THE LEGISLATIVE REFORM (MINOR VARIATIONS TO PREMISES LICENCES AND CLUB PREMISES CERTIFICATES) ORDER 2009: REVISED DRAFT

ACCOMPANYING STATEMENT

1. The above draft Order was laid before both Houses of Parliament on 8 December 2008 for consideration in accordance with Part 1 of the Legislative and Regulatory Reform Act 2006 ("the 2006 Act"). The Secretary of State for Culture, Media and Sport recommended that it should follow the negative resolution procedure.

2. The **House of Lords Delegated Powers and Regulatory Reform Committee** reported on the draft Order in its Second Report of Session 2008-9, published 22 January 2009.

3. The Committee expressed doubts about whether the LRO fully satisfied the tests in section 3(2) (d) and (e) of the Act (necessary protection and continuing exercise of rights). It was particularly concerned that there was no requirement for applicants under the new process to advertise the proposed variation and no right for local residents and businesses to make representations about the likely effect of the application. The Committee concluded that:

   'local residents and businesses should be able to express their views to the licensing authority and should receive sufficient notice to enable them to do so'.

4. The Committee recommended that the Order should follow the super-affirmative procedure under section 18 of the 2006 Act to allow the Department to consider how these recommendations might be incorporated into the proposal.

5. The Committee also recommended the following legal/technical amendments which the Department had already agreed to incorporate into the Order:

   - removal of the words 'sale by retail or' in section 41A(3)(d) and (e)(i) and 'sold by retail or' in section 41A(3)(e)(ii). The Committee considered these phrases redundant on the grounds that they are covered already by the definition of 'supply of alcohol' in section 14 of the 2003 Act.
   - insertion of the words 'to members and guests' after 'supply of alcohol' in section 86A(3)(b) and (c)(i) and after 'supplied' in section 86A(3)(c)(ii).

6. The Department has one minor technical reservation concerning the Committee's recommended change to the new section 41A(3)(e)(ii). As this provision does not include the specific phrase "supply of alcohol" as defined in section 14, it does not appear appropriate to delete the reference to sale by retail in this instance. The revised draft Order therefore retains this reference, to ensure it is clear that both the sale by retail and supply of alcohol are included. The same issue does not arise in the club provisions

because the concluding words of section 70 ensure that the expression "supplied to members or guests" in the new section 86A(3)(c)(ii) includes the sale by retail of alcohol to the guest of a member of a club.

7. The **House of Commons Regulatory Reform Committee** reported on the draft Order in its Second Report of Session 2008-9 published on 29 January. It was satisfied that the Department had addressed the main point of concern raised during consultation by excluding the majority of alcohol-related variations from the new process. However, it recommended that:

> **'when a minor variation is being considered, it should be a requirement that a notice describing the proposed variations be attached to the outside of the premises concerned for a minimum of two weeks. This would provide an appropriate safeguard for local communities whose members might then contact licensing authorities if the matter raised any concerns'.**

8. The Committee further recommended that:

   - the guidance to the Act should be 'regularly reviewed to ensure that licensing officers receive the appropriate steer, in order to provide more protection against misuse of the new procedure';
   - the DCMS regularly review 'the ease of use and degree of public awareness of the section 51 (review) procedure' to ensure that this procedure remains accessible to residents if there are concerns about a premises that has been granted a minor variation;
   - the licensing objectives should be set out in the application form 'so that applicants are clear about what they are'.

9. In view of these recommendations, the Committee recommended that the Order should be dealt with under the super-affirmative resolution procedure to allow the suggested amendments to be incorporated into the final text and to allow the House to vote on this sensitive issue.

10. No further representations were received from stakeholders on the draft Order during the 60 day period.

Department's response to the Committees' recommendations

11. The Secretary of State for Culture, Media and Sport is grateful for the recommendations made by the Committees. In relation to the main concern expressed by both Committees about interested parties, the Secretary of State has considered the matter further and accepts that an enhancement of the level of protection for local residents and businesses can be introduced into the proposal without fundamentally impairing its effectiveness in reducing burdens on business.

12. As noted in the original explanatory document laid under section 14 of the Act, the Secretary of State was previously of the view that the proposed statutory definition of a "minor" variation, together with the list of exclusions from the process and the role of responsible authorities were sufficient to safeguard the concerns of residents raised in the consultation

process. The Secretary of State remains of the view that these safeguards should normally ensure that local residents' and businesses' rights are protected. However, in light of the common concerns expressed by both Committees, and consideration of how a requirement to advertise applications could be worked in to the proposals (including the additional burdens to applicants and to licensing authorities), the Secretary of State has concluded that the Order should be revised to:

- create an obligation for the Secretary of State to make Regulations requiring the advertisement of applications for minor variations. The provisions on advertising should, in the Secretary of State's view, be contained in secondary legislation, in line with similar requirements under the full variation process (sections 17(5)(a) and 71(6)(a)). The Secretary of State proposes that these Regulations will require applicants to advertise applications on a white notice outside the premises in a similar manner as they would for a full variation application, but for a period of ten working days, as opposed to 28 days, in order to preserve the shorter timescale for minor variations as compared with full variations;
- give local residents and businesses ('interested parties' under sections 13(3) and 69(3) of the 2003 Act) the right to make representations in writing to the local authority about the likely effect of the variation on the promotion of the licensing objectives;
- require the local authority to consider any such representations received within the ten day period in arriving at its decision. There would be no right to a hearing, but local authorities would be required to take any representations into account in reaching a decision.

13. The Licensing Act 2003 (Licensing authority's register)(other information) Regulations 2005 (S.I. 2005/43) will also be amended to require the licensing authority to include details of proposed minor variations in its register maintained under section 8 of the Act. This register must be available for inspection without payment by members of the public, who may also, upon payment of a reasonable fee, obtain a copy of an entry on the register.

14. Under the revised proposal, interested parties will have a period of ten working days to make representations to the licensing authority. This is because, in contrast to the position with responsible authorities, where the licensing authority must solicit representations from relevant authorities where necessary, the licensing authority will not know in advance which interested parties may wish to make representations. The Secretary of State therefore considers it necessary to impose a general time limit for relevant representations from interested parties in order to preserve the overall timescale of 15 working days to complete the process. The Secretary of State considers that ten working days is a reasonable period to allow interested parties to submit their views to the licensing authority. One result of this change will be the introduction of a minimum period of ten working days for the processing of applications, a feature not present in the original proposal. This will reduce the flexibility and efficiency of the process to a significant extent: the Secretary of State was of the view following consultation that it was likely that many applications could be determined in less than ten working days. However, the Secretary of State recognises that

the involvement of interested parties could not realistically be achieved without a time limit of this sort.

15. The Secretary of State considers that the revisions described above will address the concerns expressed by the Committees whilst retaining most of the core, simplification and cost saving elements of this proposal. A revised draft Order incorporating these amendments has been laid before the each House under section 18(7) of the 2006 Act. A proposed draft of the Regulations referred to in paragraphs 11 and 12 above is at Annex 1. Although the Regulations are not formally within the Committees' remit, the Secretary of State considers that, together with the Guidance at Annex 2, sight of the draft will aid the Committees' understanding of the proposed new process. It is intended that these Regulations will be laid before Parliament separately in the usual way, to enable them to come into force at the same time as the draft Order and revisions to the statutory Guidance. The draft in Annex 1 may be subject to further minor and technical changes in the meantime.

16. The revised proposal will result in a slight reduction in the range of projected cost savings from £1.9m - £2.5m to £1.8m - £2.3m. The revised Impact Assessment (laid with the Order) shows how these figures have been calculated. There will also be a small increase in the application fee from £73.00 to £89.00 to ensure that licensing authorities recover the costs involved in considering representations from interested parties. This figure is included in the revised Regulations at Annex 1.

17. In response to the further recommendations made by the Commons committee, the Secretary of State also undertakes:

- to review the additional statutory Guidance on minor variations when the new procedure has been in force for one year;
- to revise the minor variations application form to include the four licensing objectives
- to continue to monitor use of the section 51 (review) process through the Department's Statistical Bulletin on Alcohol, Entertainment and Late Night Refreshment Licensing. This includes statistics on the number of reviews completed by each local authority; the reason for each review; and the outcome. The Bulletin allows the Department to identify trends in data and to investigate any anomalies.

Consultation

18. The Department has carried out a limited consultation on these revised proposals with key stakeholders including:

- the licensing advisory group of stakeholders which includes representatives of local authorities, the licensed trade, members clubs, rural and voluntary organisations and residents groups. A full list of members is at Annex 3

- Westminster and Newham Councils which were strongly opposed to the new process as noted in the Explanatory Memorandum that accompanied the original proposal;
- The National Organisation of Residents Associations (NORA) which, in common with other residents groups, expressed concerns about the scope of the new process and the risk that some minor variations could impact adversely on residents. NORA has members from over forty residents associations around the country and is therefore the most representative of the residents associations that responded to the consultation.

19. The licensing advisory group met on 16 February to consider the revised proposal. All members were disappointed that the original proposal had been diluted and felt that this would render the process less attractive to applicants with a consequent reduction in take-up by licensees and therefore in cost savings. The licensed trade in particular felt that the revised proposal would have less value as residents and local businesses would not distinguish between minor and full variations and would automatically submit representations. Other members of the group including local authorities, rural organisations and live music organisations believed the revised process would still be useful, particularly to small businesses and voluntary organisations. However they were concerned about managing the raised expectations of interested parties if, for example an application was approved despite their representations. The group agreed that these concerns could be partially addressed by requiring applicants to use a white notice to advertise minor variations rather than the blue notice currently used for full variations and new applications. This would help residents to distinguish between the minor and full variations process and the different procedures and timescales involved.

