



CONSULTATION ON DRAFT REGULATIONS TO BE MADE UNDER THE LICENSING ACT 2003

Permitted Temporary Activities and Temporary Event Notices

August 2005

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Chapter 1: Introduction

General

- 1.1 The Licensing Act 2003 (“the Act”) received Royal Assent on 10 July 2003. It replaces six existing licensing regimes concerning the sale and supply of alcohol, public entertainment, theatres, cinemas, night cafes and late night refreshment. The Act does this by providing for a unified system of regulation of the activities of the sale and supply of alcohol (the supply of alcohol), the provision of regulated entertainment (see Schedule 1 to the Act) and the provision of late night refreshment (see Schedule 2 to the Act). In the Act these activities are referred to collectively as the “licensable activities”.
- 1.2 The Act therefore effectively replaces most of the regulatory systems contained in the following statutes:
- London Government Act 1963, Schedule 12
 - Licensing Act 1964
 - Greater London Council (General Powers) Act 1966, Part IV
 - Private Places of Entertainment (Licensing) Act 1967
 - Theatres Act 1968
 - Late Night Refreshment Houses Act 1969
 - Local Government (Miscellaneous Provisions) Act 1982, Schedule 1
 - Licensing (Occasional Permissions) Act 1983
 - Cinemas Act 1985, and
 - London Local Authorities Act 1990
- 1.3 The purpose of the system for licensing the licensable activities is to promote four fundamental objectives (“the licensing objectives”). Those objectives are:
- the prevention of crime and disorder;
 - public safety;
 - the prevention of public nuisance; and
 - the protection of children from harm.
- 1.4 The system is achieved by the provision of authorisations through personal licences, premises licences, club premises certificates and temporary event notices.
- 1.5 This consultation document is concerned exclusively with the arrangements for authorising temporary activities by means of a temporary event notices.

Existing temporary authorisations

- 1.6 The existing arrangements for granting temporary authorisations are complex. The relevant authorisations are:

Supplies of alcohol

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- for organisations not carried on for the purposes of private gain, occasional permissions (Licensing (Occasional Permissions) Act 1983);
- for holders of justices' on-licences, occasional licences (Licensing Act 1964); and
- for holders' of justices' on-licences and registered members' clubs, special orders of exemption (Licensing Act 1964).

Public entertainment (music, dancing, boxing and wrestling and indoor sports entertainments)

- occasional public entertainment licences (London Government Act 1963 and the Local Authorities (Miscellaneous Provisions) Act 1982);

Plays

- occasional theatre licences (Theatres Act 1968);

Film exhibitions

- occasional cinema licences (Cinemas Act 1985)

Night cafes

- occasional night café licences (London Local Authorities Act 1990)

- 1.7 The authorisations concerning alcohol are obtained from the licensing justices or magistrates' courts. In London special orders of exemption are obtained from the Commissioners of Police for the City and the Metropolis.
- 1.8 Special orders of exemption are obtained several times each year by approximately 113,000 holders of justices' on-licences and 20,000 registered members' clubs to extend the hours during which they sell or supply alcohol on special occasions. This includes national special occasions, like World Cups, Christmas Eve or bank holidays, and special local occasions, like balls, festivals, Golden and Silver Wedding Anniversaries and special birthday celebrations. As many as 1.5 million are authorised each year.
- 1.9 Occasional permissions involve attendance at court to satisfy the justices that:
- the individual member of the organisation is fit and proper;
 - the eligibility of the organisation (for example, that it is not operating for private gain);
 - the suitability of the premises; and that
 - the sale of alcohol is not likely to result in disturbance or annoyance to residents living in the neighbourhood or in any disorderly conduct.
- 1.10 Occasional permissions granted on the same day cost £10 and cover a period not exceeding 24 hours. No more than 12 occasional permissions may be sought in any period of 12 months. The licensing justices may attach any condition that they consider fit to the grant of the permission. About 54,000 are authorised annually for about 25,000 eligible organisations.
- 1.11 An occasional licence is an authority enabling the holder of a full justices' on-licence (for example, a publican) to sell alcohol at premises other than his own licensed premises. It can be granted for a period up to three weeks at a time for a specified occasion. This might be a local festival or a wedding with a "pay bar". As many as 200,000 are granted each year. They cannot be granted to holders of "residential" licences. In the case of a person holding a "restaurant" or

“restaurant and residential” licence, the justices have to be satisfied that sales of alcohol will be ancillary to the provision of substantial refreshment (i.e. food). Occasional licences may not be granted for Christmas Day, Good Friday or “any day appointed for public fast or thanksgiving”. Each occasional licence costs £10 but the number which may be granted is not restricted.

