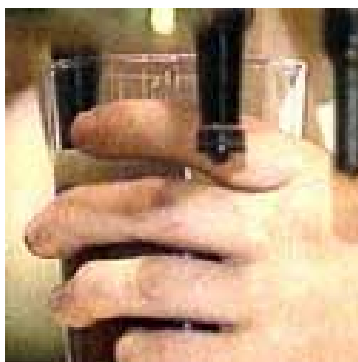


6. 2

A NEW PREMISES LICENCE 2



45. We envisage that a premises licence would authorise the sale and supply of alcohol, the provision of public entertainment (including plays and films as well as music or dancing) and the provision of refreshment throughout the night. Clearly not all businesses want to do all these things. They could opt out, when applying for a licence, of provisions which they did not need. The conditions attached to licences would vary according to the extent of the business to be done. If they subsequently wanted to extend their operations they could of course apply for a licence with fewer or no opt outs.

46. We therefore propose that:

- ✓ applications for premises licences should be supported by a proposed operating plan, showing opt-outs that applied. The plan should give a reasonable indication of the limits within which the premises would be run (eg. the provision of a discotheque for up to 200 people until 1am at weekends) but need not go into commercial or other detail. The plan need not be longer than one or two pages; and should be simple and straightforward
- ✓ the plan would also include details of the proposed measures to be taken to prevent crime and disorder (eg. door supervisors, CCTV, toughened glass); ensure public safety (eg. fire exits, capacities); and minimise unreasonable public nuisance (eg. sound proofing)
- ✓ the plan might also include details of an intention to sell or supply alcohol for temporary periods from separate and temporary premises (for example, where a publican sells from a stall at a country fair or provides a bar at a wedding event) up to 25 times in any year, subject to notifying the local police 5 days in advance of any occasion; additional permissions would require use of the procedures described in paragraph 57 below
- ✓ the decision whether to grant a licence, and if so whether to accept the proposed measures as conditions, or to attach others, should similarly be confined to considerations of impact on crime and disorder (about which responsibilities also arise for local authorities under section 17 of the Crime and Disorder Act 1998), public safety (but not beyond the requirements of fire safety and other health and safety regulations) and unreasonable public nuisance. Licensing authorities should not be able to take into account

Industry Facts 2
There 2 are 2 about 2 111,000 2 on-2
licensed premises in England and2
Wales employing around 1 million2
staff. 2It 2is 2the 2biggest 2area 2of
employment growth with 1 in 5 of
all new jobs created. Companies2
invest 2around 2£1 2billion 2every 2
year, and the sector is growing at2
an annual rate of 10 per cent. 2

commercial matters such as the economic demand for a new venue. The licensing decision should not, for example, be a re-run of the planning decision

- ✓ All local residents and businesses within the licensing area, the police, the fire authority, and local representatives of the HSE should be notified of the existence of the application within 15 working days of the operating plan being received, and have a right to view the operating plan within a further 15 working days. It would be open to any of the above to register objections to the plan which must relate to the licensing criteria within a further 20 working days
- ✓ *a presumption in favour* of granting a licence without a hearing should flow from the absence of objections which relate to relevant licensing considerations received within a statutory time limit from the police, fire authority, local representatives of the HSE or local residents or businesses
- ✓ a hearing should take place only following the laying of a reasonable objection relevant to the prescribed purposes of crime and disorder, or public safety or unreasonable public nuisance, with the burden of proof falling on those laying the objection
- ✓ a licence should be issued either for the life of the business providing alcohol sales and/or public entertainment at the premises, or until such time as it is revoked or suspended; but conditions attached to the licence may be varied on application by the licence holder (or the police on grounds of a change of circumstances relating to crime prevention or public order)
- ✓ in the case of one-off events, such as a pop concert in a park, there should also be provision for temporary licences (see paragraph 54 below)
- ✓ it should be open to the police, or the licensing authority, or the fire authority, or local representatives of the HSE to initiate prosecutions for breach of licence conditions
- ✓ the local authority, the police, the fire authority, local representatives of the HSE or any local resident or local business should be able to seek a review of the licence and its conditions by the licensing authority on grounds of increased crime and disorder, increased public nuisance, new threat to public safety or relevant change of circumstances since the licence was issued



- ✓ where the request originates from a local resident or a local business, the licensing authority would be empowered to refuse to review a licence if they consider the request to be without merit or they have reviewed the licence within the last twelve months
- ✓ in the interests of consistency, the Home Office, consulting closely with the police, local authorities, the Magistrates' Association and with the hospitality and leisure industry, would provide guidance to the licensing authorities on all these matters.