20. Officials wrote separately to Westminster and Newham Councils and NORA. Westminster asking for their views on the revised proposal. Copies of their responses are at Annexes 4, 5 and 6 of this document. In summary, all respondents welcomed the involvement of residents in the new process, but felt that the revised proposal did not go far enough: residents should be given 28 days to make representations and have the right to a hearing, as for the full variation process. They also disagreed with the use of white notices on the grounds that residents would confuse them with notices used for planning applications, etc and ignore them.

21. The Secretary of State understands these concerns, but believes that on balance the arguments put forward by the licensing Advisory Group are more persuasive. The minor variations process is very different to the full variation process and the use of different coloured notices will clearly signal that fact to local residents and businesses. The regulations the Department proposes to make will ensure that white notices are clearly marked with the heading "Minor variation" in a large font size. This should ensure that there is no doubt about what the notices represent. The Department will also provide central guidance on the new process to applicants and interested parties on its website and local authorities will also take steps to publicise and explain the new process.

22. The Secretary of State is also of the view that a 28 day response period for minor variations would represent no advantage over the full variations

process. An extension of the time limit to 28 days would fatally undermine the key objectives of the proposal in terms of lessening regulatory burdens on business. Given the limited nature of the variations permitted under the new process, the Secretary of State considers that the period of ten working days now proposed will be sufficient to protect the rights of interested parties in the new process.

23. Westminster and Newham made other suggestions relating to the content of the notice and the level of the fee. These suggestions, together with information provided by LACORs, have been taken into account in calculating the increased fee of £89.00 and in the amendments to the accompanying Regulations.

24. The other issues raised by these stakeholders re-iterate their original concerns which were considered by the Committees during the initial scrutiny of this Order. The Secretary of State believes that the further changes suggested would severely undermine the simplification and cost benefits of the proposal. The Secretary of State's view is that this would be a backward step at a time when the Government is trying to reduce burdens on businesses struggling to cope with the economic downturn.

25. As noted above, the Secretary of State believes that the revision of his original proposal to accommodate the Committees' concerns will lead to some dilution of its simplification and cost benefits. However, he is of the view that the revised proposal preserves the overall balance between the need to protect the rights of interested parties and the objective of ensuring a simpler and cheaper process for variations that do not have any impact on the promotion of the licensing objectives.

Department for Culture, Media and Sport
25th March 2009

STATUTORY INSTRUMENTS

2009 No. XXXX

LICENCES AND LICENSING

The Licensing Act 2003 (Minor Variations to Premises Licences and Club Premises Certificates) (Miscellaneous Amendments) Regulations 2009

Made - - - -	*xx 2009*
Laid before Parliament	*xx 2009*
Coming into force - -	*xx 2009*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 17(5)(a), 41A(4), 54, 55, 71(6)(a), 86A(4), 91 and 92 of the Licensing Act 2003(a).

Citation and commencement

1. These Regulations may be cited as the Licensing Act 2003 (Minor Variations to Premises Licences and Club Premises Certificates)(Miscellaneous Amendments) Regulations 2009 and come into force on xx 2009.

Minor variation of premises licences and club premises certificates: form and advertisement of applications

2.—(1) The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005(b) are amended as follows.

(2) After regulation 12 insert—

"**Minor variation of premises licences**

12A. An application for minor variation of a premises licence under section 41A shall be in the form and shall contain the information set out in Schedule 4A.".

(3) After regulation 19 insert—

"**Minor variation of club premises certificates**

19A. An application for minor variation of a club premises certificate under section 86A shall be in the form and shall contain the information set out in Schedule 4A.".

(a) 2003 c. 17.
(b) S.I. 2005/42. Those Regulations were amended by S.I. 2007/2502.

(4) In regulation 21(1) after "representations" insert "(other than representations of the kind referred to in section 41B(2)(b)(i) or 86B(2)(b)(i))".

(5) In regulation 22 after "representations" where it first occurs, insert ""(other than representations of the kind referred to in section 41B(2)(b) or 86B(2)(b))".

(6) After regulation 26 insert—

"Advertisement of applications: minor variations

26A.—(1) In the case of an application for minor variation of a premises licence or club premises certificate (under section 41A or 86A respectively) the person making the application shall advertise the application for the required period—

(a) by displaying a notice which complies with paragraph (2) prominently at or on the premises to which the application relates so that it can be conveniently read from the exterior of the premises, and

(b) if any part of the external perimeter of the premises that is one hundred or more metres in length abuts a public highway or other place accessible to the public, by displaying such a notice at least every fifty metres along that part of the perimeter.

(2) A notice complies with this paragraph if—

(a) it is—

(i) white,

(ii) of a size equal to or larger than A4,

(iii) printed legibly in black ink or typed in black;

(b) it includes the following information—

(i) in the case of an application under section 41A, at or near the top of the notice the heading "Licensing Act 2003: Minor Variation of Premises Licence",

(ii) in the case of an application under section 86A, at or near the top of the notice the heading "Licensing Act 2003: Minor Variation of Club Premises Certificate",

(iii) a brief description of the proposed variation or variations,

(iv) the name of the applicant or club,

(v) the postal address of the premises or club premises, if any, or if there is no postal address for the premises a description of those premises sufficient to enable the location and extent of the premises or club premises to be identified,

(vi) the postal address and, where applicable, the worldwide web address where the register of the relevant licensing authority is kept and where and when the record of the application may be inspected,

(v) the date by which an interested party may make representations to the relevant licensing authority,

(vi) that it is an offence knowingly or recklessly to make a false statement in connection with an application and the maximum fine for which a person is liable on summary conviction for the offence;

(c) the information referred to in subparagraph (b)(i) or (ii) above is printed or typed in a font of a size equal to or larger than 32;

(d) the remainder of the notice is printed or typed in a font of a size equal to or larger than 16.

(3) In this regulation "the required period" is the continuous period beginning on the first working day after the day on which the application was given to the relevant licensing authority and ending at the expiry of the ninth consecutive working day after that day.".

(7) After Schedule 4, insert the Schedule set out in the Schedule to these Regulations.

Licensing authority's register

3. After regulation 2(2) of the Licensing Act 2003 (Licensing authority's register)(other information) Regulations 2005(a), insert—

"(2A) In the case of an application under section 41A (Application for minor variation of premises licence) or 81A (Application for minor variation of club premises certificate) of the Act the details of the proposed variation or variations as given in the application.".

Fees

4.—(1) The Licensing Act 2003 (Fees) Regulations 2005(b) are amended as follows.

(2) After regulation 4 insert—

"Fee to accompany application for minor variation of premises licence

4A. The fee to accompany an application for minor variation of a premises licence under section 41A is £89.".

(3) After regulation 6 insert—

"Fee to accompany application for minor variation of club premises certificate

6A. The fee to accompany an application for minor variation of a club premises certificate under section 86A is £89.".

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

xx 2009

SCHEDULE

Regulation 2(7)

"SCHEDULE 4A

Regulations 12A and 19A

Application for a minor variation to a premises licence or club premises certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the Guidance Notes at the end of the form, especially Note 1.
If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and in black ink. Use additional sheets if necessary.
Once completed please send your application to the relevant licensing authority. You may wish to keep

(a) S.I. 2005/43. Those Regulations were amended by S.I. 2007/2502.
(b) S.I. 2005/79. Those Regulations were amended by S.I. 2005/357.

a copy of the completed form for your records.

(Insert name(s) of applicant)

being the premises licence holder(s) / club holding a club premises certificate, apply to vary a premises licence under section 41A / club premises certificate under section 86A of the Licensing Act 2003 for the premises described in Part 1 below.

Part 1 – Premises details

Postal address of premises (or, if none, ordnance survey map reference, or description)	
Post town	Post Code

Telephone number at premises (if any)

Premises licence number/club premises certificate number

Brief description of premises (Please see Guidance Note 2)

Part 2 – Applicant Details

Please tick ✓ yes

I am/ we are the premises licence holder/club premises certificate holder ☐

Contact phone number in working hours (if any)

Applicant Postal address IF DIFFERENT FROM PREMISES ADDRESS	
Post town	Post Code
Please provide email address if you would prefer us to contact you by email (optional)	

Part 3 – Proposed variation(s)

Please tick ✓yes

Do you want the proposed variation to have effect as soon as possible? ☐

If not, from what date do you want the variation to take effect?

Day		Month				Year	

Please describe the proposed variation(s) in detail in the box below and explain why you consider that they could not have an adverse effect on the promotion of any of the licensing objectives (See Guidance Note 1). **This should include whether new or increased levels of licensable activities will be taking place indoors or outdoors (indoors may include a tent):**

Details of proposed variations (Please see Guidance Note 3)

Details of proposed variations (Continued)

Part 4 – Operating Schedule

Please tick those parts of the Operating Schedule which would be subject to change if this application to vary were successful.