- 1.12 The fees for occasional or temporary public entertainment, theatre, cinema and night café licences are set by local authorities and vary considerably from area to area. There is no central data which indicates the number issued, but many will be for the same events as those for which the 50,000 occasional alcohol permissions are issued.

Temporary Event Notices

- 1.13 The new arrangements for permitted temporary activities are established by the Licensing Act 2003 which the Government expects to bring fully into force on 24 November 2005. On this day, the more complex and diverse arrangements described above will cease to be in force. The new regime is more streamlined, involves a significantly lighter bureaucratic touch and involves only one licensing authority in each area. Details of how the new system of temporary event notices operates are given in Chapter 2.

The licensing authority

- 1.14 In virtually all cases, the licensing authority is the full council of the local authority. The exceptions concern the Inner Temple and the Middle Temple and the Isles of Scilly. Under the Act, most of the functions of licensing authorities are delegated to licensing committees, who in turn, can sub-delegate to sub-committees and officers of the licensing authority. As temporary event notices involve no decision-making process, unless the police intervene on crime prevention grounds, the Government anticipates that licensing authorities will delegate these functions to their officers. Where the police intervene and a hearing is required, the Government expects the functions to be delegated to a sub-committee of the main licensing committee.

The Draft Regulations

- 1.15 A draft of the Regulations, which the Government proposes should relate to permitted temporary activities, form Appendix A of this document. If made, these Regulations would be subject to what is called the “negative resolution” procedures. This means that the secondary legislation can technically come into effect immediately, but it is laid before Parliament after it has been made and would be annulled by Order in Council if either House passed a resolution against it within 40 days. There is however an informal time limit, called the “21 day rule”, which embodies an undertaking to lay an instrument subject to the negative resolution procedure at least 21 days before it is to come into effect. Scrutiny of the instrument by the House of Lords Select Committee on the Merits of Statutory Instruments and the Joint Committee on Statutory Instruments is thus usually ensured before the provisions come into force.
- 1.16 In drafting the Regulations, the Government has sought to adhere to five main principles. These are that the Regulations:
- should enable the licensing system to function efficiently in a way agreed and understood by Parliament during the passage of the Licensing Bill and adhere to the scope of the powers given to the Secretary of State in the Act;

- should be functional and practical for all people who choose to carry on permitted temporary activities;
- should be easily understood by the user;
- ensure that any burdens imposed on industry, and in particular, non-commercial organisations should be proportionate to the benefit the regulatory regime is anticipated to bring; and
- should strike a fair balance between the interests of those affected by the Regulations and the interests of the wider general public.

1.17 One of the purposes of this paper is to elicit views about the draft Regulations. We are particularly keen to hear from licensing authorities, chief officers of police, industry, members' clubs, community and voluntary groups, performers and their representatives, residents' associations and individuals, all of whom may be affected by the operation of these Regulations.

Limits on permitted temporary activities

1.18 Among other things, the Licensing Act 2003 empowers the Secretary of State to make regulations prescribing new limits on:

- the number of times a person (the "premises user") may give a temporary event notice;
- the number of times a temporary event notice may be given in respect of any particular premises;
- the length of time a temporary event may last for these purposes;
- the maximum aggregate duration of the periods covered by temporary event notices at any individual premises; and
- the scale of the event in terms of the maximum number of people attending at any one time.

1.19 Any such regulations must be approved under the "affirmative resolution" procedures by each of the Houses of Parliament. This means that regulations may not be made until both Houses have had an opportunity to debate the draft regulations and have voted in favour of them. The Secretary of State does not currently intend to make such regulations and intends to adhere for the time being to the limits which are set out in the Act and which are fully described in Chapter 2. To propose changing these limitations now in advance of the new arrangements coming into force for the first time would fail to observe the first of the five principles mentioned in paragraph 1.16 above.

