

2009 No. 1724

LICENCES AND LICENSING

REGULATORY REFORM

**The Legislative Reform (Supervision of Alcohol Sales in
Church and Village Halls &c.) Order 2009**

Made - - - - *30th June 2009*

Coming into force in accordance with article 1(1)

The Secretary of State for Culture, Media and Sport makes the following Order in exercise of the powers conferred by section 1 of the Legislative and Regulatory Reform Act 2006(a) (“the Act”).

He considers that the conditions referred to in section 3(2) of the Act are, where relevant, satisfied in relation to each provision made in the Order.

He has consulted in accordance with section 13(1) of the Act.

He laid a draft of the Order and an explanatory document before Parliament in accordance with section 14(1) of the Act.

Pursuant to section 15 of the Act, the negative resolution procedure (within the meaning of Part 1 of the Act) applies in relation to the Order.

Neither House of Parliament resolved, within the 40-day period referred to in section 16(3) of the Act, that he should not make the Order.

Citation, commencement and extent

1.—(1) This Order may be cited as the Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls &c.) Order 2009 and comes into force on the twenty-ninth day after the day on which it is made.

(2) This Order extends to England and Wales only.

Amendment of the Licensing Act 2003

2. The Licensing Act 2003(b) is amended as set out in articles 3 to 6.

(a) 2006 c. 51; section 1(6) was amended by S.I. 2007/1388.

(b) 2003 c. 17. The Licensing Act 2003 is further amended by the Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009 (S.I. 2009/...) which, inter alia, inserts sections 41A to 41C and 86A to 86C into that Act.

Application for licence in respect of community premises: supervision of alcohol sales

3. After section 25 insert—

“25A Grant of premises licence: supply of alcohol from community premises

(1) Where a management committee of community premises makes an application under section 17 for a premises licence authorising the supply of alcohol, the application may include an application for the alternative licence condition to be included in the licence instead of the conditions in section 19(2) and (3).

(2) In this section “the alternative licence condition” is the condition that every supply of alcohol under the premises licence must be made or authorised by the management committee.

(3) In a case where an application under section 17 includes an application under subsection (1), sections 17 to 19 are modified as follows.

(4) Section 17 has effect as if subsections (3)(c) and (4)(e) were omitted.

(5) Section 18 has effect as if—

- (a) subsection (4)(c) were omitted;
- (b) in subsection (6)(c), the reference to the identity of the person named in the application as the proposed premises supervisor were to the inclusion of the alternative licence condition;
- (c) in subsection (9)(b), the reference to the designation of the person concerned as the premises supervisor under the premises licence were to the inclusion of the alternative licence condition.

(6) Section 19 has effect as if at the end there were inserted—

“(4) But where—

- (a) the relevant licensing authority is satisfied that the arrangements for the management of the premises by the applicant are sufficient to ensure adequate supervision of the supply of alcohol on the premises, and
- (b) if any representations are made pursuant to section 18(6)(c), the authority does not consider the inclusion of the conditions in subsections (2) and (3) to be necessary to promote the crime prevention objective,

the licence must not include the conditions in subsections (2) and (3) but must include the alternative licence condition referred to in section 25A(2) instead.”.”.

Variation of licence in respect of community premises: supervision of alcohol sales

4. After section 41C insert—

“41D Variation of premises licence: supply of alcohol from community premises

(1) Where a management committee which holds a premises licence in respect of community premises makes an application under section 34 for variation of the licence so as to authorise the supply of alcohol, the application may include an application for the alternative licence condition to be included in the licence instead of the conditions in section 19(2) and (3).

(2) A management committee which holds a premises licence in respect of community premises which includes the conditions in section 19(2) and (3) may make an application under section 34 for (or which includes an application for) variation of the licence to include the alternative licence condition instead of those conditions.

(3) In this section “the alternative licence condition” is the condition that every supply of alcohol under the premises licence must be made or authorised by the management committee.

(4) In a case where an application under section 34 includes an application under subsection (1), or is made pursuant to subsection (2), section 19 (as it applies by virtue of section 35(7)) and section 35 are modified as follows.

(5) Section 19 has effect as if at the end there were inserted—

“(4) But where—

- (a) the relevant licensing authority is satisfied that the arrangements for the management of the premises by the applicant are sufficient to ensure adequate supervision of the supply of alcohol on the premises, and
- (b) if any representations are made pursuant to section 35(5)(aa), the authority does not consider the inclusion of the conditions in subsections (2) and (3) to be necessary to promote the crime prevention objective,

the licence must not include the conditions in subsections (2) and (3) but must include the alternative licence condition referred to in section 41D(3) instead.”.

(6) Section 35 has effect as if—

(a) after subsection (5)(a) there were inserted—

“(aa) if they relate to the inclusion of the alternative licence condition referred to in section 41D(3)—

- (i) were made by the chief officer of police for a police area in which the premises are situated, and
- (ii) include a statement that, due to the exceptional circumstances of the case, he is satisfied that including the alternative licence condition instead of the conditions in section 19(2) and (3) would undermine the crime prevention objective, and”, and

(b) in subsection (6)-

- (i) in paragraph (a) “by an interested party or responsible authority” were omitted, and
- (ii) paragraph (c) were omitted.”.