Provision of regulated entertainment

	Please tick ✓ yes
a. plays	☐
b. films	☐
c. indoor sporting events	☐
d. boxing or wrestling entertainment	☐
e. live music	☐
f. recorded music	☐
g. performances of dance	☐
h. anything of a similar description to that falling within (e), (f) or (g)	☐

Provision of entertainment facilities for

Please tick ✓yes

i. making music ☐

j. dancing ☐

k. entertainment of a similar description to that falling within (i) or (j) ☐

Provision of late night refreshment ☐

Sale by retail of alcohol ☐
(Note that this can only relate to reducing licensed hours, or moving them without any overall increase between 7am and 11pm)

Enclosures

I have enclosed the premises licence/club premises certificate ☐

I have enclosed the relevant part of the premises licence/ club premises certificate ☐

I have included a copy of the plan (necessary if the proposed variation will affect the layout) ☐

If you have not ticked one of the previous three boxes, please explain why in the box below.

Reasons why you have failed to enclose the premises licence/club premises certificate or relevant parts.

Any further information to support your application. (See Guidance Note 4)

CHECKLIST:-

Please tick ✓yes

- I have made or enclosed payment of the fee ☐
- I have enclosed the plan, if appropriate, of the premises in scale [1mm to 100mm], unless otherwise agreed with the licensing authority ☐
- I have enclosed the premises licence/club premises certificate or relevant part of it or provided an explanation ☐
- I understand that if I do not comply with the above requirements my application will be rejected. ☐

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION.

Part 5 – Signatures and Contact Details
(See Guidance Note 5)

Premises Licence: Signature of applicant (the current premises licence holder) or applicant's solicitor or other duly authorised agent. (See Guidance Note 6) If signing on behalf of the applicant, please state your name and in what capacity you are authorised to sign:

Signature
.....

Date.....

Capacity: I / We (insert full name and capacity)

.....
sign on behalf of and have authority to bind the applicant.

Where the premises licence is jointly held, signature of 2nd applicant (the current premises licence holder) or 2nd applicant's solicitor or other authorised agent (See Guidance Note 7). If signing on behalf of the applicant please state in what capacity.

Signature
.....

Date.....

Capacity: I / We (insert full name and capacity)

.....
sign on behalf of and have authority to bind the applicant.

Where the premises is a club

I (*insert full name*) .....make this application on behalf of the club and have authority to bind the club

Signature
.....

Date.....

Capacity: I / We (insert full name and capacity)
.....
sign on behalf of and have authority to bind the applicant.

Contact name (where not previously given) and address for correspondence associated with this application. (See Guidance Note 8)	
Post town	Post code
Telephone number (if any)	If you would prefer us to correspond with you by email your email address (optional)

Notes for Guidance

1. General Note: The minor variations process can only be used for variations that could have no adverse impact on the promotion of any of the four licensing objectives. (These are: the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm.)

It cannot be used to:

- **extend the period for which the licence or certificate has effect;**
- **transfer the licence or certificate from one premises to another;**
- **specify, in a premises licence, an individual as the premises supervisor**
- **add the sale by retail or supply of alcohol as an activity authorised by a licence or certificate;**
- **authorise the sale by retail or supply of alcohol at any time between 11pm and 7am;**
- **authorise an increase in the amount of time on any day during which alcohol may be sold by retail or supplied.**

2. Description of premises. For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. This should include any activities in or associated with the use of the premises which may give rise to concern in respect of children regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups, the presence of gaming machines, etc.

3. Give full details of all the proposed variation(s). Failure to provide sufficient information may lead to the refusal of your application. Details should include a description of the proposed variation(s) in terms as precise as possible. If you are not precise, the licensing authority may decide that the changes you propose would be potentially broader in scope than you intend and reject your application as not being a 'minor' variation. You should also include a statement about why you consider the variations proposed could not have an impact on the licensing objectives listed in section 4(2) of the Act. You should cover each of the objectives that could possibly apply to your proposal (or if more than one, to each proposal) and say why you think there could be no adverse impact on that objective. Your application will be assisted by including as much information as you can about this. **(However, there is a box at the end of the form for 'further information', and this should be used for any relevant background information not directly related to the variation).** Relevant information includes:

a) Variations to licensable activities/licensing hours (all timings should be given in 24 hour clock (e.g. 16.00). Only give details for the days of the week when you intend the premises to be used for the activity), such as:

- Whether new or increased levels of licensable activities will be taking place indoors or outdoors. Indoors may include a tent;
- Relevant further details, for example whether music will be amplified or unamplified;
- Standard days and timing when the activity will take place, including start and finish times;
- Any seasonal variations in timings, e.g. additional days during the summer;
- Non-standard timings, e.g. where you wish the activity to go on longer on a particular day such as Christmas Eve.

b) Variations to premises/club layout: If you are applying for a variation to the layout of your premises, you must include a revised plan. You should be aware that your application is likely to be refused if the proposed variation could:

- increase capacity for drinking on the premises;
- affect access between the public part of the premises and the rest of the premises or the street or public way, e.g. block emergency exits or routes to emergency exits; or
- impede the effective operation of a noise reduction measure.

c) Revisions, removals and additions of conditions: The minor variation process may be used to remove conditions which are out of date or invalid and to revise conditions which are unclear (as long as the intention and effect remains the same). It can also be used to add a new condition volunteered by the applicant or mutually agreed between the applicant and a responsible authority, such as the police or the environmental health authority (subject to impact on the licensing objectives).

d) Variations to opening hours: Details of any changes to hours when the premises or club is open to the public.

4. Further information: You should use this box to provide any additional evidence to support your claim that the proposed variation is 'minor' and could not have an adverse impact on the promotion of the licensing objectives.

5. Signatures: The application form must be signed.

6. Authorised agent: An applicant's agent (e.g. solicitor) may sign the form on their behalf and, in so doing, will be confirming that they have actual authority to do so.

7. 2nd Applicant: Where there is more than one applicant both applicants or their respective agents must sign the application form.

8. This is the address which we shall use to correspond with you about this application. This might not be the same as the address of the premises or applicant, but these addresses must also be provided.".

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 (S.I. 2005/42), the Licensing Act 2005 (Licensing authority's register (Other information) Regulations 2005 (S.I. 2005/43) and the Licensing Act 2005 (Fees) Regulations 2005 (S.I. 2005/79).

The purpose of the amendments is to prescribe the forms, advertising requirements, fees and content of a licensing authority's register in relation to minor variations of premises licences and club premises certificates under the Licensing Act 2003 (c. 17). The minor variations process was introduced into the 2003 Act by the Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Regulations 2009 (S.I. 2009/xxxx).

The purpose of the process is to enable premises licences and club premises certificates to be varied by means of a less costly and less time-consuming procedure where the variations proposed could not have any adverse effect upon the promotion of any of the four licensing objectives set out in section 4 of the 2003 Act (the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm).

The application form for the minor variations process is set out in a new Schedule 4A to the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005. New regulations 12A and 19A are also inserted into those Regulations to introduce the new Schedule for premises licences and club premises certificates respectively. Those Regulations are also amended so as to remove the requirement that relevant representations from responsible authorities (as defined in sections 13(4) and 69(4) of the 2003 Act) in response to minor variation applications must be in writing, and to exclude the general time limits for representations in relation to such applications. (The relevant time limits for minor variations are contained in the 2003 Act as amended).

The advertising requirements for minor variation applications are set out in a new regulation 26A inserted into the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005. The applicant is required to display a white A4-sized notice at the premises containing the information set out in regulation 26A(2)(b) for a period of ten working days following the day on which the application is given to the relevant licensing authority.

The Licensing Act 2003 (Licensing authority's register)(other information) Regulations 2005 are amended so as to require details of proposed minor variations to be included in a licensing authority's register maintained pursuant to section 8 of the 2003 Act.

The Licensing Act 2005 (Fees) Regulations 2005 are amended to introduce an application fee in respect of minor variations of premises licences and club premises certificates: the fee is set at £89 in each case.

An Impact Assessment has been prepared in respect of these Regulations.

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Annex 2

DRAFT STATUTORY GUIDANCE

CHAPTER 8: APPLICATIONS FOR PREMISES LICENCES

Introduction

8.33 This Guidance revises and replaces the Guidance on variations of premises licences published on 28 June 2007. Where a premises licence holder wishes to amend the licence the Act allows, in most cases, for an application to vary to be made rather than requiring an application for a new premises licence. The process to be followed will depend on the nature of the variation and its potential impact on the licensing objectives.

Changes of name and address/Designated Premises Supervisor

8.34 There are simplified processes for making applications in the following cases: a change of the name or address of someone named in the licence (section 33); an application to vary the licence to specify a new individual as the designated premises supervisor (section 37); an application in relation to a licence in respect of community premises that authorises the sale of alcohol to disapply the mandatory conditions concerning the supervision of alcohol sales by a personal licence holder and the need for a Designated Premises Supervisor who holds a personal licence (sections 25A and 41D); an application for minor variation of a premises licence (sections 41A to 41C).

Minor variations process

8.35 The Licensing Act 2003 has been amended by the insertion of sections 41A to 41C relating to minor variations. These sections were commenced on [*insert date*] Small variations that will not impact adversely on the licensing objectives are subject to a simplified 'minor variations' process. Under this process, the applicant is not required to advertise the variation in a newspaper or circular or copy it to responsible authorities. However, they must display it on a white notice (to distinguish it from the blue notice used for full variations and new applications). The notice must comply with the requirements set out in regulation 26A of the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 (SI 2005/42). In accordance with those Regulations, the notice must be displayed for a period of ten working days starting on the working day after the minor variation application was given to the licensing authority.

