



# Police Reform and Social Responsibility Act 2011

## 2011 CHAPTER 13

### PART 2

#### LICENSING

#### CHAPTER 1

#### AMENDMENTS OF THE LICENSING ACT 2003

VALID FROM 25/04/2012

#### *Responsible authorities*

#### **103 Licensing authorities as responsible authorities**

- (1) The Licensing Act 2003 is amended as set out in subsections (2) and (3).
- (2) In section 13(4) (responsible authorities)—
  - (a) before paragraph (a) insert—
    - “(za) the relevant licensing authority and any other licensing authority in whose area part of the premises is situated,”
    - and
  - (b) omit paragraph (g).
- (3) In section 69(4) (responsible authorities)—
  - (a) before paragraph (a) insert—
    - “(za) the relevant licensing authority and any other licensing authority in whose area part of the premises is situated,”
    - and

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(b) omit paragraph (g).

(4) The amendments made by this section apply in relation to—

- (a) applications relating to premises licences or club premises certificates that are made on or after the commencement of this section, and
- (b) notices under section 165(4) of the Licensing Act 2003 (closure orders) that are received by a licensing authority on or after the commencement of this section.

#### **104 Primary Care Trusts and Local Health Boards as responsible authorities**

(1) The Licensing Act 2003 is amended as set out in subsections (2) to (4).

(2) In section 5(3) (statement of licensing policy), after paragraph (b) insert—

“(ba) each Primary Care Trust or Local Health Board for an area any part of which is in the licensing authority's area,”.

(3) In section 13(4) (authorised persons, interested parties and responsible authorities), after paragraph (b) insert—

“(ba) the Primary Care Trust or Local Health Board for any area in which the premises are situated,”.

(4) In section 69(4) (authorised persons, interested parties and responsible authorities), after paragraph (b) insert—

“(ba) the Primary Care Trust or Local Health Board for any area in which the premises are situated,”.

(5) The amendments made by this section apply in relation to—

- (a) applications relating to premises licences or club premises certificates that are made on or after the commencement of this section, and
- (b) notices under section 165(4) of the Licensing Act 2003 (closure orders) that are received by a licensing authority on or after that commencement.

#### *Removing the vicinity test*

#### **105 Premises licences: who may make relevant representations**

(1) The Licensing Act 2003 is amended as set out in subsections (2) to (9).

(2) In section 13 (authorised persons, interested parties and responsible authorities)—

- (a) in the title, omit “, interested parties”,
- (b) in subsection (1), omit ““interested party””, and
- (c) omit subsection (3).

(3) In section 17(5) (application for premises licence)—

- (a) in paragraph (a)(ii), for “interested parties” substitute “ persons who live, or are involved in a business, in the relevant licensing authority's area and who are ”,

(b) after paragraph (a) insert—

“(aa) require the relevant licensing authority to advertise the application within the prescribed period—

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- (i) in the prescribed form, and
- (ii) in a manner which is prescribed and is likely to bring the application to the attention of the persons who are likely to be affected by it; and”, and”
- (c) in paragraph (c), for “interested parties and responsible authorities” substitute “responsible authorities and other persons ”.
- (4) In section 18(7) (determination of application for premises licence)—
  - (a) in paragraph (a), for “an interested party or responsible authority” substitute “a responsible authority or other person ”, and
  - (b) in paragraph (c), for “an interested party (who is not also a responsible authority)” substitute “a person who is not a responsible authority ”.
- (5) In section 31(6) (determination of application for provisional statement)—
  - (a) in paragraph (a), for “an interested party or responsible authority” substitute “a responsible authority or other person ”, and
  - (b) in paragraph (c), for “an interested party (who is not also a responsible authority)” substitute “a person who is not a responsible authority ”.
- (6) In section 35(6) (determination of application to vary premises licence)—
  - (a) in paragraph (a), for “an interested party or responsible authority” substitute “a responsible authority or other person ”, and
  - (b) in paragraph (c), for “an interested party (who is not also a responsible authority)” substitute “a person who is not a responsible authority ”.
- (7) In section 41B(2)(b)(ii) (determination of application for minor variation of premises licence), for “an interested party” substitute “any other person ”.
- (8) In section 41D(6) (variation of premises licence: supply of alcohol from community premises), for paragraph (b) substitute—
  - “(b) subsection (6)(c) were omitted.”.
- (9) In section 194 (index of defined expressions), omit the entry for the expression “interested party, in Part 3”.
- (10) In section 33 of the Policing and Crime Act 2009 (individual members of licensing authorities to be interested parties), omit subsection (1).
- (11) The amendments made by this section apply in relation to applications relating to premises licences that are made on or after the commencement of this section.

#### Commencement Information

**II** S. 105(1)(3) in force at 22.3.2012 for specified purposes by S.I. 2012/896, art. 2(a)

## 106 Premises licences: who may apply for review

- (1) The Licensing Act 2003 is amended as set out in subsections (2) to (6).
- (2) In section 51 (application for review of premises licences)—
  - (a) in subsection (1), for “an interested party or a responsible authority” substitute “a responsible authority or any other person ”, and
  - (b) in subsection (3)—

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- (i) in paragraph (b), for “interested parties and responsible authorities” substitute “responsible authorities and other persons”, and
  - (ii) in paragraph (c), for “interested party” substitute “other person”.
- (3) In section 52(8) (determination of application for review of premises licence)—
- (a) in paragraph (a)(i), for “an interested party” substitute “any other person”, and
  - (b) in paragraph (c), for “an interested party (who is not also a responsible authority)” substitute “a person who is not a responsible authority”.
- (4) In section 53A(3) (summary reviews on application of senior police officer)—
- (a) in paragraph (c), for “interested parties” substitute “other persons”, and
  - (b) in paragraph (e), for “interested party” substitute “other person”.
- (5) In section 53C(8) (review of premises licence following summary review notice)—
- (a) in paragraph (a), for “an interested party” substitute “any other person”, and
  - (b) in paragraph (c), for “an interested party (who is not also a responsible authority)” substitute “a person who is not a responsible authority”.
- (6) In section 167 (review of premises licence following closure order)—
- (a) in subsection (4)(b), for “interested parties” substitute “other persons”,
  - (b) in subsection (4)(c), for “interested party” substitute “other person”,
  - (c) in subsection (10)(a), for “an interested party” substitute “any other person”,
  - (d) in subsection (10)(c), for “an interested party (who is not also a responsible authority)” substitute “a person who is not a responsible authority”, and
  - (e) in subsection (14), for “interested party” and “responsible authority” have” substitute “responsible authority” has”.
- (7) The amendments made by this section apply in relation to applications for review that are made on or after the commencement of this section.

#### Commencement Information

**I2** S. 106(1)(2)(4)(6) in force at 22.3.2012 for specified purposes by S.I. 2012/896, art. 2(b)

### 107 Club premises certificates: who may make relevant representations

- (1) The Licensing Act 2003 is amended as set out in subsections (2) to (7).
- (2) In section 69 (authorised persons, interested parties and responsible authorities)—
- (a) in the title, omit “, interested parties”,
  - (b) in subsection (1), omit ““interested party”,”, and
  - (c) omit subsection (3).
- (3) In section 71(6) (application for club premises certificate)—
- (a) in paragraph (a)(ii), for “interested parties” substitute “persons who live, or are involved in a business, in the relevant licensing authority's area and who are”,
  - (b) after paragraph (a) insert—
    - “(aa) require the relevant licensing authority to advertise the application within the prescribed period—

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- (i) in the prescribed form, and
- (ii) in a manner which is prescribed and is likely to bring the application to the attention of the persons who are likely to be affected by it; and”, and”
- (c) in paragraph (c), for “interested parties and responsible authorities” substitute “responsible authorities and other persons ”.
- (4) In section 72(8) (determination of application for club premises certificate)—
  - (a) in paragraph (a), for “an interested party or responsible authority” substitute “a responsible authority or other person ”, and
  - (b) in paragraph (c), for “an interested party (who is not also a responsible authority)” substitute “a person who is not a responsible authority ”.
- (5) In section 85(6) (determination of application to vary club premises certificate)—
  - (a) in paragraph (a), for “an interested party or responsible authority” substitute “a responsible authority or other person ”, and
  - (b) in paragraph (c), for “an interested party (who is not also a responsible authority)” substitute “a person who is not a responsible authority ”.
- (6) In section 86B(2)(b)(ii) (determination of application for minor variation of club premises certificate), for “an interested party” substitute “any other person ”.
- (7) In section 194 (index of defined expressions), omit the entry for the expression “interested party, in Part 4”.
- (8) In section 33 of the Policing and Crime Act 2009 (individual members of licensing authorities to be interested parties), omit subsection (2).
- (9) The amendments made by this section apply in relation to applications relating to club premises certificates that are made on or after the commencement of this section.