The provision of late night refreshment

47. It is important first to define which premises providing late night refreshment, but not supplying alcohol, should be within the licensing regime. This essentially involves two criteria: hours of opening and the services provided to the public. A premises licence should be a requirement for premises:

- ✓ kept open for the public to be provided with meals or other refreshments that are for consumption on or off those premises between 11 p.m. and 5 a.m.

48. Why should we license such premises? These premises, including “sit down” cafes, “take-aways” and fast food outlets, are used by customers who may have been drinking at other premises earlier in the evening. There is therefore a potential for disorder on and near these premises. Secondly, because of the numbers of customers who may gather at these premises late at night there is a potential for unreasonable nuisance and disturbance for local residents. By including late night take-aways and fast-food outlets, we recognise that this is not a deregulatory measure outside London. It extends the scope of the licensing regime presently operating in most of London to the rest of the country. However, we believe that this is necessary regulation for the protection of local residents. Later in this White Paper, we have suggested mechanisms to ensure that the controls are the minimum necessary to achieve this necessary protection (see Chapter 7: Conditions and Hours).

New police power to close disorderly premises

49. We have discussed earlier the need for powers to close outlets retailing alcohol in an area where there is a threat to public order. It is also important to consider the issue of disorder where it is arising on the premises themselves. The time lag between concern developing about conduct giving rise to disorder at certain premises and action being taken against those premises by the licensing authority can in many cases be unacceptable. We therefore intend to provide:

- ✓ power for a police officer of the rank of Inspector or above to close licensed premises without notice for up to 24 hours where disorder is occurring in order to protect the public and prevent further disorder.

50. This would create a similar power to that held by the local fire authority which can close premises to protect the public from danger. The sale or supply of alcohol by any person at the specified premises in breach of the police order would constitute an offence. Where this power is exercised the licensing authority would be required to carry out an immediate review of the premises licence and decide whether or not to

revoke the premises licence, or impose sanctions and new permanent conditions. In any case where police concerns about crime and disorder continued, but a hearing by the licensing authority had not yet been possible, it would be open to the police to re-apply their powers for another twenty-four hours. The police would be able to use these powers as often as was necessary in the interests of public order until the necessary hearing had taken place. This might be necessary, for example, over a longer than usual bank holiday weekend.

51. These tough new powers would be an important additional safeguard for the public against disorderly public houses or clubs, and an important incentive to personal licence holders to maintain order on their premises. In addition, they would be an important counter-weight to the trend toward promotional gimmicks involving cheap drinks that can, if poorly managed, lead to increased drunkenness and disorder.
52. To ensure that the police may be confident about the use of these new powers, we intend to provide them with absolute protection from any claims in respect of commercial losses made against them arising out of the use of such powers. We make no apology for the uncompromisingly tough approach these powers reflect. They are an essential counter-balance to the freedom and flexibility our proposals generally provide for the hospitality and leisure industry.
53. The Public Entertainment Licences (Drugs Misuse) Act 1997 recognised that the health and safety of young people at clubs and dance events can be put at risk by the availability of drugs and drug misuse. The police were given powers to seek the revocation of licences in respect of premises which had become the focus of drug problems. The 1997 Act would be replaced and subsumed in any new legislation, and we intend to retain these provisions. The abolition of the public entertainment licence will mean that the provisions would in future be triggered by activity described in the premises licence. So if a venue has opted to have music and dancing included under the premises licence, the provisions described above would apply to that venue. For the sake of clarity, it should be noted that where premises which have not previously held public entertainment licences, but decide to diversify under the new scheme described in this White Paper by providing music and dancing, the provisions included in the 1997 Act would be applied to them.

