



Business In Sport and Leisure Limited

70 Clarendon Road
London SW14 8NY
Tel: 020 8700 2077
Fax: 020 8700 0077

Nigel Wakelin
Licensing Team
Sport and Leisure Directorate
2-4 Cockspur Street
London
SW1Y 5DH

19 August 2008

Legislative Reform Order: Proposal to Introduce a Simplified Process for Minor Variations to Premises Licences or Club Premises Certificates and to Remove the Requirement for Designated Premises Supervisor.

Business In Sport and Leisure is an umbrella organisation that represents over one hundred private sector companies and organisations in the sport, leisure and hospitality industry. Its membership is comprised of a mixture of leisure operators, the large majority of whom operate a licensed bar or other licensable activity even where it is not their primary business. BISL's membership is presently in excess of a hundred and its members are valued either on the London Stock market or through private equity investment at in excess of £40billion.

BISL develops policy through five Working Groups and these comments are a result of deliberations by the liquor Licensing Working Group, but at an earlier stage the principles behind this response were shared with the membership as a whole.

Overview on Minor Variations

BISL very much welcomes the DCMS initiative to grapple with the issue of minor variations to premises licences and this opportunity to respond to the albeit short consultation but has also welcomed the opportunity to contribute to the Advisory sub group earlier in the year. BISL has expressed a strong view that the present requirement for an application to vary a premises license as laid out in the Licensing Act 2003 and applied by the vast majority of licensing authorities represent both a financial and administrative burden to industry.

BISL has stated on several occasions that the many minor variations that do not bear in any way on the licensing objectives should not require applicants to go through the process at all and many authorities in fact operate in this way. BISL is particularly concerned at the reference in 8.57 hinting that there may be need for an application to vary to be made even in relation to features which are not required to be shown on the plan under section 17 of the Act, but have nevertheless been included, for example, moveable furniture (altering the position of tables and chairs) or beer gardens (installation of a smoking shelter that will not affect the use of exits or escape routes).

In this context it is important to note the dilemma presented by the current variation in approach from licensing authorities. Pragmatic authorities already apply an "informal" minor variation arrangement, perhaps requiring just a covering letter, a revised plan and a fee as low as around £10. This is clearly not within the legislation but its existence and the success of this informal process should be acknowledged within the changes being put forward. The proposed minor variation process, despite introducing the necessary legal change, will still remain dependant on the discretion of the local authority's licensing officer, with the pragmatic authorities continuing to act sensibly but now charging a higher fee and those that have been less helpful in the past not changing their approach.

Qu1. Does this draft Order accurately reflect the minor variation described in s2, Chapter 1 of the Consultation Document.

Yes

Qu2. Does this draft Guidance (s2, Chapter 3) provide sufficient advice to assist licensing officers in coming to a decision on whether a variation is minor?

BISL would reiterate that where a variation to the premises license has no impact on any of the licensing activities there should be no requirement to make an application to vary the license. The advice supplied is adequate for the licensing authority to determine precisely what a minor variation is.

Qu3. Do you agree that there is no need for any specific action in the event that a licensing authority is unable to respond to the applicant within the statutory time period?

Whilst BISL can understand the rationale where a small licensing authority has a single individual with the responsibility for the premises licensing process and that if that individual is ill then the requirement for an additional action might slow down the process further. However this should be the absolute exception and in any event the application should be determined within no less than 28 days without the requirement for any further action by the applicant or then should be deemed approved.

Qu4. Do you think the recommended fee is right, too high or too low?

BISL believes on the basis that the majority of applications will be submitted with an expectation of success that these will be genuinely small scale and minor and consequently the time and charge allocated to determination is at the maximum level at £73. At a fee level of £73 then in the event of a full application being considered for the same change all or some of the fee should be discounted to reflect the licensing authority's previous understanding of the application.

Qu5. Do you think that applicants will be able to complete this form easily without seeking legal advice?

BISL does believe that the majority of applicants will be competent to complete the proposed application form but anticipated a significant number will continue to seek professional advice.

Qu6. Does this form provide sufficient information for a licensing officer to determine whether a variation is minor?

Yes

Removing the Requirement for Designated Premises Supervisor

BISL has welcomed the Government proposal to remove the requirement for a Designated Premises Supervisor in community halls and clubs on the grounds that it removes a significant barrier to community premises securing a licence to cover fully all of their activities.

BISL appreciated the need to retain an adequate level of public protection in relation to the sale of alcohol at such premises. Consequently accepts that a licensing authority should have discretion, following any review of the license on grounds relating to the licensing objectives to impose the conditions requiring the nomination of a DPS and the supply of alcohol to be authorised by a personal license holder.

In conclusion, BISL would support the introduction of a Simplified Process for Minor Variations of a premises Licence based on delegated discretion to the local authority and adequate guidance to ensure the vast majority of the applications for minor variations are dealt with under the proposed process, and that there is no need for reference of most minor applications to relevant authorities

Yours Sincerely





pp