

1.2 INTRODUCTION 2

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Aim

1. This White Paper sets out the Government's proposals for modernising and integrating the alcohol, public entertainment, theatre, cinema, night cafe and late night refreshment house licensing systems in England and Wales. One of the Home Office's key aims is to help build a fair and prosperous society in which the rights and responsibilities of individuals, families and communities are properly balanced. These proposals should improve that balance. They should not be seen in isolation. They marry up with a range of other Government strategies: to reduce crime and disorder (since alcohol is unfortunately a factor in much offending); to encourage tourism (since our licensing laws are a cause of bewilderment and inconvenience); to reduce alcohol misuse (since under-age drinking can lead to life-long problems); and to encourage self-sufficient rural communities (for whom pubs are an important resource).
2. The Government is committed to reducing the burden on business of unnecessary regulation. This White Paper sets out proposals which will contribute to that goal. At the same time, it will be important to ensure that the provision of additional opportunities for alcohol to be bought and sold are matched by additional measures enabling the police and licensing authorities to act promptly to maintain public order and safety, if serious problems arise as a result of those freedoms.

Acknowledgements

3. In framing these proposals we have had the benefit of advice from many sources, including the All-Party Parliamentary Beer Group, the Association of Chief Police Officers, the Magistrates' Association, the Justices' Clerks' Society, the Local Government Association, the Better Regulation Task Force, Alcohol Concern, the Portman Group, the Federation of Licensed Victuallers' Associations, the Committee of Registered Clubs Associations and the leisure and hospitality industry itself.

Purposes of the present licensing arrangements

4. The purposes of the current arrangements for licensing leisure and entertainment outlets are not expressly stated in the legislation: this is itself a drawback. They should, we think, be judged against the following main objectives: 2

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- **Alcohol** 2
 - # protecting the public from crime or disorder
 - # protecting children from too early an exposure to alcohol
 - # preventing nuisance and disturbance to the public
- **Public entertainment (including theatres and cinemas)** 2
 - # protecting the public and minimising nuisance as above
 - # assuring public safety (because events can attract large numbers of people)
- **Night Café/Late Night Refreshment Houses** 2
 - # protecting the public and minimising nuisance as above
 - # health and safety relating to night-time operation

Main licensing controls in the present law

5. The sale of alcohol at on- and off-licensed premises is subject to:
 - ✓ Entry controls - licensing requirements to determine the suitability of premises and people responsible for the sale of alcohol there, operated by the licensing justices (ie. specialist panels of magistrates).
 - ✓ Operating controls – mainly over opening hours and sales to children – with some scope to vary them for particular premises.
6. There are separate public entertainment licensing regimes for London and the provinces, operated by local authorities. There is no “fit and proper person” entry control as such, but:
 - ✓ The law requires annual or occasional licensing of premises for public indoor (and in London open air) music, dancing or similar entertainment (though pub entertainment by up to two live musicians is exempt) and sports events; in the provinces local authorities may but do not have to require open air musical entertainment to be licensed.
 - ✓ Licences include discretionary operating conditions, which typically cover hours; fire and other safety precautions; and control of noise.
7. Theatres have a unique form of local authority licence under their own legislation. This allows the sale of alcohol; the licensing authority can refuse a licence unless an undertaking is given not to serve alcohol. Cinemas also need a local authority licence, but this does not cover the sale of alcohol. The cinema licensing laws also permit restrictions to be placed on the presentation of certain films, in addition to the national controls operated by the British Board of Film Classification.
8. Night cafes (London) and late night refreshment houses (elsewhere) are licensed differently. Restrictions on hours of opening are common to both. But in London conditions relating to health and safety, fire and occupancy can be attached. The general public are unlikely to have heard of these statutory descriptions. In London, night cafes are “sit down” cafes not serving alcohol, take-aways, and similar fast food outlets. Outside London, late night refreshment houses refer solely to “sit down” cafes not serving alcohol. Take-aways are not subject to licensing as such, although they can have closing orders imposed.