#### Commencement Information

**I3** [S. 107\(1\)\(3\)](#) in force at 22.3.2012 for specified purposes by [S.I. 2012/896](#), [art. 2\(c\)](#)

### 108 Club premises certificates: who may apply for review

- (1) The Licensing Act 2003 is amended as set out in subsections (2) to (4).
- (2) In section 87 (application for review of club premises certificate), for subsection (1) substitute—
  - “(1) Where a club holds a club premises certificate, a responsible authority or any other person may apply to the relevant licensing authority for a review of the certificate.”.
- (3) In section 87(3) (application for review of club premises certificate)—
  - (a) in paragraph (b), after “to the authority” insert “by the club, responsible authorities and other persons ”, and
  - (b) in paragraph (c), for “interested party” substitute “other person ”.
- (4) In section 88(8) (determination of application for review of club premises certificate)

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- (a) in paragraph (a), for “an interested party” substitute “any other person”, and
  - (b) in paragraph (c), for “an interested party (who is not also a responsible authority)” substitute “a person who is not a responsible authority”.
- (5) The amendments made by this section apply in relation to applications for review that are made on or after the commencement of this section.

#### Commencement Information

**I4** S. 108(1)(3) in force at 22.3.2012 for specified purposes by S.I. 2012/896, art. 2(d)

VALID FROM 25/04/2012

### *Reducing the evidential burden on licensing authorities*

#### **109 Reducing the burden: premises licences**

- (1) The Licensing Act 2003 is amended as set out in subsections (2) to (14).
- (2) In section 18 (determination of application for premises licence)—
  - (a) in subsection (3)(b), for “necessary” substitute “appropriate”, and
  - (b) in subsection (4)(a)(i), for “necessary” substitute “appropriate”.
- (3) In section 22(2) (prohibited conditions: plays), for “necessary” substitute “appropriate”.
- (4) In section 25A(6) (grant of premises licence: supply of alcohol from community premises), for “necessary” substitute “appropriate”.
- (5) In section 31 (determination of application for provisional statement)—
  - (a) in subsection (3)(b), for “necessary” substitute “appropriate”, and
  - (b) in subsection (3)(c)(ii), for “necessary” substitute “appropriate”.
- (6) In section 35(3)(b) (determination of application to vary premises licence), for “necessary” substitute “appropriate”.
- (7) In section 39(3)(b) (determination of application to vary premises licence to specify premises supervisor), for “necessary” substitute “appropriate”.
- (8) In section 41D(5) (variation of premises licence: supply of alcohol from community premises), for “necessary” substitute “appropriate”.
- (9) In section 44(5)(b) (determination of transfer application), for “necessary” substitute “appropriate”.
- (10) In section 48(3)(b) (cancellation of interim authority notice following police objections), for “necessary” substitute “appropriate”.
- (11) In section 52(3) (determination of application for review of premises licence), for “necessary” substitute “appropriate”.
- (12) In section 53B(8)(a) (supplementary provision about review of premises licence), for “necessary” substitute “appropriate”.

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- (13) In section 53C(2)(b) (review of premises licence following review notice), for “necessary” substitute “ appropriate ”.
- (14) In section 177(5) (dancing and live music in certain small premises), for “necessary” substitute “ appropriate ”.
- (15) The amendments made by this section (other than subsection (10)) apply in relation to applications relating to premises licences that are made on or after the commencement of this section.
- (16) The amendment made by subsection (10) of this section applies in relation to interim authority notices that are given on or after the commencement of this section.

#### **110 Reducing the burden: club premises certificates**

- (1) The Licensing Act 2003 is amended as set out in subsections (2) to (5).
- (2) In section 72 (determination of application for club premises certificate)—
  - (a) in subsection (3)(b), for “necessary” substitute “ appropriate ”, and
  - (b) in subsection (4)(a)(i), for “necessary” substitute “ appropriate ”.
- (3) In section 76(2) (prohibited conditions: plays), for “necessary” substitute “ appropriate ”.
- (4) In section 85(3)(b) (determination of application to vary club premises certificate), for “necessary” substitute “ appropriate ”.
- (5) In section 88(3) (determination of application for review of club premises certificate), for “necessary” substitute “ appropriate ”.
- (6) The amendments made by this section apply in relation to applications relating to club premises certificates that are made on or after the commencement of this section.

#### **111 Reducing the burden: other situations**

- (1) The Licensing Act 2003 is amended as set out in subsections (2) to (6).
- (2) In section 105(2)(b) (counter notice following police objection), for “necessary” substitute “ appropriate ”.
- (3) In section 120(7)(b)(i) (determination of application for grant of personal licence), for “necessary” substitute “ appropriate ”.
- (4) In section 121(6)(b)(i) (determination of application for renewal of personal licence), for “necessary” substitute “ appropriate ”.
- (5) In section 124(4)(b) (convictions coming to light after grant or renewal of personal licence), for “necessary” substitute “ appropriate ”.
- (6) In section 167(5)(b) (review of premises licence following closure order), for “necessary” substitute “ appropriate ”.
- (7) The amendment made by subsection (2) of this section applies in relation to temporary event notices that are given on or after the commencement of this section.

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- (8) The amendments made by subsections (3) to (5) of this section apply in relation to applications relating to personal licences that are made on or after the commencement of this section.
- (9) The amendment made by subsection (6) of this section applies in relation to notices under section 165(4) of the Licensing Act 2003 (closure orders) that are received by a licensing authority on or after the commencement of this section.

### *Temporary event notices*

VALID FROM 25/04/2012

#### **112 Temporary event notices: who may make an objection**

- (1) The Licensing Act 2003 is amended as set out in subsections (2) to (13).
- (2) After section 99, insert—

##### **“99A Meaning of “relevant person”**

In this Part references to a “relevant person”, in relation to any premises, are references to the following—

- (a) the chief officer of police for any police area in which the premises are situated,
- (b) the local authority by which statutory functions are exercisable in any area in which the premises are situated in relation to minimising or preventing the risk of pollution of the environment or of harm to human health.”.

- (3) In the cross-heading before section 104, for “Police objections” substitute “Objections”.
- (4) In the title to section 104 (objection to notice), for “the police” substitute “a relevant person”.
- (5) In section 104 (objection to notice), for subsection (2) substitute—
- “(2) Where a relevant person who is given a temporary event notice is satisfied that allowing the premises to be used in accordance with the notice would undermine a licensing objective, the relevant person must give a notice stating the reasons for being so satisfied (an “objection notice”)—
- (a) to the relevant licensing authority,
  - (b) to the premises user, and
  - (c) to every other relevant person.”.
- (6) In section 104(3) (timing for objection), for “chief officer of police” substitute “relevant person”.
- (7) In section 104(4) (timing for objection), for “relevant chief officer of police” substitute “relevant person”.
- (8) Omit section 104(5) (definition of “relevant chief officer of police”).