8.36 On receipt of an application for a minor variation, the licensing authority must consider whether the variation could impact adversely on the licensing objectives. The Government recommends that decisions on minor variations should be delegated to licensing officers.

8.37 In considering the application, the licensing authority must consult relevant responsible authorities if there is any doubt about the impact of the variation on the licensing objectives and they need specialist advice, and take their views into account in reaching a decision. For instance, they may need to consult the environmental health officer on an application with possible public nuisance implications. But there is no requirement to consult all responsible authorities on each application and in many cases the licensing authority may be able to make a decision without consultation.

8.38 The licensing authority must also consider any relevant representations received from interested parties within the time limit referred to below. As stated earlier in this Guidance, representations are only relevant if they clearly relate to the likely effect of the grant of the variation on the promotion of at least one of the licensing objectives. In the case of minor variations, there is no right to a hearing (as for a full variation or new application), but licensing authorities must take any representations into account in arriving at a decision.

8.39 Interested parties have ten working days from the date that the application is received by the licensing authority to submit representations. The licensing authority must therefore wait until this period has elapsed before determining the application, but must do so at the latest within 15 working days, beginning on the first working day after the authority received the application, with effect either that:

- the minor variation is granted; or,
- the application is refused.

8.40 If the licensing authority fails to respond to the applicant within 15 working days (see section 193 of the Act for the definition of working day) the application will be treated as refused and the authority must return the fee to the applicant forthwith. However, the licensing authority and the applicant may agree instead that the undetermined application should be treated as a new application and that the fee originally submitted will be treated as a fee for the new application.

8.41 Where an application is refused and is then re-submitted through the full variation process, the full 28 days notification period will apply from the date the new application is received and applicants should advertise the application and copy it to all responsible authorities (in accordance with the regulations applicable to full variations).

8.42 Minor variations will generally fall into four categories: minor changes to the structure or layout of a premises; small adjustments to licensing hours; the removal of out of date, irrelevant or unenforceable conditions or addition of volunteered conditions; and the addition of certain licensable activities. In all cases the overall test is whether the proposed variation could impact adversely on any of the four licensing objectives.

Changes to structure/layout

8.43 Many small variations to layout will have no adverse impact on the licensing objectives. However, changes to layout should be referred to the full variation process if they could potentially have an adverse impact on the promotion of the licensing objectives, for example by:

- increasing the capacity for drinking on the premises ;
- affecting access between the public part of the premises and the rest of the premises or the street or public way, e.g. block emergency exits or routes to emergency exits;
- impeding the effective operation of a noise reduction measure such as an acoustic lobby;

8.44 Licensing authorities will also need to consider the combined effect of a series of applications for successive small layout changes (for example, as part of a rolling refurbishment of a premises) which in themselves may not be significant, but which cumulatively may impact adversely on the licensing objectives. This emphasises the importance of having an up to date copy of the premises plan available.

8.45 An application to remove a licensable activity should normally be approved as a minor variation.

8.46 Variations to add the sale by retail or supply of alcohol to a licence are excluded from the minor variations process and must be treated as full variations in all cases.

8.47 The Act covers a wide range of other licensable activities and licensing authorities will need to consider each application on a case by case basis and in light of any licence conditions put forward by the applicant.

8.48 For example, the addition of live or recorded music to a licence may impact on the public nuisance objective, but this will depend on many factors. Licensing authorities will need to consider factors such as proximity to residential areas and any noise reduction conditions volunteered by the applicant. It is very much the Government's intention that applications to vary a licence for live music should benefit from the minor variations process unless there is likely to be an adverse impact on the licensing objectives.

8.49 Similarly, in some circumstances, the addition of other types of regulated entertainment, such as the performance of plays or exhibition of films, to a licence may have no adverse impact on the licensing objectives.

8.50 In considering applications to add licensable activities, licensing authorities and officers may find it helpful to consider the following factors:

- the nature of the licensable activity;
- proximity of the premises to residential areas;
- any licence conditions volunteered by the applicant to mitigate the impact of the activity;
- whether alcohol is sold at the premises when the licensable activity is taking place; and whether it will continue to be sold during the extended period. For example, a pub that applies to stay open an extra hour after the

sale of alcohol has ended to sell hot drink and food could be considered to benefit the promotion of the licensing objectives;

- track record of the premises – whether positive or negative. For example, any complaints or enforcement action related to the licensing objectives, or conversely any evidence of good practice in carrying on the licensable activity, e.g. under temporary event notices;
- proximity and density of public houses, nightclubs, etc. if customers from these premises are likely to be attracted to the proposed licensable activity in large numbers. For example, people visiting a takeaway after leaving a public house.

This is not an exhaustive list and licensing officers should bring their own experience and knowledge of licensing to bear when considering applications.

Licensing hours

8.51 Variations to:

- extend licensing hours for the sale or supply of alcohol for consumption on or off the premises between the hours of 23.00 and 07.00; or
- to increase the amount of time on any day during which alcohol may be sold or supplied for consumption on or off the premises

are **excluded** from the minor variations process and must be treated as full variations in all cases. Applications to reduce licensing hours for the sale or supply of alcohol or to or move (without increasing) the licensed hours between 07.00 and 23.00 will normally be processed as minor variations.

8.52 Applications to vary the time during which other licensable activities take place should be considered on a case by case basis with reference to the likely impact on the licensing objectives. In arriving at a decision, licensing authorities may wish to consider the following factors:

- the nature of the licensable activity;
- the extent of additional hours sought and whether it will involve later opening or opening between 23.00 and 07.00;
- proximity of the premises to residential areas;
- any licence conditions already in place to mitigate the impact of the activity; any additional conditions volunteered by the applicant;
- arrangements for dispersal, i.e. when people leave the premises is there potential for noise and disturbance near the venue? Is the only means of dispersal a single route through residential areas?
- whether the proposed extension applies only on the weekend or also during week days;
- whether there will be new admittances during that period;
- track record of the establishment whether positive or negative, e.g. complaints related to the licensing objectives, any enforcement action or conversely any evidence of good practice in carrying on the licensable activity, e.g. under temporary event notices;

- whether the premises is already open during the extended period for other licensable activities;
- proximity and density of public houses, nightclubs, etc. if customers from these premises are likely to be attracted to the proposed licensable activity in large numbers. For example, people visiting a takeaway after leaving a public house.

8.53 These factors are not an exhaustive list and licensing authorities and officers should bring their own experience and knowledge of licensing to bear when considering applications.

Licensing conditions

a) Imposed conditions

8.54 Licensing authorities cannot impose their own conditions on the licence through the minor variations process. If the licensing officer considers that the proposed variation would impact adversely on the licensing objectives unless conditions are imposed, they should refuse it.

b) Volunteered conditions

8.55 Applicants may volunteer conditions as part of the minor application process. These conditions may arise from their own risk assessment of the variation, or from informal discussions with responsible authorities or the licensing authority.

8.56 For instance, there may circumstances when the licence holder and a responsible authority such as the police or environmental health authority, agree that a new condition should be added to the licence. For example, that a nightclub adds the provision of late night refreshment to its licence to ensure a longer period of dispersal. Such a change would not normally impact adversely on the licensing objectives and could be expected to promote them by preventing crime and disorder or public nuisance. In these circumstances, the minor variation process may provide a less costly and onerous means of amending the licence than a review, with no risk to the licensing objectives. However, this route should only be used where the agreed variations are minor and the licensee and the responsible authority have come to a genuine agreement. The licensing authority should be alive to any attempts to pressure licensees into agreeing to new conditions where there is no evidence of a problem at the premises and, if there is any doubt, should discuss this with the relevant parties.

c) Amending or removing existing conditions

8.57 Licence or club certificate conditions will normally have been volunteered or imposed to mitigate any possible adverse impact on the licensing objectives. In most cases therefore, any application to remove or change the wording of a condition should be treated as a full variation.

8.58 However, there may be some circumstances when the minor variation process is appropriate. Premises may change over time and the circumstances that originally led to the condition being attached or volunteered may no longer

apply. For example, there may be no need for door supervision if a bar has been converted into a restaurant. Equally some embedded conditions may no longer apply.

8.59 Changes in legislation may invalidate certain conditions. For instance, the recent Regulatory Reform (Fire Safety) Order 2005 annulled all fire safety related conditions imposed on licences purely for fire safety reasons. Although the conditions do not have to be removed from the licence, licensees and licensing authorities may agree that this is desirable to clarify the licensee's legal obligations.

8.60 There may also be cases where it is necessary to revise the wording of a condition that is unclear and/or unenforceable. This would be acceptable as a minor variation as long as the purpose of the condition and its intended effect remain unchanged. Such a change could be expected to promote the licensing objectives by making it easier for the licensee to understand and comply with the condition and easier for the licensing authority to enforce it.

Full variations process

8.61 Any other changes to the licence require an application to vary under section 34 of the Act.

8.62 Licensing authorities will wish to consider whether there is any likely impact on the promotion of the licensing objectives in deciding whether there is a need for an application to vary in relation to features which are not required to be shown on the plan under section 17 of the Act, but have nevertheless been included, for example, moveable furniture (altering the position of tables and chairs) or beer gardens (installation of a smoking shelter that will not affect the use of exits or escape routes).

8.63 However, it should be noted that a section 34 application cannot be used to vary a licence so as to:

- extend a time limited licence; or to
- transfer the licence from one premises to another.

