

## Summary: Intervention & Options

Department /Agency:

Department for Culture,  
Media and Sport

Title: Impact Assessment of Proposal to amend the Licensing Act 2003 to simplify the procedures for Licensing Statements; Interim Authority Notices and Reinstatements on Transfer; and Temporary Event Notices

Stage: Consultation

Version: 1

Date: Nov 2009

Related Publications:

Available to view or download at:

<http://www>.

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**What is the problem under consideration? Why is government intervention necessary?**

In general, the burdens imposed by the Licensing Act 2003 are justified by the need to prevent potential adverse impacts on the four licensing objectives: the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm. However, stakeholders have identified the detailed requirements of the Act with regard to some of the procedures for Licensing Statements; Interim Authority Notices and Reinstatements on Transfer; and Temporary Event Notices as being unduly restrictive and burdensome. The Government therefore agrees that these procedures be simplified, as described in the Consultation Document.

**What are the policy objectives and the intended effects?**

To continue to promote the licensing objectives whilst removing unnecessary burdens on stakeholders including Licensing Authorities, licence holders (and their relatives and business partners) and people holding events under Temporary Event Notices.

**What policy options have been considered? Please justify any preferred option.**

Licensing authorities and representatives of licence holders have been asking us to review and revise the procedures concerned for some years. The Government's preferred options for delivering simplified procedures have been developed in consultation with our key stakeholders.

**When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? We will review these policies in Spring 2013, three years after implementation.**

**Ministerial Sign-off** For consultation stage Impact Assessments:

*I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.*

Signed by the responsible Minister:

..... Date:

## Summary: Analysis & Evidence

<b>Policy Option:</b>	<b>Description:</b>
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<b>COSTS</b>	<b>ANNUAL COSTS</b>	Description and scale of <b>key monetised costs</b> by 'main affected groups' The police and licensing authorities will make assessments of late TENs (not previously necessary). The estimated annual cost (see below) to licensing authorities is £19K- £29K (divided amongst 378 LAs in England and Wales). The cost to the police is estimated at £25K to £99K.
	One-off (Transition) <span style="float: right;">Yrs</span> £0	
	Average Annual Cost (excluding one-off) £44k- £128k	
	<b>Total Cost (PV) 10 years</b> <b>£ 0.37m - £1.06m</b>	
Other <b>key non-monetised costs</b> by 'main affected groups'		

<b>BENEFITS</b>	<b>ANNUAL BENEFITS</b>	Description and scale of <b>key monetised benefits</b> by 'main affected groups' Benefits to stakeholders including Licensing Authorities, licence holders (and their relatives and business partners) and people holding events under Temporary Event Notices due to the removal of unnecessary burdens
	One-off <span style="float: right;">Yrs</span> £0	
	Average Annual Benefit (excluding one-off) £9.2m - £24.1m	
	<b>Total Benefit (PV)</b> <b>£ 76.5m-£200.4m</b>	
Other <b>key non-monetised benefits</b> by 'main affected groups' Removal of need to apply for IAN or RT (see below) within 7 days of bereavement.		