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- (9) In section 105 (counter notice following objection)—
- (a) in the title, omit “police”,
  - (b) in subsection (2)(a), for “chief officer of police” substitute “ relevant person ”,
  - (c) in subsection (2)(b), for “the crime prevention objective” substitute “ a licensing objective ”,
  - (d) in subsection (3)(a), for “the relevant chief officer of police” substitute “ each relevant person ”, and
  - (e) in subsection (3)(b)(ii), for “the relevant chief officer of police” substitute “ each relevant person ”.
- (10) In section 106 (modification of notice following objection)—
- (a) in the title, omit “police”,
  - (b) in subsection (1), for “chief officer of police” substitute “ relevant person ”,
  - (c) in subsection (2)—
    - (i) for “chief officer of police” substitute “ relevant person ”, and
    - (ii) after “of the premises user” insert “ and each other relevant person ”,
  - (d) in subsection (4), for “chief officer of police” substitute “ relevant person ”, and
  - (e) omit subsection (5).
- (11) In section 107(11) (counter notice where permitted limits exceeded), for the words following “that notice” substitute “ to each relevant person ”.
- (12) In section 194 (index of defined expressions), after the entry for the expression “relevant offence” insert—

“relevant person, in Part 5

section 99A”.

- (13) In Schedule 5 (appeals)—
- (a) in paragraph 16(1)(b), for “chief officer of police” substitute “ relevant person ”,
  - (b) in paragraph 16(3), for “chief officer of police” substitute “ relevant person ”,
  - (c) in paragraph 16(8), in the definition of “objection notice”, omit “and”,
  - (d) in paragraph 16(8), at the end of the definition of “relevant licensing authority” insert “; and
- relevant person” has the meaning given in section 99A.”.
- (14) The amendments made by this section apply in relation to temporary event notices that are given on or after the commencement of this section.

### 113 Temporary event notices: conditions

- (1) The Licensing Act 2003 is amended as set out in subsections (2) to (5).
- (2) In section 98(1) (meaning of “permitted temporary activity”), for paragraph (a) substitute—
  - “(a) it is carried out in accordance with—
    - (i) a notice given in accordance with section 100, and

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(ii) any conditions imposed under section 106A, and”.

(3) After section 106 insert—

**“106A Conditions on standard temporary event notice following objection**

- (1) This section applies where—
    - (a) a relevant person has given an objection notice under section 104(2) in respect of a standard temporary event notice,
    - (b) the objection notice has not been withdrawn, and
    - (c) the relevant licensing authority has decided under section 105 not to give a counter notice under that section.
  - (2) The relevant licensing authority may impose one or more conditions on the standard temporary event notice if—
    - (a) the authority considers it appropriate for the promotion of the licensing objectives to do so,
    - (b) the conditions are also imposed on a premises licence or club premises certificate that has effect in respect of the same premises, or any part of the same premises, as the temporary event notice, and
    - (c) the conditions would not be inconsistent with the carrying out of the licensable activities under the temporary event notice.
  - (3) Where the authority decides to impose one or more conditions under subsection (2)—
    - (a) the authority must give the premises user notice of the decision,
    - (b) the notice must be accompanied by a separate statement (the “statement of conditions”) which sets out the conditions that have been imposed on the temporary event notice, and
    - (c) a copy of the notice and statement of conditions must be given to each relevant party.
  - (4) The notice and statement of conditions under subsection (3) must—
    - (a) be in the prescribed form,
    - (b) be given to the premises user in the prescribed manner, and
    - (c) be given no later than 24 hours before the beginning of the event period specified in the temporary event notice.
  - (5) Where the premises are situated in the area of more than one licensing authority, the functions conferred on the relevant licensing authority by subsection (2) must be exercised by those authorities jointly.”.
- (4) In section 109 (duty to keep and produce temporary event notice)—
- (a) in the title, after “notice” insert “ and statement of conditions ”,
  - (b) in subsection (2)(a), after “notice” insert “ , together with a copy of any statement of conditions given under section 106A(3) in respect of the notice ”,
  - (c) in subsection (3)(a), after “notice” insert “ , together with a copy of any statement of conditions given under section 106A(3) in respect of the notice ”,
  - (d) in subsection (3)(b), for “notice is” substitute “ notice and any statement of conditions are ”,
  - (e) in subsection (5)(a), after “notice” insert “ or any statement of conditions ”,

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- (f) in subsection (5), after “produce the temporary event notice” insert “ or statement of conditions ”,
  - (g) in subsection (6), after “produce the temporary event notice” insert “ or statement of conditions ”, and
  - (h) in subsection (8), after “notice” insert “ or statement of conditions ”.
- (5) In section 110 (theft, loss, etc. of temporary event notice)—
- (a) in the title, after “notice” insert “ or statement of conditions ”,
  - (b) after subsection (1) insert—
    - “(1A) Where a statement of conditions that is given under section 106A(3) is lost, stolen, damaged or destroyed, the premises user may apply to the licensing authority which gave the statement for a copy of the statement.”,
  - (c) in subsection (4), after “copy of the notice” insert “ or statement ”,
  - (d) in subsection (4)(a), after “notice” insert “ or statement ”,
  - (e) in subsection (5), after “notice” insert “ or statement ”, and
  - (f) in subsection (6), after “notice” insert “ or statement ”.
- (6) The amendments made by this section apply in relation to temporary event notices that are given on or after the commencement of this section.

#### Commencement Information

**I5** S. 113(1)(3) in force at 22.3.2012 for specified purposes by S.I. 2012/896, art. 2(e)

## 114 Temporary event notices: late notices

- (1) The Licensing Act 2003 is amended as set out in subsections (2) to (12).
- (2) In section 98(2) (meaning of “permitted temporary activity”), for “sections 102 (acknowledgement of notice) and 104(1) (notification of police)” substitute “ section 102 (acknowledgement of notice) ”.
- (3) In section 100 (temporary event notice)—
  - (a) in subsection (7), for paragraph (a) substitute—
    - “(a) must be given in accordance with section 100A, and”, and”
  - (b) in subsection (7)(b), after “fee” insert “ when it is given by the premises user to the relevant licensing authority. ”.
- (4) After section 100 insert—

### “100A Standard and late temporary event notices

- (1) For the purposes of section 100(7)(a), a temporary event notice must be given in accordance with—
  - (a) subsection (2), in which case the notice is a “standard temporary event notice”, or
  - (b) subsection (3), in which case the notice is a “late temporary event notice”.

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- (2) A temporary event notice is given in accordance with this subsection if, no later than ten working days before the day on which the event period begins,—
- (a) it is given to the relevant licensing authority by means of a relevant electronic facility, or
  - (b) it is given to the relevant licensing authority (otherwise than by means of a relevant electronic facility) and to each relevant person.
- (3) A temporary event notice is given in accordance with this subsection if—
- (a) it is given to the relevant licensing authority by means of a relevant electronic facility no later than five working days, but no earlier than nine working days, before the day the event period begins, or
  - (b) both of the following are satisfied—
    - (i) it is given to the relevant licensing authority (otherwise than by means of a relevant electronic facility) and to each relevant person no later than five working days before the day on which the event period begins;
    - (ii) it is given to at least one of those persons no earlier than nine working days before the day on which that event period begins.
- (4) Where a temporary event notice (the “original notice”) is given by the premises user to the relevant licensing authority by means of a relevant electronic facility as referred to in subsection (2)(a) or (3)(a)—
- (a) the licensing authority must give a copy of the original notice to each relevant person no later than the end of the first working day after the day on which the original notice was given to the authority, and
  - (b) for the purposes of this Act, the copy is to be treated as if it were the original notice.
- (5) In this section “event period” in relation to a temporary event notice means the event period specified in the notice.”.
- (5) In section 102 (acknowledgement of notice), for subsection (3) substitute—
- “(3) Subsection (1) does not apply where, before the time by which acknowledgement of the receipt of the notice must be given in accordance with that subsection, a counter notice has been given to the premises user under—
- (a) where the counter notice is in respect of a late temporary event notice, section 104A, or
  - (b) where the counter notice is in respect of a standard temporary event notice or a late temporary event notice, section 107.”.
- (6) In section 104 (objection to notice)—
- (a) omit subsections (1) and (1A), and
  - (b) in subsection (3), for “a copy of the temporary event notice under subsection (1) or (1A)” substitute “the temporary event notice”.
- (7) After section 104 insert—

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### “104A Counter notice following objection to late notice