8.64 If an applicant wishes to make these types of changes to the premises licence they should make a new premises licence application under section 17 of the Licensing Act 2003.

CHAPTER 6: CLUB PREMISES CERTIFICATES

6.11 The arrangements for applying for or seeking to vary club premises certificates are extremely similar to those for a premises licence. Clubs may also use the minor variation process to make small changes to their certificates as long as these could have no adverse impact on the licensing objectives. Licensing authorities should refer to Chapter 8 of this Guidance on the handling of such applications. In that Chapter most of the references to the premises licence, premises licence holders, and applicants can be read for

the purposes of this Chapter as club premises certificates, qualifying clubs and club applicants.

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Annex 3

Membership of Minor Variations Sub Group

Deborah Clarke	Action with Communities in Rural England
Ian Graham	Association of Chief Police Officers
Adrian Studd	Association of Chief Police Officers
Shane Brennan	Public Affairs and Communications Manager
Dr. Martin Rawlings	British Beer & Pub Association.
Rita King	British Beer & Pub Association.
Andrew Opie	British Retail Consortium
Alun Thomas	Business in Sport and Leisure
James Radford	Business in Sport and Leisure
Phil Clapp	Cinema Exhibitors Association
Paul Davies	Civic Trust
Mark Du Val	LACORS
Charlotte Meller	LACORS
Trudi Penman	London Borough of Havering
Michael Ojo	London Councils
Patrick Crowley	London Councils/ RBKC
Horace Trubridge	Musicians' Union
Diane Baxter	Musicians' Union
Paul Smith	NOCTIS (formerly BEDA)
Jeremy Allen	NOCTIS/ Poppleston Allen Solicitors
Graeme Cushion	NOCTIS/ Poppleston Allen Solicitors
Maxine Murphy	Working Men's Club and Institute Union
Kevin Smyth	Working Men's Club and Institute Union/ CORCA

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Annex 4

City of Westminster

Contact: Bill Hodgson
Tel No: (020) 7641 2747
Fax No: (020) 7641 3050
e-mail: bhodgson@westminster.gov.uk
Date: 27 February 2009

Licensing Service, 4th Floor City Hall,
Westminster City Council
64 Victoria Street, London SW1E 6QP

My Ref :
Your Ref :

Amanda Stevens ,
Head of Regulatory Projects,
Licensing, Gambling ,Sport and Leisure
Department for Culture Media and Sport
2-4 Cockspur Street,
LONDON SW1Y 5HD.

Dear Ms Stevens,

Legislative Reform Order: Revised Proposal for a Simplified Process for Minor Variations to Premises Licences and Club Premises Certificates

Thank you for the opportunity to comment on the revised proposals.

Wider review

The council would wish to reiterate its view that a comprehensive review of the Act and regulations needs to be undertaken. In some ways these proposals highlight other shortcomings in the legislation. E.g. multiple services of applications; need for newspaper advertisement.

Work involved and fees

The council's reiterates its concerns, expressed in its letter of 2 September 2008 that the costs involved in proper consideration of the effect of the minor variations in relation to the existing licence conditions have been underestimated. Licences are often far from simple; commonly having been amalgamated from separate public entertainment and liquor licences.

The breakdown of the costs to arrive at the fee of £73 given to the Regulatory Reform Committee is helpful but the Council still considers a fee at this level to be unrealistic. It is noted that does not include any allowance of time for responsible authorities to consider the application if consulted nor time to asses the substantive views of the responsible authorities if given. These tasks must be undertaken by professionals. The revised proposals to include notices on this site so that interested parties can make representations give rise for a further allowance to be made for licensing authorities to ensure application processes have been followed, and for the consideration of these responses.

The view expressed in reply to the Regulatory Reform Committee in response to Question 8 that if a site visit were needed to determine the minor variation then this would be a very strong indication the allocation should go through the full

application procedure, is most helpful and should be stressed in forthcoming Government Guidance. The council had envisaged that if site visits were needed then it would be unlikely to regard applications could be determined under the minor variations procedure.

Accountability and consistency

The council is heartened that the Regulatory Reform Committee shared the council's concerns that in any minor variation procedure should reflect in some degree the involvement of community that is inherent in the regime for full applications.

However the proposals for a ten day notification period will be confusing for interested parties used to 28 day period to make representations, and challenging to meet. It is our experience is that interested parties making representations rarely manage to communicate their concerns fully in correspondence relying heavily on the hearings to bring forward evidence. It is often only at a hearing that the full implication of what is being proposed becomes evident.

It will be essential that the notice accurately conveys the exact nature of the proposed variation so that interested parties can properly consider the variation and make a proper submission to the licensing authority and they can appreciate if a variation really is a minor one. Failure to do so will add further to the burden on licensing authorities in responding to enquiries and explaining applications.

It not clear why a white notice is preferable to a light blue one, which people will have grown to be used to being associated with licence applications. White notices will merely run the risk of confusion with notices given under other regimes. The notice must make it very clear that this is for a minor variation with a full accurate description of the variation and should prominently display the date by which representations must be made in writing. Westminster's practice is check that notices on premises are correctly displayed. Experience has taught us that this is prudent as the correct display of the notice for the statutory period is essential to determine disputes between parties as to whether an application is valid. No allowance is made in the costings for any such check.

Addition of dancing and extension of its hours

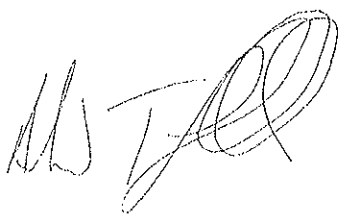
The council would wish to reiterate point already raised in its previous letter that the performance of dance and the provision of facilities for dancing should be subject to statutory exclusions in the same way as is proposed for the sale of alcohol. This is because music for dancing to is generally played at a greater volume than incidental music or musical performances and may give rise to public nuisance. The activity of dancing requires assessment of public safety and the areas suitable for that activity. The introduction of dancing, especially into premises primarily serving alcohol, may raise the possibility of crime and disorder from disputes arising from people bumping into each other, spilling drinks and disputes over dancing partners.

Previous concerns that striptease or lap dancing could be introduced into premises without proper consideration of appropriate conditions to prevent crime and disorder and public nuisance being attached will to some extent be addressed by the provisions of the Policing and Crime Bill.

This council's experience leads it to the view that it will be very unlikely to regard the introduction of dancing as a minor variation. It can turn a quiet local pub into what is effectively a venue drawing a predominantly young clientele form a wide area or a late night restaurant into a nightclub. If not statutorily excluded guidance should emphasise the effect of introducing dancing and suggest that in most cases it is not a minor variation.

In conclusion, the City Council believes that the benefits from the introduction of the proposed minor variation procedure are outweighed by the increased cost to licensing authorities, the dilution of the involvement of local residents in participating in the licensing process and the uncertainty which will arise as new procedures are introduced. We would urge however, that a more fundamental review of the application requirements in the Act could address some of the concerns which have prompted the proposal whilst simplifying and reducing the costs for applicants, interested parties, and licensing authorities in relation to all applications.

Yours sincerely



Andrew Ralph
Environmental Health Manager – Licensing

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Annex 5

Debbie Dinsdale
Head of Housing & Public Protection

STEVE MILLER
Strategic Manager Public Protection
Housing & Public Protection
Alice Billings House
2-12 West Ham Lane
London, E15 4SF

Tel No: 020-8430 2000 Ext: 25306
Fax No: 020-8430 4434
Office Hours: 9.00 am - 5.00 pm (Mon-Fri)

If telephoning ask for: **David Grant**

Your ref:

Our ref:

Date: **25th February 2009**

Dept. For Culture, Media & Sport
Ms Amanda Stevens
Head of Regulatory Projects
Tourism, Licensing & Economic Impact Division
2 – 4 Cockspur Street
London SW1Y 5DH

Dear Madam

LICENSING ACT 2003
LEGISLATIVE REFORM ORDER: REVISED PRPOPOSAL FOR A SIMPLIFIED PROCESS FOR MINOR VARIATIONS TO PREMISES LICENCES & CLUB PREMISES CERTIFICATES

Thank you for your letter of 17th February outlining the possible revised proposals in relation to the Order that has been laid before Parliament.

This Council has carefully considered the revised proposals, and our comments are as follows:

1. We consider that the revised proposals will not constitute a 'simplified process' and will in fact introduce a new and convoluted bureaucratic process to the existing licensing regime.
2. The revised proposals will substantially increase the level of work that will have to be undertaken by Licensing Authorities (e.g. checking premises notices, assessing representations from interested parties and corresponding with them etc) in relation to minor variation applications. We are of the opinion that :
   - the amount of work that will have to be undertaken by Licensing Authorities will in many cases be equal or be more than that involved in applications for full variations, and
   - the cost to the Licensing Authority of dealing with minor variations under the revised proposals will substantially exceed the proposed application fee of £73.
3. We believe that the idea of having white premises notices for minor variations and blue notices for new applications/full variations to be unnecessary. Using two different colours will cause confusion to both interested parties (residents/local businesses) and applicants. It is inconceivable that interested parties will appreciate or realise that there are different coloured notices for different types of licensing applications (especially as they are now customised to blue notices being used for licensing applications). Similarly we can foresee confusion over what colour to use arising with applicants, many of whom (in Newham) are small businesses who do not use professional advisers.
4. We agree that interested parties should be given the right to make representations against all variations, with the possible exceptions of minor variations relating solely to small alterations to the layout of a premises (as set out in no 8.41 and 8.42 of the draft

Guidance) and certain licence conditions (as set out in no 8.51 8.55 of the draft Guidance). However, we do not consider that 2 weeks is sufficient for interested parties to make representations, and that they should have the full 28 days as under the existing regulations relating to variations. We believe that any less than the current 28 days would substantially and adversely reduce the current protection and the current exercise of rights of interested parties, as introduced by the Licensing Act 2003.