Review of licence in respect of community premises: supervision of alcohol sales

5. After section 52 insert—

“52A Review: supply of alcohol from community premises

(1) In a case where an application is made under section 51 for review of a premises licence which—

- (a) is held by a management committee in respect of community premises, and
- (b) includes the alternative licence condition,

section 52 is modified as follows.

(2) Subsection (4) has effect as if paragraph (c) were omitted.

(3) Subsection (5) has effect as if for that subsection there were substituted—

“(5) Subsection (3) is subject—

- (a) to the requirement that the licence must include—
 - (i) the conditions in section 19(2) and (3), or
 - (i) the alternative licence condition referred to in section 52A(4)(but not both), and
- (b) to sections 20 and 21 (requirement to include certain conditions in premises licences).”.

(4) In this section “the alternative licence condition” is the condition that every supply of alcohol under the premises licence must be made or authorised by the management committee.”.

Miscellaneous amendments

6.—(1) In section 193—

(a) after the definition of “cider” insert—

““community premises” means premises that are or form part of—

(a) a church hall, chapel hall or other similar building, or

(b) a village hall, parish hall, community hall or other similar building;”;

(b) after the definition of “licensing functions” insert—

““management committee”, in relation to any community premises, means a committee or board of individuals with responsibility for the management of the premises;”.

(2) In the table in section 194—

(a) after the entry for “club premises certificate” insert the following entry—

“community premises section 193”;

(b) after the entry for “licensing objectives” insert the following entry—

“management committee section 193”.

30th June 2009

Gerry Sutcliffe
Parliamentary Under Secretary of State
Department for Culture, Media and Sport

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Licensing Act 2003 (c. 17) (“the Act”) in exercise of the power conferred by section 1 of the Legislative and Regulatory Reform Act 2006 (c. 51).

The effect of the amendments is to allow licensing authorities in some circumstances to include an alternative licence condition relating to the supervision of alcohol sales in premises licences relating to community premises. Community premises are defined to mean any church or chapel hall (or other similar building), or any village, parish or community hall (or other similar building).

Normally, a premises licence that authorises the supply of alcohol must include the conditions set out in section 19(2) and (3) of the Act (“the normal mandatory conditions”). These mandatory conditions prohibit the supply of alcohol under the licence at any time where there is no designated premises supervisor (“DPS” - see section 15 of the Act) specified in the licence, or at any time when the DPS does not hold a personal licence under Part 6 of the Act (or that licence is suspended). They also require every supply of alcohol under the licence to be made or authorised by a person who holds a personal licence.

The amendments introduced by this Order allow a committee or board of individuals with responsibility for the management of community premises (“the management committee”) to apply to have an alternative licence condition included in a premises licence in place of the normal mandatory conditions. The alternative condition is that every supply of alcohol under the licence be made or authorised by the management committee.

Articles 3, 4 and 5 of the Order insert new sections 25A, 41D and 52A into the Act which modify, respectively, sections 17 to 19 (in relation to applications for licences), 19 and 35 (in relation to applications to vary licences) and 52 (in relation to applications to review licences).

The first set of modifications (in the new section 25A) permit a management committee of community premises to include in its application for a premises licence authorising the supply of alcohol an application for the alternative licence condition to apply instead of the normal mandatory conditions. In such a case, the application does not have to include any form of consent from a person who is to be the DPS, nor any prescribed information regarding such a person. Relevant representations (following which a hearing on the application must be held unless all parties agree it is unnecessary) relating to the inclusion of the alternative licence condition may be made by the chief officer of police for an area in which the premises are situated. Such representations must include a statement that due to the exceptional circumstances of the case, the officer is satisfied that the inclusion of the alternative condition instead of the normal mandatory conditions would undermine the crime prevention objective in section 4(2)(a) of the Act. If no such representations are made, or the licensing authority does not consider that the normal mandatory conditions are needed to promote the crime prevention objective; and the authority is satisfied that the arrangements for the management of the premises by the applicant are sufficient to ensure adequate supervision of the supply of alcohol on the premises, then the alternative licence condition is to be included in the licence instead of the normal mandatory conditions.

Broadly similar modifications are made in relation to the variation of licences by the second set of modifications (in the new section 41D). These apply where a management committee of community premises already holds a premises licence and applies to vary it so as to authorise the supply of alcohol; and where such a committee already holds a licence authorising the supply of alcohol subject to the normal mandatory conditions. In either case, the committee may apply for the alternative licence condition to be included in the licence instead of the normal mandatory conditions. The licensing authority may grant such an application in accordance with the same criteria as apply in relation to initial licence applications, as described above. Relevant representations are defined in the same way.

The third set of modifications (in the new section 52A) relate to applications for the review of licences which are held by a management committee in respect of community premises, and which include the alternative licence condition instead of the normal mandatory conditions. In relation to such applications, the licensing authority may determine that the normal mandatory conditions should apply instead of the alternative condition if it considers this to be necessary for the promotion of the licensing objectives. Such a determination may be reached following the usual procedure for review applications set out in sections 51 to 53 of the Act.

Article 6 of the Order inserts new definitions of “community premises” and “management committee” into section 193 of the Act.

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STATUTORY INSTRUMENTS

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£4.00