- (1) Where an objection notice is given under section 104(2) in respect of a late temporary event notice, the relevant licensing authority must give the premises user a counter notice under this section.
- (2) The counter notice must—
  - (a) be in the prescribed form, and
  - (b) be given to the premises user in the prescribed manner.
- (3) The relevant licensing authority must, no later than 24 hours before the beginning of the event period specified in the temporary event notice—
  - (a) give the counter notice to the premises user, and
  - (b) give a copy of the counter notice to each relevant person.”.
- (8) In section 105 (counter notice following objection)—
  - (a) in the title, after “objection” insert “ to standard temporary event notice ”,
  - (b) in subsection (1), for “in respect of a” substitute “ under section 104(2) in respect of a standard ”, and
  - (c) omit subsection (7).
- (9) In section 106(1) (modification of notice following objection)—
  - (a) in the title, for “notice” substitute “ standard temporary event notice ”,
  - (b) in subsection (1), for “in respect of a” substitute “ under section 104(2) in respect of a standard ”, and
  - (c) in subsection (2), for “the notice returned to the premises user under section 102” substitute “ it ”.
- (10) In section 107 (counter notice where permitted limits exceeded)—
  - (a) in subsection (2), for paragraph (b) substitute—
    - “(b) has already given at least—
      - (i) 50 temporary event notices, or
      - (ii) ten late temporary event notices,
 in respect of event periods wholly or partly within the same year as the event period specified in notice A.”, and”
    - (b) in subsection (3), for paragraph (b) substitute—
      - “(b) has already given at least—
        - (i) five temporary event notices, or
        - (ii) two late temporary event notices,
 in respect of event periods wholly or partly within the same year as the event period specified in notice A.”.
  - (11) In section 194 (index of defined expressions)—
    - (a) after the entry for the expression “late night refreshment” insert—

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“late temporary event notice	section 100A(1)(b)”, and
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(b) after the entry for the expression “secretary, in Part 4” insert—	
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“standard temporary event notice	section 100A(1)(a)”.
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*Changes to legislation: There are currently no known outstanding effects for the Police Reform and Social Responsibility Act 2011, Part 2. (See end of Document for details)*

- (12) In paragraph 16(1)(a) of Schedule 5 (appeals), after “a” insert “ standard ”.
- (13) The amendments made by this section apply in relation to temporary event notices that are given on or after the commencement of this section.

#### Commencement Information

**I6** S. 114(1)(7) in force at 22.3.2012 for specified purposes by S.I. 2012/896, art. 2(f)

### 115 Relaxation of time limits applying to temporary event notices

- (1) The Licensing Act 2003 is amended as set out in subsections (2) and (3).
- (2) In section 100 (temporary event notice)—
- in subsection (1), for “96 hours” substitute “ 168 hours ”, and
  - in subsection (5)(b), for “96 hours” substitute “ 168 hours ”.
- (3) In section 107(5) (counter notice where permitted limits exceeded), for “15 days” substitute “ 21 days ”.
- (4) The amendments made by this section apply in relation to temporary event notices that are given on or after the commencement of this section.

#### Commencement Information

**I7** S. 115(1)(2) in force at 22.3.2012 for specified purposes by S.I. 2012/896, art. 2(g)

VALID FROM 25/04/2012

### 116 Temporary event notices: acknowledgment of notice

- (1) In section 102 of the Licensing Act 2003 (acknowledgement of notice)—
- in subsection (1), for “(in duplicate) in accordance with this Part, it must acknowledge receipt of the notice by sending or delivering one notice” substitute “ in accordance with this Part, it must give written acknowledgement of the receipt of the notice ”, and
  - omit subsection (2).
- (2) The amendments made by this section apply in relation to temporary event notices that are given on or after the commencement of this section.

VALID FROM 25/04/2012

### 117 Temporary event notice: time for objection to notice

- (1) In section 104(3) of the Licensing Act 2003 (objection to temporary event notice by police), for “second” substitute “ third ”.

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- (2) The amendment made by this section applies in relation to temporary event notices that are given on or after the commencement of this section.

### *Underage sales*

#### **118 Persistently selling alcohol to children**

- (1) The Licensing Act 2003 is amended as set out in subsections (2) and (3).
- (2) In section 147A(8) (fine for persistently selling alcohol to children), for “£10,000” substitute “£20,000”.
- (3) In section 169A (closure notice for persistently selling alcohol to children)—
  - (a) in subsection (2)(a), for “for a period not exceeding 48 hours” substitute “, for the period specified in the notice, ”, and
  - (b) in subsection (4), for “not more than 48 hours” substitute “ at least 48 hours but not more than 336 hours ”.
- (4) The amendment made by subsection (2) of this section applies in relation to offences that are committed on or after the commencement of that subsection.
- (5) The amendments made by subsection (3) of this section apply in relation to closure notices that are given on or after the commencement of that subsection in relation to offences committed before, on or after that commencement.

#### **Commencement Information**

**18** S. 118(1)(3) in force at 22.3.2012 for specified purposes by S.I. 2012/896, art. 2(h)

VALID FROM 31/10/2012

### *Early morning alcohol restriction orders*

PROSPECTIVE

#### **119 Early morning alcohol restriction orders**

- (1) The Licensing Act 2003 is amended as set out in subsections (2) and (3).
- (2) In section 7 (exercise and delegation of functions), in subsection (2), after paragraph (a) (but before the final “or”) insert—
  - “(aa) the functions of making, and varying or revoking, an order under section 172A (early morning alcohol restriction order),”.
- (3) For sections 172A to 172E (early morning alcohol restriction order), as inserted by section 55 of the Crime and Security Act 2010, substitute—

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### **“172A Power to make early morning alcohol restriction order**

- (1) If a licensing authority considers it appropriate for the promotion of the licensing objectives, it may, subject as follows, make an order under this section.
- (2) An order under this section is an order providing that—
  - (a) premises licences and club premises certificates granted by the authority, and temporary event notices given to the authority, do not have effect to the extent that they authorise the sale of alcohol during the period specified in the order, and
  - (b) club premises certificates granted by the authority do not have effect to the extent that they authorise the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club during the period specified in the order.
- (3) For the purposes of subsection (2)(a) and (b), the period that may be specified in the order must—
  - (a) begin no earlier than midnight, and
  - (b) end no later than 6am.
- (4) It is immaterial for the purposes of an order under this section whether a premises licence or club premises certificate is granted, or a temporary event notice is given, before or after the order is made.
- (5) An order under this section may provide that it is to apply—
  - (a) in relation to the same period of every day on which the order is to apply, or in relation to different periods of different days,
  - (b) every day or only on particular days (for example, particular days of the week or year),
  - (c) in relation to the whole or part of a licensing authority's area, or
  - (d) for a limited or unlimited period.
- (6) An order under this section must specify—
  - (a) the days on which it is to apply and the period of those days,
  - (b) the area in relation to which it is to apply,
  - (c) if it is to apply for a limited period, that period, and
  - (d) the date from which it is to apply.
- (7) An order under this section must—
  - (a) be in the prescribed form, and
  - (b) have the prescribed content.

### **172B Procedural requirements for early morning alcohol restriction order**

- (1) A licensing authority proposing to make an order under section 172A must—
  - (a) advertise the proposed order in the prescribed manner, and
  - (b) hold a hearing to consider any relevant representations, unless the authority and each person who has made such representations agree that a hearing is unnecessary.