Historical purposes of liquor licensing 2

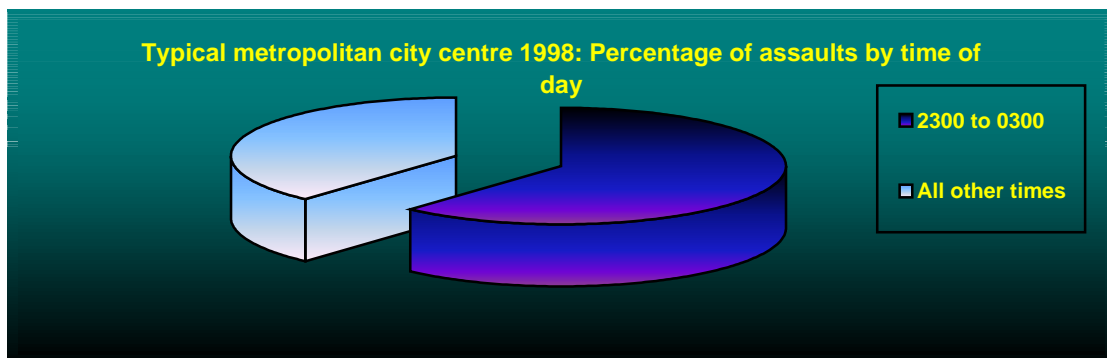
The sale of alcohol has been controlled since the 13th Century. Licensing in its current form was introduced about 200 years ago, when more moderate policies had repeatedly failed to curb drunkenness and disorder. The most recent substantial turn of the screw was in the Great War, when it was thought that drinking would distract workers from the war effort. Policies to protect young people and children appeared on the scene relatively late in the day. Only since 1872 has it been illegal to sell spirits to children. The present age limit of 18 years was introduced in 1923. See Appendix 1 for a fuller account.

Problems with the current arrangements

9. The current arrangements for licensing the sale of alcohol in England and Wales are based on the Licensing Act 1964. The Act:
- ✓ is complex: it provides for over 40 different kinds of licence or permission
 - ✓ promotes excessive bureaucracy – it compartmentalises elements of a venue’s operating arrangements; so that even minor changes to on-licence conditions give rise to court hearings and detailed legal submissions
 - ✓ does not fit with the way in which the industry is trying to develop customer choice by providing a range of attractions and breaking down the traditional distinctions between pubs, clubs and restaurants
 - ✓ causes bewilderment and confusion among tourists who may be able to enjoy a drink at any reasonable time in their own country, and inconvenience for those who want to eat and drink after seeing a film, attending the theatre or an evening concert
 - ✓ is out of kilter with the move towards 24 hour convenience shopping offered by many retail chains, creating inconvenience and irritation for ordinary shoppers
 - ✓ creates public order problems through standard closing hours which mean that large numbers of drinkers come out onto the streets late at night at the same time

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Figure 12



- ✓ fails to provide local accountability for licensing decisions, and makes it hard for local residents to influence the process
- ✓ creates considerable inconsistency, despite valuable initiatives like the Good Practice Guide, in the application of the law by affording such wide discretion to licensing authorities
- ✓ creates confusion around the age limits for drinking alcohol (5 years in pub gardens, 16 with a meal, 18 in pub bar areas)
- ✓ fails to prevent the sale of alcohol to children, at the same time as discouraging the development of pubs as centres for family leisure.

10. Problems with the public entertainment licensing arrangements include:

- ✓ again, too much scope for inconsistencies in the approaches of different licensing authorities, which cannot be justified by real local differences
- ✓ separate licensing systems for theatres, cinemas and clubs, producing unnecessary complexity when the main purposes of regulation are essentially the same
- ✓ scope for local licensing authorities to impose disproportionate and burdensome requirements on venues
- ✓ duplication of the requirements of fire safety and Health and Safety regulations
- ✓ fees (except in the case of cinemas) set at the discretion of local authorities, with some evidence of excessive charging.

11. Problems with the licensing of night cafes include:

- ✓ complexity of the law, with different legislation applying to London and other parts of the country
- ✓ failure of some authorities to enforce the law even minimally
- ✓ vagueness in definitions in the law which enables other authorities to apply it to convenience stores and garages for which it is ill-suited
- ✓ imposition of conditions which are not directly related to the night time operation of the premises.

12. These problems often compound each other, because pubs, clubs and other outlets are caught by more than one licensing scheme run on different lines. The result is that business has to work under unnecessary difficulties and costs, and that consumer choice is unnecessarily restricted.

13. There is therefore a powerful case for simplifying and modernising the law. It should protect the public effectively without weighing down business. We now have burdens which fail as safeguards.

