

## Annex 2

### RELEVANT EXTRACTS FROM SUPPLEMENTARY GUIDANCE

#### 1. Detail on notices

Paragraph 5.52: After sentence ending : "...together with information about where the details of the application may be viewed." insert

*"Notices of applications to vary a premises licence should include a brief description of the proposed variation, e.g. details of extra hours applied for, hours varied from/to."*

#### 2. Authorisation of sale

After 7.67, add new paragraph (7.67A)

*"Authorisation" does not imply direct supervision of each sale of alcohol by a personal licence holder. The question arises as to how sales can be authorised in circumstances where the personal licence holder is absent for longer periods, such as when taking a holiday. In the Government's view it is not possible to state categorically how the requirement of authorisation is satisfied as the facts and circumstances in each case will differ. Whether or not an authorisation has been given within the meaning of Act or whether the frequency or length of absence meant that the personal licence holder could not, in fact, have authorised the sale would, ultimately, be a matter for a court to determine on the evidence before it when the issue arose.*

*Nevertheless, it seems reasonable to expect that the courts would require the authorisation to be meaningful and properly carried out and not involve any abdication of responsibility. In our view, the following factors might be relevant in considering whether there was real authorisation :*

*the person(s) authorised to sell alcohol should be clearly identified;*  
*the authorisation should have specified the acts which may be carried out by the person being authorised;*  
*there should be an overt act of authorisation, for example, a specific oral or written statement given to the individual(s) being authorised; and*  
*there should be in place sensible arrangements for monitoring by the personal licence holder of the activity authorised by him or her on a reasonably regular basis."*

#### 3. Planning and licensing hours.

Paragraph 3.51 : After 3<sup>rd</sup> bullet, add :

*"However, there are circumstances when as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law."*

#### 4. Variations

Paragraph 5.65 - Change first sentence to :

*"For the purposes of this guidance, a 'major' variation is any variation that is not a change of the name or address of someone named in the licence or an application to vary the licence to specify a new individual as the designated premises supervisor."*