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- (2) In this section “relevant representations” means representations which—
- (a) are about the likely effect of the making of the proposed order on the promotion of the licensing objectives,
  - (b) are made to the licensing authority by an affected person, a responsible authority or any other person,
  - (c) are made in the prescribed form and manner and within the prescribed period,
  - (d) have not been withdrawn, and
  - (e) in the case of representations made by a person who is not a responsible authority, are not, in the opinion of the licensing authority, frivolous or vexatious.
- (3) In subsection (2)(b), “affected person” means—
- (a) the holder of the premises licence or club premises certificate in respect of affected premises,
  - (b) the premises user in relation to a temporary event notice in respect of affected premises,
  - (c) a person who has applied for a premises licence or club premises certificate in respect of affected premises (where the application has not been determined), and
  - (d) a person to whom a provisional statement has been issued in respect of affected premises.
- (4) In subsection (2)(b) and (e), “responsible authority” means—
- (a) the licensing authority and any other licensing authority in whose area part of any affected premises is situated,
  - (b) the chief officer of police for a police area any part of which is in the area specified in the order,
  - (c) the fire and rescue authority for an area any part of which is in the area specified in the order,
  - (d) the Primary Care Trust or Local Health Board for an area any part of which is in the area specified in the order,
  - (e) the local weights and measures authority for any such area,
  - (f) the enforcing authority within the meaning given by section 18 of the Health and Safety at Work etc Act 1974 for any such area,
  - (g) the local planning authority within the meaning given by the Town and Country Planning Act 1990 for any such area,
  - (h) the local authority by which statutory functions are exercisable in the area specified in the order in relation to minimising or preventing the risk of pollution of the environment or of harm to human health,
  - (i) a body which—
    - (i) represents those who, in relation to the area specified in the order, are responsible for, or interested in, matters relating to the protection of children from harm, and
    - (ii) is recognised by the licensing authority for the purposes of this section as being competent to advise on such matters,
  - (j) where affected premises are a vessel—
    - (i) a navigation authority (within the meaning given by section 221(1) of the Water Resources Act 1991) having

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functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is navigated at a time when it is used for licensable activities to which the proposed order relates,

- (ii) the Environment Agency,
  - (iii) [<sup>F1</sup>Canal & River Trust] , and
  - (iv) the Secretary of State, and
  - (k) a prescribed person.
- (5) Where a licensing authority determines for the purposes of subsection (2)(e) that any representations are frivolous or vexatious, it must notify the person who made them of its reasons for its determination.
- (6) In this section—
- “affected premises”, in relation to a proposed order, means premises in respect of which it applies from the date specified in it;
  - “statutory function” means a function conferred by or under an enactment.

#### **172C Making of early morning alcohol restriction order**

- (1) A licensing authority may not make an order under section 172A applying in relation to—
- (a) an area not specified in the proposed order advertised under section 172B,
  - (b) a day not specified in that proposed order, or
  - (c) a period other than the period specified in that proposed order of any day so specified.
- (2) After making an order under section 172A a licensing authority must publish it or otherwise make it available—
- (a) in the prescribed form and manner, and
  - (b) within the prescribed period.

#### **172D Variation and revocation of early morning alcohol restriction order**

- (1) A licensing authority may vary or revoke an order under section 172A.
- (2) Sections 172B and 172C apply in relation to the variation or revocation of an order under section 172A as in relation to the making of such an order.

#### **172E Exceptions from effect of early morning alcohol restriction order**

- (1) An order under section 172A does not apply in prescribed cases or circumstances.
- (2) The cases referred to in subsection (1) may in particular be defined by reference to—
- (a) particular kinds of premises, or
  - (b) particular days.

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(3) An order under section 172A is subject to an order under section 172 (whether made before or afterwards), unless and to the extent that the order under section 172 provides otherwise.”.

(4) Section 55 of the Crime and Security Act 2010 (power to restrict sale and supply of alcohol) is repealed.

#### Textual Amendments

**F1** Words in s. 119(3) substituted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), [Sch. 3 para. 22](#) (with arts. 4-6)

VALID FROM 25/04/2012

### *Fees*

#### **120 Suspension of licence or certificate for failing to pay annual fee**

- (1) The Licensing Act 2003 is amended as set out in subsections (2) to (5).
- (2) In section 26(2) (period of validity of premises licence), after “section 52” insert “or 55A ”.
- (3) After section 55 (annual fee for premises licence) insert—

#### **“55A Suspension of premises licence for failing to pay annual fee**

- (1) A licensing authority must suspend a premises licence if the holder of the licence has failed to pay the authority an annual fee that has become due under section 55(2).
- (2) Subsection (1) does not apply if—
  - (a) either—
    - (i) the holder's failure to pay the fee at the time it became due was because of an administrative error (whether made by the holder, the authority or anyone else), or
    - (ii) before or at the time the fee became due, the holder notified the authority in writing that the holder disputed liability for, or the amount of, the fee, and
  - (b) the grace period for payment of the fee has not expired (see subsection (8)).
- (3) If a licensing authority suspends a premises licence under subsection (1), the authority must give the holder of the licence a notice to that effect, specifying the day the suspension takes effect.
- (4) A day specified in a notice under subsection (3) must be at least two working days after the day the authority gives the notice.

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- (5) If the holder of the licence pays the annual fee, the licensing authority must give the holder written acknowledgement of receipt of the fee.
- (6) The acknowledgement of receipt under subsection (5) must—
  - (a) specify the day the authority received the fee (the “receipt day”), and
  - (b) be given to the holder as soon as is reasonably practicable but in any event—
    - (i) if the receipt day was a working day, before the end of the first working day after the receipt day,
    - (ii) otherwise, before the end of the second working day after the receipt day.
- (7) A suspension of a premises licence under subsection (1)—
  - (a) takes effect on the day specified in the notice under subsection (3), and
  - (b) ceases to have effect on the receipt day, as specified in the acknowledgement of receipt under subsection (5).
- (8) In this section, the “grace period” for payment of a fee is the period of 21 days, beginning on the day after the day the fee became due.”.
- (4) In section 80(2) (period of validity of club premises certificate), after “section 88” insert “ or 92A ”.
- (5) After section 92 (annual fee for club premises certificate) insert—

**“92A Suspension of club premises certificate for failing to pay annual fee**

- (1) A licensing authority must suspend a club premises certificate if the holder of the certificate has failed to pay the authority an annual fee that has become due under section 92(2).
- (2) Subsection (1) does not apply if—
  - (a) either—
    - (i) the holder's failure to pay the fee at the time it became due was because of an administrative error (whether made by the holder, the authority or anyone else), or
    - (ii) before or at the time the fee became due, the holder notified the authority in writing that the holder disputed liability for, or the amount of, the fee, and
  - (b) the grace period for payment of the fee has not expired (see subsection (8)).
- (3) If a licensing authority suspends a club premises certificate under subsection (1), the authority must give the holder of the certificate a notice to that effect, specifying the day the suspension takes effect.
- (4) A day specified in a notice under subsection (3) must be at least 2 working days after the day the authority gives the notice.
- (5) If the holder of the certificate pays the annual fee, the licensing authority must give the holder written acknowledgement of receipt of the fee.

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- (6) The acknowledgement of receipt under subsection (5) must—
- (a) specify the day the authority received the fee (the “receipt day”), and
  - (b) be given to the holder as soon as is reasonably practicable but in any event—
    - (i) if the receipt day was a working day, before the end of the first working day after the receipt day,
    - (ii) otherwise, before the end of the second working day after the receipt day.
- (7) A suspension of a club premises certificate under subsection (1)—
- (a) takes effect on the day specified in the notice under subsection (3), and
  - (b) ceases to have effect on the receipt day, as specified in the acknowledgement of receipt under subsection (5).
- (8) In this section, the “grace period” for payment of a fee is the period of 21 days, beginning on the day after the day the fee became due.”.
- (6) The amendments made by this section apply in relation to premises licences and club premises certificates in relation to which annual fees become due on or after the commencement of this section.

PROSPECTIVE

## 121 Power for licensing authorities to set fees

- (1) The Licensing Act 2003 is amended as follows.
- (2) After section 197 insert—

### “197A Regulations about fees

- (1) Subsection (2) applies where the Secretary of State makes regulations under this Act prescribing the amount of any fee.
- (2) The Secretary of State may, in determining the amount of the fee, have regard, in particular, to—
  - (a) the costs of any licensing authority to whom the fee is to be payable which are referable to the discharge of the function to which the fee relates, and
  - (b) the general costs of any such licensing authority;
 and may determine an amount by reference to fees payable to, and costs of, any such licensing authorities, taken together.
- (3) A power under this Act to prescribe the amount of a fee includes power to provide that the amount of the fee is to be determined by the licensing authority to whom it is to be payable.
- (4) Regulations which so provide may also specify constraints on the licensing authority's power to determine the amount of the fee.
- (5) Subsections (6) and (7)—

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- (a) apply where, by virtue of subsection (3), regulations provide that the amount of a fee is to be determined by a licensing authority, and
  - (b) are subject to any constraint imposed under subsection (4).
- (6) The licensing authority—
- (a) must determine the amount of the fee (and may from time to time determine a revised amount),
  - (b) may determine different amounts for different classes of case specified in the regulations (but may not otherwise determine different amounts for different cases), and
  - (c) must publish the amount of the fee as determined from time to time.
- (7) In determining the amount of the fee, the licensing authority must seek to secure that the income from fees of that kind will equate, as nearly as possible, to the aggregate of—
- (a) the licensing authority's costs referable to the discharge of the function to which the fee relates, and
  - (b) a reasonable share of the licensing authority's general costs;
- and must assess income and costs for this purpose in such manner as it considers appropriate.