1.20 However, the Secretary of State would be willing to make proposals to Parliament if experience showed that the existing limits were either unnecessarily or not sufficiently restrictive.

1.21 The Secretary of State would welcome views now from all interested parties about possible changes to these limits. In particular, she would welcome views from village, church and community halls, qualifying clubs, farmers' markets, performers groups,

residents' associations, charities, industry, the police and licensing authorities on increasing these limits. If the strength of feeling is that there should be an increase in one or more of these limits, she is prepared to consult other members of the Government about seeking Parliamentary approval for such a change at an early opportunity. The issues raised by changing these limits are fully discussed in Chapter 4. Any Regulations to be made in respect of these limits must form a separate statutory instrument. This is because they would be subject to affirmative resolution. The terms of any detailed proposed changes to the limits would also be subject to a further public consultation before being laid in Parliament.

- 1.22 Appendix A is a draft of the proposed Regulations concerning the giving of notices relating to permitted temporary activities, the information to be provided and the issuing of counter notices by licensing authorities. The form of a temporary event notice is of particular importance because it must be completed by any individual giving it. Most of the information that must be given in the notice is laid down in primary legislation and the draft Regulations concern the additional information that needs to be sought to ensure that the arrangements function efficiently and sensibly in the public interest.
- 1.23 Appendix B is a draft Regulatory Impact Assessment and views are invited on its contents too. Broadly, The Government estimates that the new arrangements should represent a saving of about £33 million annually on the existing costs, mainly because many of the myriad temporary permissions which currently have to be sought in connection with extended alcohol hours will be subsumed in the new premises licences and club premises certificates. The estimated cost of the regulations themselves for premises users would be about £250k - £375k annually if approximately 50,000 temporary event notices are given each year. This does not include the cost of the fees which were the subject of other regulations which were made in January 2005 following a public consultation and separate Regulatory Impact Assessment.

The consultation

- 1.24 The Government wishes to table the Regulations, with any changes resulting from this consultation, as soon as possible after Parliament returns in October 2005. It is important that all stakeholders should have as much time as possible to become familiar with them before the "second appointed day" when the Licensing Act 2003 will come fully into effect. This is expected to be 24 November 2005. Although it would be normal to consult for 12 weeks on the content of these draft Regulations, the Secretary of State would therefore welcome views within a period of eight weeks. Any views or comments should be sent **by 5 October 2005** to :

Licensing Policy Branch

Tourism and Licensing Division

3rd Floor,

2-4 Cockspur Street

London SW1Y 5DH

Or by e-mail to regsconsultation@culture.gov.uk

- 1.25 All information in responses, including personal information, may be subject to publication or disclosure under freedom of information legislation. If a correspondent requests confidentiality, this cannot be guaranteed and will only be possible if considered appropriate under the legislation. Any such request should explain why confidentiality is necessary. Any automatic

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confidentiality disclaimer generated by your IT system will not be considered as such a request unless you specifically include a request, with an explanation, in the main text of your response.