5. We note that under the revised proposals that representations from interested parties would have to be taken into account in the determination of an application, but there will no right to a hearing (or indeed any appeal). We are strongly opposed to decisions on opposed licensing applications being made by officers of the Licensing Authority. We are extremely concerned that this part of the revised proposals will be an extinguishing of the current protection and exercise of rights of all parties to a fair and transparent hearing and determination by the statutory Licensing Committee, and the current statutory right of appeal against decisions.

Please note that this response does not alter the stance that this Council made in its letter of response dated 26th August 2008 and we are opposed to the Legislative Reform Order (including the proposed revisions) in relation to its application to any variation except those minor variations relating solely to small alterations to the layout of a premises (as set out in no 8.41 and 8.42 of the draft Guidance) and certain licence conditions (as set out in no 8.51 8.55 of the draft Guidance).

If you require any further information or clarification, please do not hesitate to contact me

Yours Faithfully

David Grant
Principal Officer (Licensing)

Annex 6

NATIONAL ORGANISATION of RESIDENTS ASSOCIATIONS

www.nora-uk.co.uk

email: chairman@nora-uk.co.uk

23 February 2009

Dear Amanda Stevens

Thank you for letting NORA know of the parliamentary unhappiness with the proposals for the relaxation of the licensing application procedures for Minor Variations proposals. As you would expect NORA members are pleased that the concerns of "interested parties" have been recognised. NORA members have been consulted about the proposed amendments, and the general view is that harmonisation of the process with the existing legislation would be desirable in order to avoid confusion both for applicants and for respondents. The views expressed are as follows.

1. The reduced periods for advertisement and objections to ten working days seems odd as it is at variance with the times allowed for all other licensing applications except for TENs. Members would prefer the periods to be the same for all licensing applications, that is 28 days for advertisement and for representations. A need for a quicker decision does not appear warranted, and ten working days is insufficient to ensure adequate exposure to the public.

2. The change for notices is also criticised. Having agreed that blue paper should be used for licensing applications, it seems unnecessary to change

Please reply to Dr Alan B Shrank, 20 Crescent Place, Town Walls, Shrewsbury SY1 1TQ

this to white paper. White paper notices placed on street furniture are recognised by the public as notice of planning applications, traffic regulations, missing pets, free advertisements, etc. and are often ignored, while blue paper notices are now recognised as dealing with licensing applications. To change to white notices for licensing applications for minor variations now would be confusing. Since blue paper would have been purchased by applicants for their original licensing applications, they should still have some for this purpose.

3. Concern was also expressed that there would be no right to a hearing for "interested parties" making representations nor any provision for informing them of the licensing authorities' decision nor for any explanation for the decision of either granting or refusing an application.

I hope these comments are helpful in determining a fair and just revision to the proposals.

Yours sincerely

Alan B Shrank - chairman

Please reply to Dr Alan B Shrank, 20 Crescent Place, Town Walls, Shrewsbury SY1 1TQ

Summary: Intervention & Options

Department /Agency:	Title:	
Department for Culture, Media and Sport	Impact assessment of the proposal to introduce a simplified process for minor variations to licences	
Stage: Revised Final Version (after Committees' Report)	**Version:** 1.5	**Date:** 26/02/2009

Related Publications:

"Licensing Act 2003, Consultation paper on the proposal to introduce a simplified process for minor variations to licences under the Licensing Act 2003"

"Legislative Reform Orders: Proposals To - Introduce A Simplified Process For Minor Variations To Premises Licences And Club Premises Certificates And Remove The Requirement For A Designated Premises Supervisor And Personal Licence At Community Premises Licensing Act 2003 (4 August 2008)

Available to view or download at:

http://www.culture.gov.uk

Contact for enquiries: Amanda Stevens **Telephone:** 020 7211 6322

What is the problem under consideration? Why is government intervention necessary?

A significant number of variations to premises licences and club premises certificates (under the Licensing Act 2003) have no negative impact on the licensing objectives but still have to go through the full variation process, and incur the full fee. This causes an unnecessary administrative burden on licence holders, and may also deter them from notifying Licensing Authorities about changes to premises that should be reflected on the licence. Government intervention is necessary to amend the Act to introduce a simplified 'minor variations' procedure.

What are the policy objectives and the intended effects?

Objective: To promote the licensing objectives at the lowest administrative cost. The Intended effect is the removal of an unnecessary administrative burden on licence and certificate holders.

What policy options have been considered? Please justify any preferred option.

Following public consultation and scrutiny by Parliament, the Government has amended its original proposal to require applications for minor variations to be advertised on a notice for ten working days during which time residents will have the right to make representations to the licensing authority.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

Summer 2012, (or three years after implementation).

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

Jerry Sutcliffe

Summary: Analysis & Evidence

Policy	Description: As above

COSTS

ANNUAL COSTS		Description and scale of **key monetised costs** by 'main affected groups'
One-off (Transition)	**Yrs**	
£		
Average Annual Cost (excluding one-off)		
£0	**Total Cost** (PV) £0	

Other **key non-monetised costs** by 'main affected groups': Licensing authorities (LAs) will consult relevant responsible authorities as they judge necessary, depending on the individual circumstances. However, we anticipate that LAs should need to consult one or perhaps two responsible authorities at most, and in some cases they will be able to come to a decision without seeking external advice. Any costs involved would therefore be small and recoverable through the fee paid by the applicant to the LA.

BENEFITS

ANNUAL BENEFITS		Description and scale of **key monetised benefits** by 'main affected groups':
One-off	Yrs	Potential annual savings to all licence and certificate holders of £1.8m-£2.3m per year.
£0		
Average Annual Benefit (excluding one-off)		
£2.1m (£1.8m-£2.3m)	Total Benefit (PV) £17.5m (£15m-£19.1m)	

Other **key non-monetised benefits** by 'main affected groups' Responsible authorities are currently consulted on all low risk, 'minor' variations. Under these proposals they would only be consulted on a small number of borderline minor variations, freeing resource for other priorities.

Key Assumptions/Sensitivities/Risks: Estimates for numbers of variations that would fall into a minor variations process, costs and the proportion of variations that involve layout changes are based on information provided by stakeholders.

Price Base Year 2009	Time Period Years 10	Net Benefit Range (NPV) £15m - £19.1m	NET BENEFIT (NPV Best estimate) £17.5m

What is the geographic coverage of the policy/option?	England and Wales
On what date will the policy be implemented?	Summer 2009
Which organisation(s) will enforce the policy?	Licensing Authorities
What is the total annual cost of enforcement for these organisations?	£ 0 (fees cover)
Does enforcement comply with Hampton principles?	Yes
Will implementation go beyond minimum EU requirements?	No

What is the value of the proposed offsetting measure per year?		£ n/a	
What is the value of changes in greenhouse gas emissions?		£ n/a	
Will the proposal have a significant impact on competition?		No	
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium
Are any of these organisations exempt?	No	No	N/A

Impact on Admin Burdens Baseline (2007 Prices) (Increase - Decrease)

Increase of £0 Decrease of £2m **Net Impact** **-£2m**

Key: Annual costs and benefits: Constant Prices (Net) Present Va

Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

The legislative burden

Section 34 of the Licensing Act 2003 provides that the holder of a premises licence may apply to the relevant licensing authority for variation of the licence. A variation is required for any change to the licence including changes to any feature shown on the plan of the premises. The only exception is a variation to the licence to specify an individual as premises supervisor which is subject to a simplified notification process under section 37 of the Act.

We estimate that a significant proportion of small changes to licences carried out under the Licensing Act 2003 can be expected to have little or no impact on the licensing objectives (the prevention of crime and disorder, public safety, prevention of public nuisance and protection of children from harm). However, licence holders are currently required to go through the full variation process even when the risks to the licensing objectives are minimal. This means that there is an imbalance between compliance costs and the benefits in terms of risk reduction. Government intervention is needed to correct this imbalance by reducing compliance costs for small, low risk changes to licences.

The Government's proposal

The Government proposes that the 2003 Act is amended to make provision for a new 'Minor Variations' process. This would allow applicants to make small alterations to their licences for a lower fee and without having to advertise the variation in newspapers or copy it to all responsible authorities. The would result in:

- a significant reduction in the current administrative burden on licence holders
- an increase in the number of applicants submitting small changes to licences to the licensing authority. This should ensure that licensing (and other) authorities have up to date records of premises to inform their enforcement strategies.

Previous Policy Options and Consultations

The Government consulted on the following options from 31 November 2007 to 20 February 2008:

Option 1: Define a 'minor variation' as any change to a licence that will impact on the four licensing objectives. Give licensing authorities complete discretion within this broad definition, to decide what is or is not a minor variation, subject to statutory Guidance and consultation with responsible authorities (the police, etc) if necessary. Government's recommended option

Option 2: Restrict or remove licensing authority discretion by specifying what is, and/or is not, a minor variation on the face of the Act. Consult responsible authorities as necessary.