#### **197B Regulations about fees: supplementary provision**

- (1) Subsections (2) and (3) apply for the purposes of section 197A.
- (2) References to a licensing authority's costs referable to the discharge of a function include, in particular—
- (a) administrative costs of the licensing authority so far as they are referable to the discharge of the function, and
  - (b) costs in connection with the discharge of the function which are incurred by the licensing authority acting—
    - (i) under this Act, but
    - (ii) in a capacity other than that of licensing authority (whether that of local authority, local planning authority or any other authority).
- (3) References to the general costs of a licensing authority are to costs of the authority so far as they are referable to the discharge of functions under this Act in respect of which no fee is otherwise chargeable and include, in particular—
- (a) costs referable to the authority's functions under section 5;
  - (b) costs of or incurred in connection with the monitoring and enforcement of Parts 7 and 8 of this Act;
  - (c) costs incurred in exercising functions conferred by virtue of section 197A.
- (4) To the extent that they prescribe the amount of a fee or include provision made by virtue of section 197A(3) or (4), regulations may—
- (a) make provision which applies generally or only to specified authorities or descriptions of authority, and

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- (b) make different provision for different authorities or descriptions of authority.
- (5) Subsection (4) is not to be taken to limit the generality of section 197.”.
- (3) In section 10(4) (sub-delegation of functions by licensing committee etc)—
  - (a) omit “or” at the end of paragraph (c), and
  - (b) after paragraph (d) insert “or
    - (e) any function conferred by virtue of section 197A (regulations about fees).”.

VALID FROM 25/04/2012

### *Miscellaneous*

#### **122 Licensing policy statements**

- (1) Section 5 of the Licensing Act 2003 (statement of licensing policy) is amended as set out in subsections (2) to (7).
- (2) In subsection (1)—
  - (a) for “three” substitute “ five ”, and
  - (b) in paragraph (b) omit “(a “licensing statement”)”.
- (3) Omit subsection (2).
- (4) In subsection (3), for “three” substitute “ five ”.
- (5) In subsection (4)—
  - (a) for “three” substitute “ five ”, and
  - (b) after “policy” insert “ in respect of that period ”.
- (6) After subsection (6) insert—
  - “(6A) Without prejudice to subsection (4), a licensing authority may replace its policy in respect of a period, with effect from any date during that period, by—
    - (a) determining its policy with respect to the exercise of its licensing functions in respect of a period of five years beginning with that date, and
    - (b) publishing a statement of that policy before that date.
  - (6B) Subsection (3) applies in relation to any determination under subsection (6A) as it applies in relation to a determination under subsection (1).
  - (6C) A licensing statement must specify the five year period to which it relates.”
- (7) After subsection (7) insert—
  - “(8) In this section—
    - “five year period”, in relation to a licensing authority, means—

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(a) if paragraph (b) does not apply, the period of five years ending with 6 January 2016, and each subsequent period of five years, or

(b) if a licensing authority has published a licensing statement under subsection (6A), the period of five years to which the most recently published such statement relates, and each subsequent period of five years;

“licensing statement” means a statement published under subsection (1)(b) or (6A)(b).”

(8) Any policy determined, and any licensing policy statement published, under section 5(1) of the Licensing Act 2003 in respect of the period of three years beginning with 7 January 2011 is, on and after the commencement of this subsection, to be treated for all purposes as if—

(a) it had been determined and published under that section (as amended by this section) in respect of the period of five years beginning with 7 January 2011, and

(b) it specified the five year period to which it relates.

### **123 Personal licences: relevant offences**

(1) Schedule 4 to the Licensing Act 2003 (personal licence: relevant offences) is amended as set out in subsections (2) to (4).

(2) In paragraph 14 (offences under the Road Traffic Act 1988), after paragraph (c) insert—

“(d) section 6(6) (failing to co-operate with a preliminary test).”.

(3) The second paragraph 22 is renumbered as paragraph 22A.

(4) After paragraph 23 insert—

“24

An offence under section 1 of the Criminal Attempts Act 1981 of attempting to commit an offence that is a relevant offence.

25

An offence under section 1 of the Criminal Law Act 1977 of conspiracy to commit an offence that is a relevant offence.

26

The offence at common law of conspiracy to defraud.”.

(5) The amendments made by this section apply on and after the commencement of this section in relation to—

(a) personal licences that are granted or renewed before, on or after the commencement of this section, and

(b) offences committed before, on or after that commencement.



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**Changes to legislation:** There are currently no known outstanding effects for the Police Reform and Social Responsibility Act 2011, Part 2. (See end of Document for details)

VALID FROM 25/04/2012

## Review

### 124 Review of effect of amendments on licensing scheme

- (1) As soon as reasonably practicable after the end of the review period, the Secretary of State must—
  - (a) carry out a review of the following provisions of this Chapter—
    - (i) section 103 (licensing authorities as responsible authorities),
    - (ii) section 104 (Primary Care Trusts and Local Health Boards as responsible authorities),
    - (iii) section 105 (premises licences: who may make relevant representations),
    - (iv) section 106 (premises licences: who may apply for review),
    - (v) section 107 (club premises certificates: who may make relevant representations),
    - (vi) section 108 (club premises certificates: who may apply for review),
    - (vii) section 109 (reducing the burden: premises licences),
    - (viii) section 110 (reducing the burden: club premises certificates),
    - (ix) section 111 (reducing the burden: other situations),
    - (x) section 112 (temporary event notices: who may make an objection),
    - (xi) section 113 (temporary event notices: conditions),
    - (xii) section 117 (temporary event notice: time for objection to notice),
    - (xiii) section 119 (early morning alcohol restriction orders),
    - (xiv) section 120 (suspension of licence or certificate for failing to pay annual fee),
    - (xv) section 123 (personal licences: relevant offences), and
  - (b) set out the conclusions of the review in a report.
- (2) In particular, the review must assess the effect of the amendments made by those sections on the scheme established by the Licensing Act 2003.
- (3) The Secretary of State must lay a copy of the report before Parliament.
- (4) In this section, “review period” means the period of five years beginning with—
  - (a) if all of those sections commence on the same day, that day, and
  - (b) otherwise, the first day on which all of those sections have commenced.

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VALID FROM 31/10/2012

## CHAPTER 2

### LATE NIGHT LEVY

#### *Application of late night levy requirement in licensing authority's area*

#### **125 Late night levy requirement**

- (1) In this Chapter, “the late night levy requirement” means a requirement to pay the late night levy in accordance with this Chapter.
- (2) A licensing authority may decide that the late night levy requirement is to apply in its area.
- (3) In making a decision under subsection (2) a licensing authority must consider—
  - (a) the costs of policing and other arrangements for the reduction or prevention of crime and disorder, in connection with the supply of alcohol between midnight and 6 am, and
  - (b) having regard to those costs, the desirability of raising revenue to be applied in accordance with section 131.
- (4) A licensing authority may not decide that the late night levy requirement is to apply in part only of its area.
- (5) This section is subject to section 132.

#### *Liability to pay late night levy*

#### **126 “Relevant late night authorisation” and related definitions**

- (1) This section applies for the purposes of this Chapter.
- (2) “Relevant late night authorisation”, in relation to a licensing authority and a levy year, means a premises licence or club premises certificate which—
  - (a) is granted by the authority, and
  - (b) authorises the supply of alcohol at a time or times during the late night supply period on one or more days in the related payment year.
- (3) The “late night supply period” in relation to a licensing authority means the period of the day decided by the authority under section 132 or 133.
- (4) A late night supply period must—
  - (a) begin at or after midnight, and
  - (b) end at or before 6 am.
- (5) The late night supply period determined by a licensing authority for a levy year must be the same—
  - (a) for each payment year beginning during the levy year, and
  - (b) throughout each such payment year.