Chapter 2: Permitted Temporary Activities

General

- 2.1 The most important aspect of the system of permitted temporary activities is that no authorisation as such is required for these events from the licensing authority. The system involves notification of an event to the licensing authority and the police, subject to fulfilling certain conditions.
- 2.2 In general, only the police may intervene on crime prevention grounds to prevent such an event taking place or to agree a modification of the arrangements for such an event; and it is characterised by an exceptionally light touch bureaucracy. The licensing authority may only ever intervene of its own volition if the limits set out in the Act on the number of temporary event notices that may be given in various circumstances would be exceeded. Otherwise, the licensing authority is only required to issue a timely acknowledgement.
- 2.3 Such a light touch is possible because of the limitations directly imposed on the use of the system by the Act itself. The limitations apply to:
- the number of times a person (the “premises user”) may give a temporary event notice (50 times per year for a personal licence holder and 5 times per year for other people);
 - the number of times a temporary event notice may be given in respect of any particular premises (12 times in a calendar year);
 - the length of time a temporary event may last for these purposes (96 hours);
 - the maximum aggregate duration of the periods covered by temporary event notices at any individual premises (15 days); and
 - the scale of the event in terms of the maximum number of people attending at any one time (less than 500).
- 2.4 In any other circumstances, a premises licence or club premises certificate would be required for the period of the event involved. A person may in any event choose to apply for a premises licence or club premises certificate if they do not wish to take advantage of the light touch arrangements.
- 2.5 Many premises users giving temporary event notices will not have commercial backgrounds or ready access to legal advice. They will include, for example, people acting on behalf of charities, community and voluntary groups, schools, churches and hospitals all of which may stage public events to raise funding at which licensable activities may take place. It is therefore essential that the arrangements for giving temporary event notices are not overly complex or bureaucratic.
- 2.6 The Act requires certain information to be given to the licensing authority and the police for the area in which the event is to take place. These details are:

- the licensable activities to take place during the event;
- the period (not exceeding 96 hours) during which it is proposed to use the premises for licensable activities;
- the times during the event period that the premises user proposes that the licensable activities shall take place;
- the maximum number of persons (being less than 500) which it is proposed should, during those times, be allowed on the premises at the same time;
- where the licensable activities include the supply of alcohol, whether the supplies are proposed to be for consumption on the premises or off the premises or both; and
- any other matters prescribed by the Secretary of State.

Where a personal licence holder is the proposed premises user

- 2.7 A personal licence holder may use his or her allocation of 50 temporary event notices at premises irrespective of whether a premises licence or club premises certificate is in force. However, only 12 notices may be granted in respect of the same premises and in respect of those premises there is an overriding maximum aggregate duration of 15 days. So, for example, a premises user may give notice in respect of premises licensed only for the sale of alcohol for consumption on those premises that those premises are to be used for an ad hoc event for regulated entertainment, such as the performance of live music, through this system.
- 2.8 Alternatively, a temporary event notice could be used in respect of the sale of alcohol for a period beyond the normal hours during which alcohol may be sold at the premises under its premises licence for an ad hoc occasion. Another example would be the provision of late night refreshment (for example, the supply of hot food) at the end of a quiz night. In both of these examples, a temporary event notice could only be used if no more than 499 people were to be present.
- 2.9 On each occasion at least 10 working days notice must be given, but there is nothing to prevent simultaneous notification of multiple events at a single time so long as the first event is at least ten working days away. For example, an individual personal licence holder wishing to exhibit and sell beer at a series of country shows may wish to give several notices simultaneously to either one licensing authority or to a number of licensing authorities. However, notices must be given to the correct licensing authorities.
- 2.10 Although, as stated above, ten working days is the minimum possible notice that may be given, licensing authorities will often publicise locally their preferences in terms of forward notice and encourage notice givers to provide the earliest possible notice of events likely to take place. Licensing authorities will also sometimes publicise a preferred maximum time in advance of an event that applications should be made. For example, if an application is made too far in advance of an event, it may be difficult for the police to make a sensible assessment and could lead to objections that could be otherwise avoided.
- 2.11 Section 193 of the Act defines “working day” as any day other than a Saturday, a Sunday, Christmas Day, Good Friday, or a day which is a bank holiday under the Banking and Financial

Dealings Act 1971 in England and Wales. “Ten working days” notice means ten working days exclusive of the day on which the event is to start.

- 2.12 Licensing authorities may not seek to attach any terms, limitations or restrictions on the carrying on of licensable activities at such events under the authority of a temporary event notice.
- 2.13 A purpose of the notification requirement is to enable the licensing authority to check that the limitations set down in Part 5 of the Act are being observed and to intervene if they are not. Where the application is not within the first, second or fourth of the parameters set out in paragraph 2.3 above, the licensing authority will issue a counter notice to the person giving the notice – the premises user. Where the third or fifth limitation is breached, the event will be unauthorised and the premises user would be liable to prosecution. Where the temporary event notice is in order, the fee prescribed by the Secretary of State paid, the event falls within the limitations in the Act and there has been no police intervention on crime prevention grounds, the licensing authority will record the notice in its register and send an acknowledgement to the premises user.
- 2.14 In the case of an event proceeding under the authority of a temporary event notice, failure to adhere to the requirements of the Act, such as the limitation of no more than 499 being present at any one time, would mean that the event was unauthorised. In such circumstances, the premises user would be liable to prosecution.