Key Assumptions/Sensitivities/Risks

Price Base Year 2009	Time Period Years    10	<b>Net Benefit Range (NPV)</b> <b>£76m - £199m</b>	<b>NET BENEFIT (NPV Best estimate)</b> <b>£ 137m</b>
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What is the geographic coverage of the policy/option?	England and Wales				
On what date will the policy be implemented?	April 2009				
Which organisation(s) will enforce the policy?	LAs and police.				
What is the total annual cost of enforcement for these organisations?	£ 44k-£128k				
Does enforcement comply with Hampton principles?	Yes/No Yes				
Will implementation go beyond minimum EU requirements?	Yes/No No				
What is the value of the proposed offsetting measure per year?	£ N/A				
What is the value of changes in greenhouse gas emissions?	£ N/A				
Will the proposal have a significant impact on competition?	Yes/No No				
Annual cost (£-£) per organisation (excluding one-off)	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; text-align: center;">Micro £0</td> <td style="width: 25%; text-align: center;">Small £0</td> <td style="width: 25%; text-align: center;">Medium £0</td> <td style="width: 25%; text-align: center;">Large £0</td> </tr> </table>	Micro £0	Small £0	Medium £0	Large £0
Micro £0	Small £0	Medium £0	Large £0		
Are any of these organisations exempt?	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; text-align: center;">No</td> <td style="width: 25%; text-align: center;">No</td> <td style="width: 25%; text-align: center;">N/A</td> <td style="width: 25%; text-align: center;">N/A</td> </tr> </table>	No	No	N/A	N/A
No	No	N/A	N/A		

<b>Impact on Admin Burdens Baseline</b> (2005 Prices)		(Increase - Decrease)
Increase of    £40k - 116k-	Decrease of    £8.3m – 21.8m	<b>Net Impact</b> £ - 8.3m – 21.7m

Key:    Annual costs and benefits: Constant Prices    (Net) Present Value

## Evidence Base

### **Proposal A: Licensing Statements**

#### **The Predicted Burden: Estimated Cost and Frequency of Revisions**

**Licensing Authorities:** We received estimates for the administrative cost of producing and revising licensing statements between 2005 and 2009 from 10 Licensing Authorities (LAs). The average was an estimated **£7,550** per revision, with £4,220 of this spent on administering the consultation. (Other LAs that could not quantify their expense confirmed that it had been substantial). All LAs had conducted the minimum number of consultations when first determining their policy in 2005 and revising it in 2008. There had only been only been a total of five revisions in addition to the minimum requirements, meaning that the current average number of extra revisions in a three-year period is very low. Over an average 10-year period, we therefore think that the average LA currently revises their statement about **3.3** times. However, there have been recent changes to licensing legislation (such as Minor Variations) and further changes are proposed (such as electronic applications). These are likely to result in additional revisions in the near future. We will assume this means an average of 4.3 revisions. In some cases, these may be revisions that do not involve consultation with all mandatory consultees. We will therefore assume that an average of one revision per authority will be conducted that does not require widespread consultation.

**Respondents:** The LAs told us that they received an average of just 18 responses to each consultation<sup>1</sup>. Over the 378 LAs in England and Wales, this means a total of around 6800 responses. An average of 4.3 responses were from national bodies such as trade associations (rather than local stakeholders). This figure was broadly consistent in LAs of different sizes, meaning that national bodies make about 1,650 responses to licensing statement consultations with the remainder (about 5,150) made by local stakeholders. The British Beer and Pub Association (a national trade association) estimated that it took around 4 hours of officer time at £50 per hour to respond to each statement. We will assume that local stakeholders take 3-4 hours to respond with an administrative cost of £16.23<sup>2</sup> per hour. We will assume that national bodies, on average, take 3-4 hours of officer time to respond at a median hourly rate of £33 per hour.

#### **Administrative Cost Savings**

As described above, the estimated average number of revisions in a 10 year period is 4.3. We will assume conservatively that there will be an average saving of 1-2 revisions per authority in a 10 year period. In addition, one of these revisions will not necessarily require wide consultation and may involve negligible costs. As described above, we estimate that the savings from removing the requirement to consult the full list of mandatory consultees will affect an average of one revision per authority in an average 10 year period. Given that the local authorities estimated that the consultation part of the revision costs an average £4,420, and that some revisions will require little or no consultation, we will assume savings of £2,210-£4,420. As described in the following table, we estimate annual savings to Licensing Authorities and consultees combined to be around £0.44m - £1.8m.

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<sup>1</sup> However, most LAs had an average of fewer than 10 responses. A small number of LAs received many more responses than average. The figure of 18 is weighted to take account of the number of premises licences in different authority areas.