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- (6) Regulations must make provision as to how payment years are to be determined in relation to holders of premises licences or club premises certificates.
- (7) Regulations under subsection (6) may, in particular—
  - (a) provide for a holder's payment year to be determined by reference to the period in respect of which the holder is liable to pay an annual fee under section 55(2) or 92(2) of the Licensing Act 2003, or
  - (b) confer functions or a discretion on licensing authorities in relation to premises licences and club premises certificates granted by them.
- (8) Regulations under subsection (6) which provide for licensing authorities to determine payment years must require an authority to decide how the payment years are to be determined at the time the authority decides under section 125(2) that the late night levy requirement is to apply in its area.
- (9) For the purposes of this section, a payment year is related to a levy year if it begins at the same time as, or during, the levy year.

#### **127 Liability to pay late night levy**

- (1) Where the late night levy requirement applies in the area of a licensing authority, the holder of a relevant late night authorisation must pay a levy (“the late night levy”) to the authority in respect of that authorisation for each levy year, in accordance with this Chapter.
- (2) But a holder of a relevant late night authorisation who falls within an applicable exemption category is not liable to pay the late night levy in respect of that authorisation for the levy year.
- (3) For this purpose, “applicable exemption category”, in relation to a levy year, means a permitted exemption category that the licensing authority has decided under section 132 or 133 is to apply in its area for the levy year.

#### **128 Amount of late night levy**

- (1) For any levy year, the amount of the levy is—
  - (a) the amount prescribed by regulations, or
  - (b) the amount calculated in accordance with regulations.
- (2) But in the case of the holder of a relevant late night authorisation who falls within an applicable reduction category, the amount of the late night levy payable in respect of the authorisation is the reduced amount that applies in relation to that category (see section 135(4)).
- (3) For this purpose “applicable reduction category”, in relation to a levy year, means a permitted reduction category that the licensing authority has decided under section 132 or 133 is to apply in its area for the levy year.
- (4) Subject to subsection (2), regulations under subsection (1) must provide for the amount of the late night levy, or the manner in which it is to be calculated, to be the same for all persons liable to pay the levy in respect of an authorisation for the levy year.

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### *Administration of late night levy*

#### **129 Payment and administration of the levy**

- (1) Regulations—
  - (a) must make provision as to collection and administration, and
  - (b) may make provision as to enforcement,
 of the late night levy.
- (2) Regulations under subsection (1) must make provision as to the time or times for payment of the levy to a licensing authority by holders of relevant late night authorisations.
- (3) Provision made by virtue of subsection (2) may in particular provide for any such time or times to be determined by reference to the holders' payment years.
- (4) Regulations under subsection (1) may make provision for adjustments to be made in cases where—
  - (a) a relevant late night authorisation ceases to be such an authorisation during the holder's payment year;
  - (b) a premises licence or club premises certificate becomes a relevant late night authorisation during the holder's payment year;
  - (c) an order under section 172A of that Act (early morning restriction orders) precludes the supply of alcohol by virtue of the relevant late night authorisation at all the times during the applicable late night supply period when it would otherwise have been permitted by virtue of the authorisation;
 including in cases where the change occurs after the end of the levy year.
- (5) Any payment of the late night levy which is owed to a licensing authority under this Chapter may be recovered as a debt due to the authority.
- (6) The following provisions of the Licensing Act 2003 apply for the purposes of this Chapter—
  - (a) section 55A (suspension of premises licence for failure to pay annual fee);
  - (b) section 92A (suspension of club premises certificate for failure to pay annual fee),
 but as if a reference to an annual fee, or to the annual fee owed under section 55(2) or 92(2), were a reference to the late night levy, or to the amount of the late night levy owed under this Chapter.
- (7) Provision that may be made by regulations under this section includes provision conferring functions or a discretion on licensing authorities.

#### **130 Net amount of levy payments**

- (1) In this Chapter “the net amount of levy payments” of a licensing authority in respect of any period means the amount, calculated in accordance with regulations, which represents—
  - (a) the aggregate amount of payments to the authority in respect of the levy that are attributable to that period, less
  - (b) the aggregate amount of expenses of the authority attributable to that period that are permitted deductions under regulations under subsection (2)(a).

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- (2) Regulations under subsection (1)—
  - (a) must prescribe descriptions of relevant expenses which may be deducted for the purposes of calculating the net amount of levy payments for any period,
  - (b) may make provision for determining the amounts to be taken into account in calculating the net amount of levy payments,
  - (c) may make provision for determining the period to which a payment or deduction is attributable.
- (3) In subsection (2)(a), “relevant expenses” means expenses incurred by a licensing authority in the administration of the late night levy requirement including, in particular, such expenses incurred in, in connection with or in consequence of—
  - (a) any decision mentioned in section 134(1);
  - (b) collection of payments of the late night levy;
  - (c) enforcement of the late night levy requirement.
- (4) Expenses incurred by a licensing authority which fall within subsection (3)(a) include, in particular, expenses which it incurs in connection with any application made by virtue of section 134(2)(c).
- (5) A licensing authority must publish the following, in respect of each levy year—
  - (a) before the beginning of the year, a statement of its estimate of the amount of deductions permitted under regulations under subsection (2)(a) to be made in respect of the year;
  - (b) after the end of the year, a statement of the net amount of levy payments for the year, showing in particular the amounts mentioned in paragraphs (a) and (b) of subsection (1) attributable to the year.
- (6) It is for the licensing authority to determine the manner in which any statement under subsection (5) is to be published.

#### *Application of levy payments*

### **131 Application of net amount of levy payments**

- (1) The net amount of levy payments for any levy year must be applied as follows.
- (2) The licensing authority—
  - (a) must pay the specified proportion of that amount to the relevant local policing body, and
  - (b) must apply the remainder of that amount in accordance with regulations.
- (3) In subsection (2)(a), “specified proportion” means the proportion determined for the levy year under section 132(1)(b) or 133(1)(d).
- (4) The specified proportion must be not less than 70 per cent.
- (5) Regulations may amend subsection (4) by specifying a different proportion in place of the proportion for the time being specified in that subsection.
- (6) Regulations may make provision—
  - (a) as to the time or times at which payments are to be made by the licensing authority under subsection (2);

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(b) for adjustments of payments in cases where payments or repayments are made in respect of the levy after the end of the levy year.

(7) Regulations under this section may make provision conferring functions or a discretion on a licensing authority.

*Late night levy requirement: further provision*

### **132 Introduction of late night levy requirement**

(1) Where a licensing authority decides under section 125 that the late night levy requirement is to apply in its area, it must also decide—

- (a) the date on which the late night levy requirement is first to apply, and
- (b) for the first levy year and, subject to section 133, each subsequent levy year—
  - (i) the late night supply period;
  - (ii) the permitted exemption categories (if any) that are to apply in its area;
  - (iii) the permitted reduction categories (if any) that are to apply in its area;
  - (iv) the proportion of the net amount of levy payments that is to be paid to the relevant local policing body under section 131.

(2) Subsection (1)(b)(i) is subject to section 126(4) and (5).

(3) Subsection (1)(b)(iv) is subject to section 131(4).

(4) Regulations under section 134 apply in relation to any decision of a licensing authority under section 125 or this section.

### **133 Amendment of late night levy requirement**

(1) Where the late night levy requirement applies in the area of a licensing authority under section 125, the authority may decide—

- (a) that the requirement is to cease to apply in the area;
- (b) that a different late night supply period is to apply;
- (c) that any permitted exemption categories or permitted reduction categories are to apply in addition to any that currently apply, or to cease to apply, in the area;
- (d) that a different proportion of the net amount of levy payments is to be paid to the relevant local policing body.

(2) Subsection (1)(b) is subject to section 126(4) and (5).

(3) Subsection (1)(d) is subject to section 131(4).