Police intervention

- 2.15 The second and more important purpose of the notification requirement is to afford the police the opportunity to consider whether they should object to the event taking place for reasons of preventing crime and disorder. The Act provides that the police may issue an objection notice because they believe the event would undermine the crime prevention objective set out in the Act.
- 2.16 The police must issue any objection notice within 48 hours of being notified, but they can subsequently withdraw their objection notice. If the police do not intervene, they will still be able to rely on their powers of closure under Part 8 of the Act should disorder or noise nuisance subsequently arise.
- 2.17 The issuing of such an objection notice requires the consideration of the objection by the licensing authority at a hearing. Consideration by the licensing authority is confined to the crime prevention objective. It may not, for example, uphold a police objection notice on grounds of public nuisance. At the hearing, the police and the premises user may be heard by the relevant licensing committee. A hearing would not be necessary if the objection notice is withdrawn by the police.
- 2.18 The police may withdraw their objection notice at any stage if the proposed premises user agrees to modify his proposal to meet their concerns. For example, if the premises user agrees to modify the period during which alcohol may be sold. The licensing authority will then be sent or delivered a copy of the modified notice by the police as proof of their agreement.

Where no personal licence holder is involved

- 2.19 The Act provides that any individual person aged 18 or over may give a temporary event notice whether or not they hold a personal licence. They will not therefore have met the tests and qualifications described in Part 6 of the Act. In the absence of a premises user holding a personal licence, the Act limits the number of notices that may be given to 5 occasions per year.

2.20 It should be noted that temporary event notices may also be given in respect of club premises covered by club premises certificates by non-personal licence holders. This means, for example, that a club which under its certificate is normally only permitted to supply alcohol to its members and their guests may during the period covered by a temporary event notice (subject to the limitation on numbers and occasions) under the authority of the notice and the responsibility of the individual giving the notice (the premises user) admit members of the public and sell alcohol to them as well as provide regulated entertainment. Only 12 such notices may be given in respect of the same club premises in any calendar year and the maximum aggregate duration of 15 days will also apply (and of course, only 5 may be given by any individual non-personal licence holder).

Additional limitations

2.21 A temporary event notice would be void unless there is a minimum of 24 hours between events notified by the premises user in respect of the same premises. This is to protect people living in the vicinity of the premises and to prevent evasion of the 96 hour limit on such events and the need to obtain a full premises licence or club premises certificate for more major or permanent events. In addition, for these purposes, a notice is treated as being from the same premises user if it is given by an associate or by a person with whom the premises user is in the business of carrying on licensable activities.

2.22 The Act defines an associate as being:

- the spouse of that person;
- a child, parent, grandchild, grandparent, brother or sister of that person or their spouse;
- an agent or employee of that person or their spouse; or
- a person with whom the person is engaged in business.

A person living with another person as his or her husband or wife is treated for these purposes as his or her spouse. Some of these relationships may be redefined when relevant parts of the Civil Partnership Act 2004 are brought into force.

Closures of temporary events by the police

2.23 In December 2001, the Government brought into force section 17 of the Criminal Justice and Police Act 2001 (which amended the Licensing Act 1964), which concerned their powers to close without notice for up to 24 hours certain licensed premises that were disorderly, likely to become disorderly or causing noise nuisance. The Act extended these powers to include in addition premises carrying on licensable activities under the authority of temporary event notices and extended the reach of the powers, which were previously confined to premises selling alcohol for consumption on the premises, to premises carrying on any licensable activity.

Chapter 3: Who is affected?