Temporary licences

54. As indicated above provision will be made for temporary music and dancing events that do not involve alcohol, sometimes on temporary sites, to be licensed for the necessary time. Examples of such events might include pop festivals or one-off concerts in parks. It is important that the safety of the public is assured in the context of such events, but smaller events should not be subject to disproportionate conditions which could make them uneconomic. An operating plan will be needed setting out the necessary measures being taken to prevent crime and disorder, ensure public safety and to prevent undue public nuisance. The plan would also include the hours during which the event would be open to the public. The licensing authority would be able to attach appropriate and proportionate conditions relating to these three purposes to a *temporary premises licence* issued for the temporary period of the event. With regard to public safety, these conditions should not exceed those already imposed under fire safety and HSE regulations. Fees for such temporary licences could be set on the basis of cost recovery. This would mean that the fee could cover only the justifiable costs of administration, inspection and enforcement.

Replacing the occasional liquor licence and occasional permissions

55. We have also considered the position of individuals who do not hold personal licences but who wish to sell alcohol for a temporary period from temporary premises or public places: for example, the church fair at which it is intended to sell home made wine to raise money for a church roof, or at a school's annual summer fair. A requirement for a personal licence with all that entails would be disproportionate in these circumstances. On the other hand, some control is necessary to ensure that unscrupulous people who might be prepared to sell smuggled goods or sell to children at car boot sales can be identified. We therefore propose that:

- ✓ any person intending to sell alcohol for a temporary period at temporary premises would be under a statutory duty to notify the police of the proposal five days in advance of the event taking place. The extent to which checks by the police would be made would need to be judged on a case by case basis.

56. If satisfied, the police would issue a letter stating that they have no objection to the proposal and specifying the period during which alcohol may be sold from the temporary site. In the event that the police do have objections, it would be open to the applicant to appeal to the licensing authority and no permission should be given without allowing the police a full opportunity to make representations. We will provide the police with immunity from any claim against them to recover commercial losses in respect of the decisions taken.

57. Those holding premises licences would normally have obtained consent on grant of the licence to sell or supply alcohol at a temporary site for a temporary period for a number of occasions in any year. The use of these permissions should be notified to the licensing authority and the police at least five days in advance of any event. In exceptional circumstances, this would afford the police an opportunity to object to the licensing authority. The licensing authority could then convene a hearing to consider the objection. It would open to the licensing authority to withdraw the permission or to impose special conditions and restrictions relevant to the circumstances surrounding the event. A right of appeal would exist against such a decision by the licensing authority. It would also be an offence to fail to notify the police or the licensing authority of an intention to sell or supply alcohol from temporary premises. If the holder of a personal licence or a commercial producer wishes to sell alcohol for a temporary period from temporary premises over and above any permission granted on the issue of the main premises licence (for example, a local publican or a wine producer selling from a stall at a county fair), he or she would be required to notify the licensing authority and the police in the same way. An intention to sell or supply alcohol at several, regular events, (for example, monthly fairs during the summer months), could be considered simultaneously. If the police raise objections, and the licensing authority refuse to grant permission, the same avenue of appeal would be open.

58. To avoid any possibility of these arrangements being used to evade the requirement for a premises licence (for example, if a temporary bar was erected at a supposedly temporary site in a tourist area, but which intended to conduct business there for the entire summer), the period of time for which the licensing authority will be

empowered to sanction sale and supply of alcohol in this way should be limited. We think it reasonable to afford the authority powers to sanction temporary arrangements lasting no longer than a continuous period of three days (72 hours). Any individuals wanting to serve or supply alcohol from a “temporary site” for a longer period would need to obtain a premises licence from the licensing authority for that site; and would themselves need to possess a personal licence.

Trading in smuggled goods

59. Criminals selling stolen or smuggled alcohol from vehicles or temporary premises might ignore these requirements as they now ignore the need to obtain an occasional licence for which they would not qualify. Offences will need to be effectively dealt with by the police and HM Customs and Excise.
60. The recent Budget emphasised that fraud and smuggling presented a serious threat to the Government’s health and revenue objectives. The Government is extremely concerned to prevent the use of licensed premises as outlets for smuggled alcohol and tobacco. Accordingly, we stress that under the new arrangements we describe, where premises become the focus for any criminal activity, including trade in smuggled goods, holders of personal and premises licences will be at risk of incurring serious penalties and/or revocation of those licences.