<sup>2</sup> Hourly rate as agreed after discussion with stakeholders and consulted upon in "Legislative reform orders: proposals to: (1) Introduce a simplified process for minor variations to premises licences and club premises certificates and (2) Remove the requirement for a designated premises supervisor and personal licence at community premises." (DCMS, August 2008).

Estimated administrative savings for licensing authorities <sup>3</sup>				
Av. no. of revisions involving savings over 10 yrs	Av. saving	No. of LAs affected	Estimated total saving in 10 year period	Estimated total saving in av. year
1-2 revisions	£7550	378	£2.85m - £5.7m	£0.28m - 0.57m
1 revision with minimal consultation	£2,210-£4,420	378	£0.84m - £1.67m	£0.08 - £0.17m
			<b>Sub Totals for LAs</b>	£0.4 – £0.7m

Estimated administrative savings for consultees <sup>4</sup>				
	Est. cost per consultation response	Est. number of responses per consultation	Estimated total saving in 10 year period	Estimated total saving in av. year
1-2 revisions (national bodies)	£99 - £132	1650	£0.163m - 0.436m	£0.02m – £0.04m
1-2 revisions (local respondents)	£48.69 - £64.92	5150	£0.251m – 0.669m	£0.02m – £0.07m
			<b>Sub-total for consultees</b>	£0.04m – £0.11m
			<b>Total estimated annual saving</b>	<i>£0.44m-£1.8m</i>

**Total estimated annual administrative savings due to Proposal A; licensing statements; is £0.44m - £1.8m**

<sup>3</sup> Totals in tables do not sum due to rounding

<sup>4</sup> Totals in tables do not sum due to rounding

## Proposal B: Interim Authority Notices (IANs) and Reinstatements on Transfer (RTs)

### Cost and frequency

#### Frequency

We received estimates from 20 Licensing Authorities (LAs) for the number of times in any 12 month period that IAs are submitted or RTs applied for after the seven day deadline has expired. Weighted<sup>5</sup> to apply to the total population of 378 LAs in England and Wales, this provides us with an estimated total of 329 late IANs and RTs per year. However, it must be assumed that those that are actually submitted late are only a proportion of those affected by the seven day deadline. It is likely that many potential notices and applications are *not* submitted because the applicant is aware they have missed the 7 day deadline. We will therefore assume that the total number affected is 1.5-2 times higher than this estimate. Based on this assumption, we estimate that **494-658** premises may benefit from our proposals annually.

### Costs

#### **Savings on licence fees**

To continue the provision of licensable activities, a premises would have to apply for a new licence where no valid IAN or RT is in place. The fee for new licence applications ranges from £100 to £1,905 (based on non-domestic rateable value). A small proportion of premises are exempt from paying a fee (and we assume these are Band A premises). Assuming that these premises were all able to submit valid applications for IANs and RTs (with no need to apply for a new licence) under the proposed simplification measures, the result would be an estimated annual savings on fees across England and Wales of **£110K - £147K**

	Proportion	Scaled up estimate, Number	Low estimate, Number	High estimate, Number	Licence Application Fee	Low estimated savings	High estimated savings
Number with no fee applicable (Assume all Band A)	7.2%	23.8	36	48	£0	£0	£0
Band A (fee paying)	16.7%	55.1	83	110	£100	£8,264	£11,019
Band B	53.4%	175.7	264	351	£190	£50,086	£66,782
Band C	12.4%	40.9	61	82	£315	£19,333	£25,777
Band D no multiplier	2.8%	9.1	14	18	£450	£6,126	£8,168
Band D with multiplier	0.4%	1.2	2	2	£900	£1,572	£2,095
Band E no multiplier	6.6%	21.9	33	44	£635	£20,815	£27,754
Band E with multiplier	0.4%	1.4	2	3	£1,905	£3,913	£5,217
<b>Total</b>	<b>100.00%</b>	<b>329</b>	<b>494</b>	<b>658</b>		<b>£110,109</b>	<b>£146,811</b>

#### **Administrative Savings**

The range of possible additional administrative costs in applying for a new licence (excluding fees) is £385 - £950<sup>6</sup>. Assuming that the proposed simplification measures allows enough time for all 494-658 businesses to make valid applications for IANs and RTs, we estimate that there would be further savings of **£190K - £625K**.