General

3.1 As explained in Chapter 2, temporary event notices can be given by personal licence holders and non-personal licence holders. However, both must adhere to the limits described in paragraph 2.3 above. In particular, the events may not involve the attendance of more than 499 people at any one time during the event. In addition, “premises” for the purposes of the Act means “any place”. This would therefore include fields and boats as well as buildings of any kind. Similarly, commercial premises, such as public houses, are as likely to be used as non-commercial premises, such as village halls or working men’s clubs. Accordingly, the whole population of England and Wales may live close to a place where permitted temporary activities will eventually take place.

Specific

- 3.2 Only individuals may give temporary event notices, but the range of commercial premises, in respect of which temporary event notices may be given, includes:
- 113,000 premises currently licensed to sell alcohol for consumption on the premises, including almost 60,000 public houses, 30,000 restaurants and 4,000 nightclubs;
 - 47,000 premises currently licensed to sell alcohol for consumption off the premises, including supermarkets, traditional off-licence shops and department stores;
 - about 600 cinemas;
 - about 600 pleasure boats;
 - about 30 circuses;
 - concert halls;
 - commercial pop festivals (indoors and open-air)
 - about 300 theatres;
 - travelling fairs;
 - farmers’ markets;
 - night cafes; and
 - fast food outlets and take-aways.
- 3.3 Similarly, the range of non-commercial premises that may be affected would include:
- About 20,000 village halls, church halls, chapel halls and community halls, of which about 9,000 are in rural communities;
 - hospitals;
 - schools, colleges and universities;
 - about 20,000 qualifying clubs including:

- political clubs – such as Labour, Conservative and Liberal Democrat clubs;
- working men’s clubs – such as the Clubs and Institutes Union and Miners’ Welfare Clubs;
- social clubs;
- sports clubs;
- ex-services clubs – such as the Royal British Legion;
- music clubs – such as folk clubs;
- free music festivals;
- free concerts;
- carnivals;
- amateur dramatic societies;
- film clubs; and
- charitable institutions.

3.4 There are of course others who may be affected because of the diverse nature of the licensable activities governed by the Act and the vast range of premises (ie places) that may be used.

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Chapter 4: Limitations

General

- 4.1 As indicated in paragraph 1.21, the Secretary of State does not currently intend to make Regulations relating to the limits imposed by the Act on permitted temporary activities. As described above the limits are on:
- the number of times a person (the “premises user”) may give a temporary event notice in a calendar year (50 for a personal licence holder and 5 for a non-personal licence holder);
 - the number of times a temporary event notice may be given in respect of any particular premises in a calendar year (12 occasions);
 - the length of time a temporary event may last for these purposes (96 hours or 4 days);
 - the maximum aggregate duration of the periods covered by temporary event notices at any individual premises in a calendar year (15 days); and
 - the scale of the event in terms of the maximum number of people attending at any one time during the event (499 persons).
- 4.2 The limits approved by Parliament during the Parliamentary stages of the Licensing Act are intended to strike a balance between the rights of residents living close to premises where permitted temporary activities may take place and the desire to put in place a liberal and light touch regime. If these limits are observed, only the police may object to the giving of a temporary event notice and then only on grounds relating to the prevention of crime and disorder. It is then for the licensing authority to decide whether or not the objection given by the police should be upheld. No objection may be given on grounds relating to the other three licensing objectives – the prevention of public nuisance (for example, noise), public safety and the protection of children from harm. Parliament was satisfied that subject to the limitations, existing law was sufficient to contain the risks presented by these temporary activities.
- 4.3 The limits do not stop temporary events taking place. Their effect is to require that the licensable activities involved must be authorised by a premises licence or club premises certificate. This means that there would be an opportunity for interested parties (such as, local residents and residents’ associations) and responsible authorities (such as, the fire authority, health and safety authorities and environmental health authorities) to make representations about the arrangements proposed.

Effect of increasing limits

- 4.4 It should be noted that the Secretary of State has no power to limit the licensable activities to which any increase might apply. For example, any increases would apply equally to the performance of heavily amplified rock music as they would to chamber music or unamplified folk music.
- 4.5 It should also be noted that where a temporary event notice is given for the purpose of authorising sales of alcohol, the authorisation can cover such sales for 24 hours a day and a possible duration of four days. Accordingly, an increase across the board which enabled a village hall to be used for permitted temporary activities for thirty days in a calendar year would allow a public house normally operating under restricted hours to sell alcohol for 24 hours a day on 30 days a year without any right of representation by residents.