(4) Where—

- (a) regulations under section 135 alter the permitted exemption categories or permitted reduction categories, and
- (b) by virtue of the regulations any category that applies in the area of a licensing authority as the result of a relevant decision ceases to be a permitted exemption category or permitted reduction category,

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the licensing authority must exercise its power under subsection (1)(c) so as to secure that all the categories that apply in its area in respect of future levy periods are permitted exemption categories or permitted reduction categories.

- (5) In subsection (4)(b), “relevant decision” means a decision under—
- (a) section 132(1)(b)(ii) or (iii), or
  - (b) subsection (1)(c) of this section.
- (6) Where—
- (a) regulations under subsection (5) of section 131 amend subsection (4) of that section, and
  - (b) by virtue of the regulations the proportion of the net amount of levy payments to be paid to the relevant local policing body ceases to satisfy section 131(4),
- the licensing authority must exercise its power under subsection (1)(d) so as to secure that the proportion of the net amount of levy payments to be paid to the relevant local policing body in respect of future levy years satisfies that provision.
- (7) Any decision made under subsection (1) may take effect only—
- (a) in the case of a decision under paragraph (a), at the end of a levy period,
  - (b) in the case of decision under paragraph (b), (c) or (d), in respect of future levy periods.
- (8) Regulations under section 134 apply in relation to any decision of a licensing authority under this section.

#### **134 Introduction or variation of late night levy requirement: procedure**

- (1) Regulations must make provision as to the procedure to be followed by a licensing authority in relation to any proposal for—
- (a) a decision under section 125(2) that the late night levy requirement is to apply in the area of the licensing authority (and any related decision under section 132(1));
  - (b) a decision under section 133(1)(a) that the late night levy requirement is to cease to apply in the area of the licensing authority;
  - (c) a decision under section 133(1)(b), (c) or (d).
- (2) Regulations under this section must, in particular—
- (a) require the licensing authority, where it proposes to make any decision mentioned in subsection (1), to consult the following about the proposal—
    - (i) the relevant local policing body;
    - (ii) the relevant chief officer of police;
    - (iii) holders of relevant late night authorisations;
    - (iv) any other persons prescribed by the regulations;
  - (b) make provision requiring the licensing authority to publish notice of any decision mentioned in subsection (1) (and of related decisions);
  - (c) in the case of a decision under section 125(2), make provision—
    - (i) enabling any relevant late night authorisation to be varied under section 34, 41A, 84 or 86A of the Licensing Act 2003, on the application of the holder, so as to cease to be a relevant late night authorisation before the beginning of the first levy year, and

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(ii) for no fee to be payable in respect of any such application to the extent that it relates to such a variation.

- (3) In the case of a proposal that the late night levy requirement should apply to the area of a licensing authority, the consultation about the proposal required under subsection (2)(a) must include consultation about the matters to be decided under section 132(1).
- (4) Regulations under this section may specify matters of which the licensing authority must be satisfied before deciding under section 125(2) that the late night levy requirement is to apply in its area.
- (5) In subsection (2)(c), “relevant late night authorisation” includes a premises licence or club premises certificate which would be a relevant late night authorisation if the licensing authority were to make the decisions in subsection (1)(a) in accordance with the proposal.

### **135 Permitted exemption and reduction categories**

- (1) Regulations may prescribe—
  - (a) categories of holders of relevant late night authorisations in relation to whom, if a licensing authority so decides, the requirement to pay the late night levy is not to apply (“permitted exemption categories”);
  - (b) categories of holders of relevant late night authorisations in relation to whom, if a licensing authority so decides, a reduced amount of the levy is to apply (“permitted reduction categories”).
- (2) References in subsection (1) to a decision of a licensing authority are to a decision by the authority under section 132(1)(b)(ii) or (iii) or 133(1)(c) that the category in question is to apply in its area.
- (3) Without prejudice to section 136(3), categories of holders may be prescribed for this purpose by reference, in particular, to—
  - (a) participation in arrangements of particular descriptions;
  - (b) particular descriptions of premises in respect of which authorisations are held.
- (4) Regulations under subsection (1) which prescribe permitted reduction categories must also prescribe, in relation to each such category—
  - (a) what the reduced amount of the levy is, or
  - (b) the manner in which the reduced amount of the levy is to be calculated,
 and must provide for the reduced amount of the late night levy, or the manner in which it is to be calculated, to be the same for all holders of relevant late night authorisations in that category for a levy year.

### **136 Late night levy: regulations**

- (1) Any power to make regulations under this Chapter is exercisable by the Secretary of State, but may be exercised only with consent of Treasury.
- (2) Regulations may amend any provision made by or under an Act so far as necessary or expedient in consequence of any provision made by or under this Chapter.
- (3) Any regulations under this Chapter may—



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- (a) make different provision for different cases;
  - (b) make provision subject to exceptions;
  - (c) make supplemental, incidental, consequential and transitional provision.
- (4) Subsection (3) is subject to section 128(4) and 135(4).

### 137 Interpretation

In this Chapter—

“club premises certificate” has the same meaning as in the Licensing Act 2003 (see section 60 of that Act);

“late night levy” means a levy payable under section 127(1);

“the late night levy requirement” has the meaning given by section 125;

“late night supply period”, has the meaning given by section 126;

“levy year”, in relation to a licensing authority, means a period of one year, beginning with the date specified under section 132(1)(a) or an anniversary of that date, for which the late night levy requirement applies in the area of the authority;

“licensing authority” means an authority which is a licensing authority within the meaning of the Licensing Act 2003 (see section 3 of that Act);

“net amount of levy payments” has the meaning given by section 130;

“payment year”, in relation to the holder of a relevant late night authorisation, means a year to which any payment of the late night levy by the holder in respect of the authorisation relates;

“permitted exemption category” and “permitted reduction category” have the meanings given by section 135;

“premises licence” has the same meaning as in the Licensing Act 2003 (see section 11 of that Act);

“relevant late night authorisation” has the meaning given by section 126;

“relevant chief officer of police”, in relation to a licensing authority, means the chief officer of police for the police area which comprises or includes the area of the licensing authority;

“relevant local policing body”, in relation to a licensing authority, means the local policing body for the police area which comprises or includes the area of the licensing authority;

“supply of alcohol” has the same meaning as in Part 3 of the Licensing Act 2003 (see section 14 of that Act).

### 138 Crown application

- (1) This Chapter binds the Crown and has effect in relation to any premises licence, or club premises certificate, which relates to land in which there is—
- (a) an interest belonging to Her Majesty in right of the Crown,
  - (b) an interest belonging to a government department, or
  - (c) an interest held in trust for Her Majesty for the purposes of such a department.
- (2) This Chapter also applies in relation to any premises licence, or club premises certificate, which relates to—

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- (a) land which is vested in, but not occupied by, Her Majesty in right of the Duchy of Lancaster, and
  - (b) land which is vested in, but not occupied by, the possessor for the time being of the Duchy of Cornwall.
- (3) Provision made by or under this Chapter applies to persons in the public service of the Crown as it applies to other persons.
- (4) But nothing in this Chapter affects Her Majesty in Her private capacity.

### **139 Amendments of the Licensing Act 2003**

- (1) The Licensing Act 2003 is amended as follows.
- (2) In section 55 (fees: premises licences), after subsection (1) insert—
- “(1A) Subsection (1) is subject to regulations under section 134(2)(c)(ii) of the Police Reform and Social Responsibility Act 2011 (exemption from fees for variation applications prior to introduction of late night levy).”
- (3) In section 92 (fees: club premises certificates), after subsection (1) insert—
- “(1A) Subsection (1) is subject to regulations under section 134(2)(c)(ii) of the Police Reform and Social Responsibility Act 2011 (exemption from fees for variation applications prior to introduction of late night levy).”

VALID FROM 31/10/2012

## **CHAPTER 3**

### ALCOHOL DISORDER ZONES

### **140 Alcohol disorder zones: repeal**

Sections 15 to 20 of the Violent Crime Reduction Act 2006 (alcohol disorder zones) are repealed.

**Status:**

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**Changes to legislation:**

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