<sup>5</sup> Estimates provided showed around 0.17% of premises licences resulted in an IA being submitted or RTs applied for after the seven day deadline had expired. This proportion was then applied to all 197,861 premises licences in England and Wales, giving the scaled up total.

<sup>6</sup> "Legislative reform orders: proposals to: (1) Introduce a simplified process for minor variations to premises licences and club premises certificates and (2) Remove the requirement for a designated premises supervisor and personal licence at community premises." (DCMS, August 2008). This figure includes, for example, the cost of advertising applications in newspapers and legal advice in some cases.

## Savings on Lost Turnover

The British Beer and Pub Association (BBPA) estimate that a 'typical pub' could have a turnover ranging from £250,000 to £350,000 per year. However, many premises will fall well below this and others will be more profitable. In particular, evidence from lawyers indicates that the vast majority of IANs and RTs result from insolvency. Premises requiring an IAN or RT due to insolvency are likely to have a smaller turnover than that of the typical pub. We will therefore reduce this estimate by half to take account of these failing businesses, leaving an estimated turnover of £125,000 – £175,000, or a weekly turnover of £2,403 - £3,365. The process of applying for a new licence takes at least four weeks, but can be substantially longer (around eight weeks) for applications that result in hearings. However, applications for licences similar or identical to licences that have lapsed are unlikely to result in hearings. We will assume that around 10% of the applications involve hearings, meaning an average of 4.4 weeks of lost business. Therefore, the estimated cost in lost turnover to a single business would range from £10,600 - £14,800. The estimated number of affected premises is 494-658, implying an estimated saving of lost turnover to businesses of £5.22m - £9.74m.

Typical pub turnover	£250,000 - £350,000
Av. turnover of premises inc. "failing" pubs assumed to be half	£125,000 - £175,000
Weekly turnover of these premises	£2,403 - £3,365
Lost turnover over 4.4 weeks of lost business	£10,600 - £14,800
Lost turnover over 4.4 weeks for 494 to 658 premises	£5.22m - £9.74m

Estimated savings for businesses	
Savings on licence fees	£0.11m - £0.15m
Administrative savings	£0.19m - £0.63m
Savings on lost turnover	£5.22m - £9.74m
<b>Total Savings</b>	<b>£5.52m - £10.52m</b>

**Total estimated savings from Proposal B; IANs and RTs; is £5.52m - £10.52m**

## **Proposal C: Temporary Events Notices (TENs)**

### **Frequency of Late TENs**

The twenty LAs surveyed estimated they received an average 21.6 late TENs in an average year. They also estimated that they were aware of a further 18.2 events (due to enquiries made of them or anecdotal evidence) where no TEN was given because the premises user knew or was informed that it would be invalid as it would be late. This gives a conservative weighted<sup>7</sup> estimated total of about 24 late events per LA per year in England and Wales, or a total of 9,000. (There may be many more occasions when well-informed potential premises users, such as pub managers, may wish to apply for a TEN but know that they cannot).