Government's View

- 4.6 During the passage of the Licensing Bill, the Government reconsidered the limits that it had originally proposed in the light of the views expressed during debates in the House of Commons Committee Stage. It increased the limit on the number of times any premises may be used for permitted temporary activities from 5 to 12 and increased the maximum period of a temporary event from 72 hours (three days) to 96 hours (four days). It also set a new limit of 15 days on the maximum number of days any premises could be used for these activities in a calendar year. In addition, an amendment was made to the Bill to give the Secretary of State power to amend the limits by regulation. However, no increases or decreases may be brought into force without the prior approval of both Houses of Parliament.
- 4.7 Parliament made these changes primarily in the interests of village halls and farmers' markets. However, they were also taken because of anxieties expressed by some local authorities and some police officers about the light touch being applied to such a wide range of activities and events. The Secretary of State envisaged using the new enabling powers only after reviewing the impact of the limits on the community generally. In doing so, she would have expected to consider the experience of local residents, the public attending such events (including their safety), children, the police and licensing authorities, and those giving temporary event notices.
- 4.8 In this context, it should be noted that the limitations on occasional permissions that may be given by an individual non-commercial organisation under the Licensing (Occasional Permissions) Act 1983 were introduced by the then Government because of concerns that to allow greater use would create unfair competition for the licensed trade from non-commercial premises with fewer overheads; and because of concerns that allowing unlimited trade in alcohol by unqualified non-professionals would generally undermine licensing controls intended to protect the public from harm. In 1983, the limit was set at four and in 1997, it was increased to 12 for any eligible organisation or branch in a period of 12 months.
- 4.9 The Secretary of State remains of the view that the current limitations strike the right balance, but she is aware that village halls and some other groups are concerned that the limitations would impose an unreasonable restriction on their present licensable activities. In the light of this and the background and concerns described above, she would welcome responses to the following questions.

Questions

- 4.10 **If the number of times any premises were to be used for permitted temporary activities in a calendar year could be increased, what should the limit be? (Nb. The present limit is**

12.)

- 4.11 **In the light of your response to paragraph 4.10, what should be the limit on the number of days in any calendar year that the premises may be used? (Nb. The maximum number of days for each individual temporary event is 4 days. Accordingly, a limit of 15 temporary events per premises would mean the possibility of 60 days unless limited. The present limit is 15 days.)**
- 4.12 **What do you consider to be the appropriate limit on the maximum duration of a single temporary event? (Nb. The current maximum duration is 96 hours – 4 days)**
- 4.13 **What do you consider to be the maximum number of people who may be present on any single occasion during the event period? (Nb. The current maximum permitted is 499 people.)**
- 4.14 **Do you consider that any of the present limits should be reduced? If so, why?**
- 4.15 **What risks do you consider would arise if any of the limits were increased?**
- 4.16 **What would be the impact on businesses and commercial enterprises if any of the limits were increased?**
- 4.17 **What would be the impact on non-commercial organisations, institutions and charities if any of the limits were increased?**
- 4.18 **What would be the impact on public nuisance (eg noise nuisance), public safety and the protection of children from harm, if any of these limits were increased? (Nb. The police would continue to be able to intervene on crime prevention grounds).**
- 4.19 **If you consider that any increase in any of the limits should be confined to particular categories of premises, to which types of premises would you apply the increase?**
- 4.20 **If any increase in the limits was applied solely to village halls, church halls, chapels halls and community halls, what would be the impact on public nuisance (eg noise nuisance), public safety and the protection of children from harm, if any of these limits were increased? (Nb. The police would continue to be able to intervene on crime prevention grounds).**
- 4.21 The Secretary of State hopes that all interested parties will offer comments about possible changes to the current limits. In particular, she would welcome views from village, church and community halls, voluntary groups and charities, performers' groups, qualifying clubs, farmers' markets, residents' associations, industry, the police and licensing authorities on the questions posed above.

