate the post-midnight entertainment market. This is an effect of current licensing law. The vast majority of public houses and registered members' clubs are obliged to close at 11.00pm on weekdays and at 12.30am on Sunday nights. They require special hours certificates to open later, but must have music and dancing licences (or a "certificate of suitability" if a registered members' club, which is essentially the same thing) in order to qualify for such a certificate. Similarly, no restaurant may serve alcohol after midnight unless it provides live entertainment between midnight and 1.00am, even though many of their customers do not want such entertainment. The broad effect of these laws is to create a post-midnight market dominated by discotheques and nightclubs catering mainly for people aged between 18 and 35.

90. The Bill should provide a level playing field for all styles of venue within the hospitality, entertainment and leisure sectors of industry. For example, public houses, bars and restaurants will be free to compete in the post-midnight market. It would be possible to open later to provide a venue where people of any age can drink alcohol or eat without the need for music and dancing.

91. The hospitality and leisure market, and the broader domestic tourism market, are also inhibited by the current licensing laws. Businesses are unable to compete for family trade (which goes to

businesses not selling alcohol) because of the restrictive nature of the alcohol laws with regard to children. The Bill would largely remove these inhibitions.

92. Finally, the archaic restrictions within the licensing laws are confusing and unattractive to visitors to this country and undermine efforts by the tourism industry to market towns and cities in England and Wales which are in direct competition with European cities as tourist destinations.

X CONSULTATION

93. Between 1997 and 1999, the Home Office conducted a detailed review of the current alcohol, public entertainment, cinema, theatre and late night refreshment licensing laws. In conducting this review, the Home Office consulted with all the business sectors affected. In April 2000, the Government published the White Paper "Time for Reform" which set out its proposals for the reform and modernisation of the alcohol, public entertainment and late night refreshment licensing laws, in England and Wales. A public consultation followed until 31 July 2000, to which just over 1200 individuals, trade associations, professional trade bodies, public bodies, and other organisations replied. The Government considered these responses and in May 2001 announced its intention to implement its proposals (subject to a small number of changes emerging from the consultation) by means of primary legislation. In preparing the Licensing Bill, the Department for Culture, Media and Sport formed an Advisory Group including representatives of the business sectors affected, including both large and small businesses, and has continued to consult this Group about the detail of the Bill.

94. In addition, the Small Business Service has been consulted and has expressed the view that the Bill brings about a change that is most welcome to the whole of the trade sectors affected. They support the justification for the change and consider that the costs quoted are the best available for estimate. They have indicated that the benefits will be experienced by the whole of the retail, hospitality and leisure industry, as well as consumers and local residents. They agree that there ought to follow a reduction in criminal behaviour, especially alcohol-related offences, which will result in a reduced need for late night town-centre police presence. They highlighted the need for appeal provisions that are robust, quick and inexpensive to reassure existing licensees that overly zealous local authorities can be challenged effectively.

XI DECLARATION

95. I have read the Regulatory Impact Assessment and I am satisfied that the balance between cost and benefit is the right one in the circumstances described.

Dr Kim Howells
Parliamentary Under-Secretary of State
Department for Culture, Media and Sport

[Date]