Option 3: No change

A majority of respondents to the consultation agreed with the Government's recommended option, but a minority preferred Option 2 or 3 due to concerns that applicants would use the minor variation process to make changes that would adversely impact on residents and others in the vicinity. There were particular concerns about the possibility of varying a licence to add the sale or supply of alcohol or to extend hours during which alcohol could be sold or supplied.

The Government took account of these concerns in the proposal consulted upon from 4 August to 1 September 2008:

To amend the Licensing Act 2003 to introduce a new process for 'minor variations to licences or club premises certificates. 'Minor variation' defined as any change to a licence that could not impact adversely on the four licensing objectives, with the following exclusions:

- the addition of the sale or supply of alcohol to a licence;
- the sale or supply of alcohol at any time between 11pm and 7am;
- and any increase in the amount of time on any day during which alcohol may be sold or supplied

With these exceptions, licensing authorities will have discretion within this broad definition to decide whether a variation is minor or subject to consultation with relevant responsible authorities and having regard to the statutory Guidance.

Revised Proposal in Response to Parliamentary Committee Reports:

The draft Order was laid on 8 December 2008. The House of Lords Delegated Powers and Regulatory Reform Committee and the House of Commons Regulatory Reform Committee were both concerned that it did not contain a mechanism whereby local people could make representations about the likely effect of the application. The revised draft Order addresses this issue. Applicants will be required to display a notice at the premises and interested parties will have an opportunity to make representations to the licensing authority.

Who is affected by the burden?

The DCMS Statistical Bulletin "Alcohol, Entertainment and Late Night Refreshment Licensing" (November 2007) includes figures for the numbers of applications to vary premises licences and club premises certificates in England and Wales during the period 1 April 2006 to 31 March 2007. Based on responses from 82% of licensing authorities there were 10,120 variation applications, which, if extrapolated to include the remaining 18% of authorities that did not provide responses, would give a total of approximately 12,000

These figures relate to a period soon after the Act came into force, so it follows that premises and clubs would be less likely to wish to vary the terms of their authorisations. This also explains why the statistics show a relatively high number of applications for new licences and certificates, 14,960 new applications based on responses from 82% of licensing authorities. Extrapolated to the 18% of authorities that did not respond, this gives a total of approximately 18,000 applications.

Following discussions with stakeholder groups and a focus group of ten licensing authorities, we know that many premises and clubs chose to apply for new licences and certificates instead of making applications to vary. This should not happen in future years because the revised statutory Guidance[1] issued in June 2007 now makes it clear that changes to existing licences and club certificates should be made through the variation process. Assuming around 20% of the 18,000 applications (3,600) for new licences and club certificates should have been variation applications, this gives us a revised total of 15,600 variation applications per year.

We can also assume a further increase in variation applications as a consequence of introducing the minor variations process. For instance, we are aware, from enforcement action by licensing authorities, that some licence holders have made changes to their licences without applying for a variation, perhaps deterred by the cost of the process. These licence holders are more likely to apply to vary under the simplified and cheaper minor variations process. Similarly, licence holders who may have previously applied for Temporary Event Notices as a cheaper alternative to changing their licences, will be more likely to apply for a minor variation. We estimate that this should result in an increase of around 4,000-5,000 variation applications per year.

We therefore estimate that in future years, there will be approximately **20,000 variation applications** per year across all licensing authorities.

To calculate the current burden we would then need to establish how many variation applications might fall within the broad outline of a minor variation as defined in the Government's proposal below:

[1] Guidance issued under section 182 of the Licensing Act 2003.

Government proposal

To amend the Licensing Act 2003 to introduce a new process for 'minor variations to licences or club premises certificates. 'Minor variation' defined as any change to a licence that could impact adversely on the four licensing objectives, with the following exclusions:

- **the addition of the sale or supply of alcohol to a licence;**
- **the sale or supply of alcohol at any time between 11pm and 7am;**
- **and any increase in the amount of time on any day during which alcohol may be sold or supplied.**

Again, reliable estimates are not available and there is the further complication that many premises are simply choosing not to make variation applications for small changes due to the disproportionate costs involved. However, from discussions with stakeholder groups and licensing authorities we estimated in the partial impact assessment that accompanied the first round of consultation that approximately **30% of variations (6,000)** would be likely to be captured by a minor variations process if licensing authorities were given full discretion. We estimate that the exclusions set out above would reduce the total number of variations likely to be captured by the new process by 10% to 5,400. The involvement of residents in the process is likely to make the process less attractive to some applicants, resulting in a further 5% reduction in likely applications. This implies **5130 applications annually.**

This figure does not translate directly into numbers of businesses or clubs affected by the burden, because some premises may submit several applications to vary (e.g. if they are carrying out a major refit of a store). Indications from stakeholders are that such multiple applications would account for around 5% of current 'minor' variations. If the total was reduced by 5% to take account of multiple applications, it would still mean that **5079 premises per year** are affected by the burden.

The range of affected groups includes:

- pubs, bars, nightclubs, hotels, guesthouses and other premises licensed for the sale of alcohol on the premises;
- supermarkets, convenience stores and other premises licensed for the sale of alcohol off the premises;
- theatres, cinemas, live music venues other providers of regulated entertainment;
- takeaways, restaurants, cafes and other premises providing late night refreshments;
- voluntary bodies, such as charities, schools, village and community halls; and
- private members' clubs, such as sports, working mens', and political clubs.

The cost burden

Applicants wishing to vary a licence or certificate (with the exception of a variation to specify a premises supervisor) must:

- complete and send an application form with a copy of the licence or certificate, the original plan (and amended plan, if appropriate) to the relevant licensing authority (£15-£80[2])
- pay a fee (£100-£1905, depending on the rateable value of the premises);
- copy all documents to up to nine responsible authorities (£20-£40);
- advertise the proposed change in a local newspaper/circular (£200-£400);
- display a brief summary of the application on an A4 size notice immediately on or outside the premises (£5-£10, although this would increase for larger premises required to display multiple notices).

The average cost of a variation (including fees, which are charged on the same basis as for a full licence application and average approximately £225 per premises) is estimated to be approximately **£610.** The average cost of a variation excluding fees is approximately **£385.**

However, the following additional costs may apply to some variations:

- supplying a revised plan of the premises (where applying for changes to layout) – £25-£500 (e.g. if the plan has to be professionally drawn)
- obtaining professional legal help – £100-£500 (although in a small number of cases, legal fees may be as high as £1500).

If these costs are added, the average cost of a variation could rise to £950 (excluding fees) or £1170 (including fees).

The range of possible costs for a variation (excluding fees) is therefore **£385 - £950**.

Based on approximately 5130 variation applications a year that are likely to be captured by the minor variations process, at the lower end administrative cost of £385 per application, this would result in an approximate annual burden of **£2m**. (Please note that all annual burdens in this Impact Assessment have been rounded to the nearest £0.1m.)

Revised plans are only required for variations involving changes to layout. Stakeholders estimate that approximately 70% of the 5130 variations likely to be classed as 'minor' under the new process (3,591) fall into this category

[2] Based on 1-5 hours of management time at an hourly cost of £16.23 (estimated from discussions with stakeholders).

and therefore incur these additional costs. At an average cost of £263 for a revised plan, this results in an annual burden of approximately **£0.9m**.

Similarly, not all applicants will seek legal help to complete a variation application. Discussions with stakeholders lead us to estimate that approximately half (2,565) of all 'minor' variations incur legal fees at an average cost of £300 per application, resulting in an additional annual burden on these applicants of **£0.8m**.

The range of the annual cost burden for variations (excluding fees), but including the cost of revised plans and legal fees as above for some applicants, is therefore **£2m-£3.7m**[3].

Cost savings of a minor variations process

Administrative costs

Under the Government's proposal for a minor variations process as set out above there would be full cost savings in relation to:

- copying all documents to up to nine responsible authorities (£20 - £40) and;
- advertising the proposed change in a local newspaper/circular (£200-£400); and

At an average of £330 per application, excluding fees, across all 5130 minor variations this would deliver an annual cost saving of **£1.7m**.

Applicants would still have to complete an application form and send it to the relevant licensing authority, with a copy of the licence or certificate, the original plan (and amended plan, if appropriate). However, as the application form will be shorter and simpler, this is likely to be a less time consuming process than for a full variation. If we assume an average reduction in management time required to complete the process of 0-3 hours per application at an estimated cost of £16.23 per hour the average cost saving would be £24. Since this average cost saving will apply across all 5130 variations the approximate annual cost saving will be **£0.1m.**

This means that for the main administrative elements that relate to all applications, the approximate total annual cost savings would be **£1.8m**.

Legal costs

It is possible that an applicant who seeks legal help to apply for a relatively simple variation would still choose to do so for a minor variation application, even with a simpler form, thereby reducing the potential savings. If we estimate that about half of the estimated 2565 minor variations (1283) that currently involve legal fees would no longer do so, that would result in a cost saving of £300/application and a total cost saving of **£0.4m.**

[3] Figures may not sum to the total due to rounding.

The remaining 1,283 minor variations would still incur legal costs. However, the scale of any legal fees will reflect the complexity of the application process and as such the more straightforward minor variation system should reduce costs. We estimate that legal costs for minor variations would be in the range £100-£300, with an average of £200, meaning an average cost saving per application involving legal help of £100, and an approximate annual cost saving of **£0.1m**.

