

POLICE REFORM AND SOCIAL RESPONSIBILITY ACT 2011

EXPLANATORY NOTES

OVERVIEW

Part 2 – Licensing

Late night levy

Sections 125 to 139: Late night levy

367. These sections enable a licensing authority to introduce a levy payable by the holders of a premises licence or club premises certificate in relation to each premises in its area which is authorised to supply alcohol during a period (the “late night supply period”) beginning at or after midnight and ending at or before 6am. Section 125 contains provision enabling licensing authorities to decide to introduce a levy. Definitions of premises to which, or the times at which, it would apply are contained in section 126. The funds generated by the levy will, subject to a deduction for the expenses of introducing, collecting, administering and enforcing the scheme, be payable to the police and crime commissioner or be used in accordance with regulations made under section 131. Section 131 also provides that at least 70% of these funds must be paid to the police and crime commissioner. The Government intends that the regulations will permit licensing authorities to pay the remaining funds other organs of local government which operate or administer measures to address the effect of alcohol-related crime and disorder in the night-time economy.
368. The holders of licences and certificates which permit the late night supply of alcohol benefit from the existence of a late night economy. But alcohol-related crime and disorder in that night time economy give rise to costs for the police, local authorities and other bodies. The Government’s intention in introducing the provisions is to enable licensing authorities to require those who benefit from the night-time economy by being permitted to supply alcohol between midnight and 6 am to contribute to police costs and the costs of other measures that the Government intends to permit in regulations made under section 131 to address the effect of alcohol-related crime and disorder in the night-time economy. Licensing authorities are required under section 125 to consider, before deciding to introduce a levy in their area, whether this measure is a desirable means of raising revenue in relation to these costs.
369. The liability of holders of licences or certificates to pay a levy (unless they are exempt and subject to whether they fall within a reduction category: see section 135) will be determined in accordance with their payment year. Section 126 enables regulations to prescribe how a licensing authority will determine the payment year for a licence or certificate holder by reference to, for example, the period in respect of which the holder pays an annual fee under the Licensing Act 2003. The holder’s liability will be determined by reference to when that year begins and regulations under section 129 may provide for a holder’s liability to pay the levy to be adjusted should its authorisation to supply alcohol cease or commence during that payment year. A licensing authority

will be required to determine the basis on which a payment year will be set at the time that it decides to introduce a levy.

370. **Section 128** contains power to make regulations which will prescribe the amount of the levy, or the basis on which it will be determined, which must be uniform across England and Wales.
371. These provisions will enable a licensing authority to:
- introduce the levy requirement in its area, where it will apply indefinitely until it decides that the levy will cease to apply in its area under section 133;
 - set the late night supply period within the midnight to 6am window (although this must be the same on each day) (see section 126);
 - afford exemptions or discounts in relation to certain categories of premises in cases prescribed by regulations made under section 135;
 - determine the proportion of the funds generated by the levy that will be paid to the police under section 131 (which must be at least 70%); and
 - decide that the levy will cease to apply in it's, or vary any of these matters(all these decisions must be made for whole years).
372. These provisions also contain powers to make regulations about the description of expenses (relating to the introduction, collection, administration and enforcement of the levy) which may be deducted from levy receipts and to determine how the net sum available to be paid to the police and others is calculated (see section 130), and to vary the minimum proportion of the funds generated by the levy that is paid to the police (see section 131).
373. Under section 134 regulations must require that prior to introducing the levy in its area; a licensing authority must allow any person with a potential liability to pay a levy to apply to vary the relevant licence or certificate with the effect that the person ceases to be liable, without incurring the fee which ordinarily must accompany such applications.
374. Under section 129(6) a licensing authority is required to suspend a premises licence or club premises certificate for non-payment of the levy if certain conditions are met, on the same basis that a licence or certificate can be suspended for non payment of an annual fee by virtue of the provision in section 120.
375. Under section 134 regulations must require a licensing authority to consult the police, holders of relevant authorisations and other persons who may be prescribed by regulations before making a decision to introduce the levy in its area or to revoke it or vary certain matters. The levy would not be introduced so as to apply retrospectively to any premises affected by it.

Section 140: Alcohol disorder zones: repeal

376. This section repeals Chapter 2 of Part 1 of the Violent Crime Reduction Act 2006 which makes provision for local authorities to designate an area in which there is alcohol related nuisance or disorder as an Alcohol Disorder Zone. Alcohol Disorder Zones enable local authorities to put in place a number of steps to reduce the nuisance and disorder, and also to impose charges on premises and clubs which supply alcohol within an Alcohol Disorder Zone. No Alcohol Disorder Zones have been designated under this provision. Chapter 2 makes alternative provisions for a late night levy on licensed premises.