### **Cost of Late TENs**

We asked two organisations whose members are frequent TENs users how much profit (usually money for good causes) was made at a typical event. Action with Communities in Rural England (ACRE), which represents many village halls and similar organisations, provided estimated fund-raising figures that suggest an average of £2,250 per event. The National Confederation of Parent-Teacher Associations (NCPTA) estimated around £1,000 per event. We do not know how much others organising events under TENs may forego when they are unable to reschedule an event that, for example, has been cancelled due to the weather; or to put on an event at short notice. A very diverse range of stakeholders such as licensed premises, pubs, circuses, sports clubs, shops and members of the public may be affected in these ways. However, it is thought that ACRE and the NCPTA represent bodies that give a substantial proportion of the total number of TENs in England Wales (123,419). For example, the NCPTA has suggested to us that its members may give around 40,000 TENs. In the case of village halls, only around 60% of the approximately 9,000 village halls in England and Wales have a premises licence that includes authorisation for alcohol. About 10% do not have a licence at all<sup>8</sup>. Both of these groups of village halls, according to ACRE, make good use of their quota of TENS (for example, to provide theatre bars for amateur dramatics). If they each give six TENs a year, this would mean that around 38,000 events authorised by TENs occur in village halls each year. Therefore, we will assume that £1,000-£2,250 is a reasonable estimate for the net income foregone by the inability to submit a TEN at late notice.

### **Proportion of late TENs for which the police will exercise their discretion**

Under the current proposal, the police will have complete discretion as to whether or not to authorise a late TEN (up to an absolute limit of three working days before the event). We do not know what proportion of events will be submitted before the minimum notice period and then be subject to the police exercising discretion in their favour. The proportion of events that currently receive police objections on crime and disorder grounds (whether the event proceeds in a modified form or is subject to a counter notice) is only around 1-2%. Although this may not be at all accurate as a guide to how often police will exercise a positive discretion, it does indicate that TENs rarely cause concern on crime and disorder grounds. It is reasonable to assume that late TENs issued in an attempt to reschedule events that had already been assessed by the police but then cancelled due to the weather may be likely to benefit from police discretion. According to estimates provided to us by 20 LAs, around 1,680 of the 9,000 estimated late TENs fall into this category. We will assume, therefore, that around 1,500 weather-related cancellations plus between a quarter and a half of other late TENs will benefit from police discretion, amounting to 3,375-5,250 TENs. This implies an estimated £3.38m-£11.81m administrative saving annually.

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<sup>7</sup> Weighted to take account of sample LAs having more than the typical number of premises licences, using "DCMS Statistical Bulletin. Alcohol, Entertainment and Late Night Refreshment Licensing, England and Wales April 2008 – March 2009".

<sup>8</sup> "Legislative reform orders: proposals to: (1) Introduce a simplified process for minor variations to premises licences and club premises certificates and (2) Remove the requirement for a designated premises supervisor and personal licence at community premises." (DCMS, August 2008).

Number of late TENs likely to benefit	Estimated profit foregone per event	Total estimated administrative savings
3,375-5,250	£1,000-£2,250	£3.38m-£11.81m

## **Potential Costs of Proposal C:**

### **Extension of period for police objection from 48 hours to two working days**

ACPO have estimated that there are around 4,800 TENs annually that they currently do not have time to assess on crime and disorder grounds because of the current maximum period of two working days. The proportion of TENs that are currently cancelled because of police objections on crime and disorder grounds is very low. Of 123,400 TENs in 2008-09, only 200 resulted in counter notices following police objection. There were also 1,100 TENs withdrawn by the premises user. Such withdrawals could occur for any reason, such as the event merely being cancelled due to a lack of interest. Premises users may well wish to avoid an event that was not occurring counting towards their statutory limits. However, it is likely that some of these TENs are withdrawn because the premises user decides that potential or actual police objections are insurmountable. If we assume this applies to a maximum of half of the withdrawn TENs, we have a range of 200-700 TENs cancelled because of police objection. This is 0.16%-0.57% of total TENs. If the same totals apply to the TENs that are currently non-assessed, then there will be around 8-27 additional TENs cancelled due to police concerns. Using the same estimates for the profit made from a typical TEN used above, this results in additional total estimated annual costs to users of £8K-£61K. However, this is not a genuine 'burden' on premises users, as these are events that, if properly assessed by the police, should not be going ahead. If such an event went ahead, and there was crime and disorder, the costs would very likely be higher than the benefits. We will therefore disregard this small notional cost.