Consideration of responses

- 4.22 The Secretary of State does not currently intend to make such Regulations and intends to adhere for the time being to the limits which are set out in the Act and which are fully described in Chapter 2. However, all responses will be carefully considered. If the strength of feeling is that there should be an increase in one or more of these limits, she is prepared to consult other members of the Government about seeking Parliamentary approval for such a change at an early opportunity. However, if the general view is that the limits strike the appropriate balance, she

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will review the limits again after the new arrangements have been in force for 12 months and inform that review by conducting a further consultation at that stage. If experience shows that the limits are either unnecessarily or insufficiently restrictive, the Secretary of State would be willing to make appropriate proposals to Parliament.

Chapter 5: Questions on the Proposed Regulations

General

- 5.1 A draft of the proposed Regulations is at Appendix A. Subject to the outcome of this consultation the Regulations would be made under the powers conferred upon the Secretary of State by sections 100(4), 100(5), 100(6), 102(2), and 107(7) of the Licensing Act 2003. The costs and benefits of the proposed regulations are set out in the draft Regulatory Impact Assessment in Appendix B under Option 2.
- 5.2 The draft Regulations concern only three matters:
- the form of a temporary event notice and the information (other than that required by the primary legislation itself);
 - the acknowledgement of a temporary event notice by a licensing authority; and
 - the form of the counter notice to be issued by a licensing authority and the way in which it should be given to a proposed premises user who has given a temporary event notice.

The form of a temporary event notice

- 5.3 The proposed form of a temporary event notice is set out in Schedule 1 to the draft Regulations. When giving a temporary event notice, no other documents would be required to be submitted with it. Two copies of it would be required to be submitted to each licensing authority in which the premises lie (normally, there would be only one licensing authority involved, but a handful of premises straddle the boundaries of two licensing authorities.); and a copy would need to be given to each chief officer of police for the area in which the area lies (again, there would normally only be one police force involved).
- 5.4 The Secretary of State would welcome comments on this draft form and in particular, would be grateful for responses to the following questions.
- 5.5 **Does the draft form of the temporary event notice require the provision of information that you consider unnecessary, unreasonable or disproportionate?**
- 5.6 **Should any additional information be required? And if so, why?**
- 5.7 **Are the Notes for Guidance in the form clear and easy to understand? Should additional notes for guidance be provided?**
- 5.8 **Would it be preferable to separate the Notes for Guidance from the temporary event notice and leave licensing authorities to issue guidance as they saw fit?**

The acknowledgement

- 5.9 The draft form of the temporary event notice contains a box for completion by the licensing authority. On receipt, an officer of the licensing authority would complete and endorse this box on one of the copies of the form submitted to the licensing authority by the premises user. This copy would then be returned to the premises user. This would then serve as an acknowledgement of the temporary event notice and proof that the temporary event notice had been given. The premises user would need to retain this acknowledgement for production

should, for example, police or licensing authority officers subsequently challenge the lawfulness of the licensable activities being carried on. The event may then proceed unless a counter notice is received at least 24 hours before the proposed event.

5.10 The Secretary of State would welcome comments on these arrangements, and in particular, would be grateful for answers to the following questions.

5.11 **Are the proposed arrangements satisfactory?**

5.12 **What alternative methods might be used to acknowledge temporary event notices?**

The counter notice

5.13 A draft of a proposed counter notice is set out in Schedule 2 to the draft Regulations at Appendix A. Counter notices will be given by licensing authorities, at least 24 hours before the commencement of any permitted temporary activities, where the event would exceed certain of the limitations described earlier in this document or where the licensing authority upholds an objection made by the police on crime prevention grounds. A counter notice would be required to be given to the premises user by delivering it to him, or by leaving it at the address given by the premises user in the temporary event notice received by the licensing authority or by sending it by post to him at that address.

5.14 The Secretary of State would welcome comments on the form of the counter notice and the proposed arrangements for serving it, and in particular, would be grateful for responses to the following questions.

5.15 **Is the form of the counter notice clear and easy to understand?**

5.16 **Should the counter notice contain any additional information?**

5.17 **Are the proposed arrangements and various alternative methods for serving a counter notice satisfactory? Should alternative methods be considered? If so, what and why would they be preferable?**