### **Additional assessments conducted by licensing authorities and police**

We estimate that Licensing Authorities will need to check that the statutory limits have not been exceeded on 3,375-5,250 additional TENs that would previously have been late. According to estimates from senior licensing officers, it takes around 10 minutes of officer time to check these limits. If we use the same estimate for officer time as that for national organisations (see above, proposal A), the total additional estimated burden on licensing authorities of these proposals is £19K- £29K (divided amongst all 378 LAs in England and Wales).

The police will have to assess around 9,000 extra TENs. ACPO have told us that the time taken to assess TENs on crime and disorder grounds varies widely. Events held by PTAs and other low-risk regular TENs users will typically take only five minutes. On the other hand, the small percentage of TENs that result in counter notices issued on crime and disorder grounds (1%-2%) may take up to four hours. However, under the new proposals, the police will have discretion as to whether to issue a police confirmation. ACPO advise us that any late TEN that an officer considers may present a risk to crime and disorder will be quickly turned down. Therefore, we will estimate that the 9,000 TENs will take around 5-20 minutes each, meaning a burden on the police (using the same estimated hourly rate) of just £25K to £99K in England and Wales. The total estimated cost of Proposal C is therefore £44k - £128K

**Total estimated net administrative savings from Proposal C; TENs; is £3.25m-£11.77m**

	<b><i>Estimated Savings</i></b>
Proposal A; licensing statements	£0.44m-£1.8m
Proposal B; IANs and RTs	£5.52m - £10.52m
Proposal C; TENS	£3.25m-£11.77m
<b><i>Total Estimates Savings</i></b>	<b><i>£9.2m - £24.1m</i></b>

**Therefore, the estimated total administrative saving from all three proposals is £9.2m - £24.1m**

## Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

**Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.**

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	No	Yes/No Yes
Small Firms Impact Test	No	Yes/No Yes
Legal Aid	No	Yes/No No
Sustainable Development	No	Yes/No No
Carbon Assessment	No	Yes/No No
Other Environment	No	Yes/No No
Health Impact Assessment	No	Yes/No Yes
Race Equality	No	Yes/No No
Disability Equality	No	Yes/No No
Gender Equality	No	Yes/No No
Human Rights	No	Yes/No No
Rural Proofing	No	Yes/No Yes

## Competition Assessment

We do not believe that the proposed policy is likely to raise any competition concerns. It will not directly or indirectly limit the number or range of suppliers, limit the ability of suppliers to compete or reduce suppliers' incentives to compete vigorously.

## Small firms impact test

These proposals will provide the same benefits to firms of all sizes. It will result in administrative savings for small businesses in common with other applicants and there is no reason why it would have a negative impact on small businesses.

## Rural Proofing

Action with Communities in Rural England (ACRE) is a member of our stakeholder group. It has estimated, in particular, that its members make a substantial proportion of all Temporary Event Notices. Rural organisations are therefore likely to benefit from the proposals related to TENs in particular, and from the other proposals in common with others.

## Health Impact Assessment Screening

This proposal does not change any element of licensing policy, only the details of the timescales for certain applications, notifications and procedures. Therefore, we do not believe that a health impact assessment is required.

## We have considered that the policy will not have:

- **a significant impact on human health by virtue of its effects on the following wider determinants of health:** Income, Crime, Environment, Transport, Housing, Education, Employment, Agriculture or Social cohesion.
- **a significant impact on any of the following lifestyle related variables:** Physical activity, Diet, Smoking, drugs, or alcohol use, Sexual behaviour, Accidents and stress at home or work.
- **a significant demand on any of the following health and social care services:** Primary care, Community services, Hospital care, Need for medicines, Accident or emergency attendances, Social services, Health protection and preparedness response