The total annual cost savings for legal work would therefore be **£0.5m**.

This implies potential annual cost savings of £1.8m-£2.3m

Applicants may also benefit from the shorter timescale required to gain approval for a minor variation, but this would depend on the nature of the variation and is impossible to quantify.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	*Results in Evidence Base?*	*Results annexed?*
Competition Assessment	No	Yes
Small Firms Impact Test	No	Yes
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	Yes
Race Equality	No	Yes
Disability Equality	No	Yes
Gender Equality	No	Yes
Human Rights	No	No
Rural Proofing	No	Yes

Annexes

Department for Culture, Media and Sport: Equality Impact Assessment – Initial Screening

Section	Notes
1. Name of the function/policy to be assessed: **Proposed Legislative Reform Order to make provision for a new 'minor' variations process to allow applicants to make small alterations to licences and certificates under the Licensing Act 2003 through a low cost and streamlined process.**	
1. What is the aim, objective or purpose of the policy? **The policy objective is to amend the Licensing Act 2003 to introduce a simplified, fast track process for making small, low risk changes to licences.** **The intended effects are a significant reduction in the current administrative burden on licence holders, and an increase in the number of applicants submitting small changes to licences to the licensing authority. This should ensure that licensing (and other) authorities have up to date records of premises to inform their enforcement strategies.**	
3. What are the intended outcomes? An amendment to the Licensing Act providing a simplified and lower cost mechanism for making small changes to premises licences and club premises certificates. A revision to the statutory Guidance to licensing authorities to reflect this new regulatory process.	*Consider:* • *How will you monitor progress towards these outcomes?* • *Do the outcomes support c hinder other policies, value or objectives within the Department?* • *If they hinder other work is this justifiable?*
4. Who are the key stakeholders? Those who represent premises licence holders (including pubs, nightclubs, hotels, supermarkets, convenience stores, theatres, cinemas, live music venues, takeaways, restaurants, and village halls) and club premises certificate holders (including sports, working men's, and political clubs), the licensing authorities as administrators of the regime, those involved in enforcement activity such as the police and other responsible authorities, and others with interest in the impact of the proposals on the licensing objectives such as residents.	• *Who are the groups/individuals likely to be affected by the function or policy?* • *Who else might have a significant interest in the implementation of this policy?* • *Who else might have knowledge of the impact o potential impact of the*

	policy or function?
5. Is the aim of the policy or any of its intended outcomes designed specifically to meet the Public Duties, for example to: ➢ Eliminate discrimination? ➢ Promote equality of opportunity? ➢ Promote good relations between different groups? **No** *[Most functions, policies and practices will not be designed **specifically** to meet the Public Duties. You need only answer **'yes'** if the **specific intent** of the function, policy or practice is to meet the public duties. Otherwise, move on to section 6]*	• *For example, a policy that has the aim of preventing harassment and bullying* • *If the answer is **YES** to an of the questions, then you are required to proceed to full impact assessment. You should turn to section 13, though please note tha sections 7-12 will help you to conduct a full assessment*

6. Does the function or policy involve or have consequences for members of the public or staff employed by the Department? **Yes**	• *If the answer is **YES** proceed to section 7* • *If the answer is **NO** list the evidence or other justification opposite or on an attached sheet that identifies why the function policy has no consequence for members of the public c for staff employed by the Department* • *If the evidence that you have indicates that there is no impact or likely impact you do not need to conduc an impact assessment but you do need to monitor the implementation of the polic over time to ensure that there continues to be no impact on people. At a minimum this should be every three years* • *If you are sure the answer **NO**, proceed to sections 1 and 14*
7. Is there any evidence that tells you how the function or policy is working or is intended to work for the intended stakeholders? Yes Feedback from a range of stakeholders suggests that there is currently an unnecessary burden on those wishing to make small changes to their premises licence or club premises certificate, which do not impact in any way on the licensing objectives. The proposals are designed to reduce the burdens	• *If you have no evidence available, then you will no be able to assess if the policy is relevant to equality* • *You will need to gather evidence about the effects of the policy on*

involved in making such application whilst still retaining the licensing objectives as the key protection built into the system.

1. From the available evidence, is there any reason to believe that people are affected differently or are likely to be affected differently according to any of the listed equality strands, for example, because they have different needs or priorities?

	Yes	No	Not Known
Age		X	
Disability		X	
Gender		X	
Race		X	
Religion or Belief		X	
Sexual Orientation		X	

Please summarise what the evidence shows and attach the evidence more fully to this screening document or reference where the evidence is available

None of the feedback received from stakeholders indicates that the proposed regulatory change is likely to affect any of the above equality strands any differently.

- *If the answer to any of thes questions is* ***Yes*** *for any of the strands, you will need t proceed to a full impact assessment. In which cas proceed to section 13, though please note that sections 9-12 will help you to conduct a full assessme*
- *If the answer is* ***No*** *and the evidence supports this, proceed to section 9*
- *If your evidence is not enabling you to identify the impact on different groups, you will need to gather mo evidence that allows you tc do this. Refer back to section 7 above*

2. Is there any evidence that the function or policy in any way discriminates or might discriminate unlawfully, directly or indirectly against people from any of the listed strands, for example, in terms of access to a service, or the ability to take advantage of an opportunity?

	Yes	No	Not Known
Age		X	
Disability		X	
Gender		X	
Race		X	
Religion or Belief		X	
Sexual Orientation		X	

Please summarise what the evidence shows and attach the evidence more fully to this screening document or reference where the evidence is available

None of the feedback received from stakeholders indicates

- *If the answer to any of thes questions is* ***Yes*** *for any of the strands, you will need t proceed to a full impact assessment. In which cas proceed to section 13, though please note that sections 10-12 will help yo to conduct a full assessme*
- *If the answer is* ***No*** *and the evidence supports this, proceed to section 10*
- *If your evidence is not enabling you to identify the impact on different groups, you will need to gather mo evidence that allows you tc do this. Refer back to section 7 above*

that the proposed regulatory change will discriminate against people in the listed strands.	

3. Is there any evidence that people from the groups covered by the listed strands have or may have different expectations of the function or policy in questions?

	Yes	No	Not Known
Age		X	
Disability		X	
Gender		X	
Race		X	
Religion or Belief		X	
Sexual Orientation		X	

Please summarise what the evidence shows and attach the evidence more fully to this screening document or reference where the evidence is available

None of the feedback received from stakeholders indicates that any of the above groups will have different expectations of the proposed regulatory change.

- *If the answer to any of thes questions is* **Yes** *for any of the strands, you will need t proceed to a full impact assessment. In which case proceed to section 13, though please note that sections 11-12 will help you to conduct a full assessme*
- *If the answer is* **No** *and the evidence supports this, proceed to section 11*
- *If your evidence is not enabling you to identify the impact on different groups, you will need to gather mor evidence that allows you to do this. Refer back to section 7 above*

4. Is there any evidence that the function or policy affects or might affect relations between groups covered by the listed strands, for example is it, or might it, be seen as favouring a particular group or denying opportunities to another?

	Yes	No	Not Known
Age		X	
Disability		X	
Gender		X	
Race		X	
Religion or Belief		X	
Sexual Orientation		X	

Please summarise what the evidence shows and attach the evidence more fully to this screening document or reference where the evidence is available

None of the feedback received from stakeholders indicates that the proposed regulatory change will favour a particular group or deny opportunities to another.

- *If the answer to any of thes questions is* **Yes** *for any of the strands, you will need t proceed to a full impact assessment. In which cas proceed to section 13, though please note that sections 12 will help you to conduct a full assessment*
- *If the answer is* **No** *and the evidence supports this, proceed to section 12*
- *If your evidence is not enabling you to identify the impact on different groups, you will need to gather mo evidence that allows you to do this. Refer back to section 7 above*

5. Have previous consultations with relevant stakeholder groups or individuals indicated that policies of this type create exclusion or hold specific challenges for any of the listed groups?

	Yes	No	Not Known
Age		X	
Disability		X	
Gender		X	
Race		X	
Religion or Belief		X	
Sexual Orientation		X	

Please summarise what the evidence shows and attach the evidence more fully to this screening document or reference where the evidence is available

None of the feedback received from stakeholders indicates that this policy will create exclusions or hold specific challenges for any of the listed groups.

- *If the answer to any of thes questions is* ***Yes*** *for any of the strands, you will need t proceed to a full impact assessment. In which cas proceed to section 13*
- *If the answer is* ***No*** *and the evidence supports this, proceed to section 13*
- *If your evidence is not enabling you to identify the impact on different groups, you will need to gather mo evidence that allows you tc do this. Refer back to section 7 above*

13. Is a full impact assessment required?

No

We do not believe that the proposed regulatory change will affect any of the groups under the listed strands in a different way.

- *If the answer is* ***NO*** *please use the space opposite to summarise why and attach any further supporting evidence*
- *If the answer is* ***YES*** *you w need to arrange to carry ou a full impact assessment*
- *Please note that the information that you have already identified in this initial screening will be valuable to you in carrying out the full impact assessment*

14. If a full impact assessment is not required, please indicate the plans to monitor the implementation of this policy over the next three years.

We will check with key stakeholders whether the statement in section 13 is still correct 12 months after the regulatory change (subject to Parliament) is enacted.

15. Please return a copy of this form to:

Name: Amanda Stevens

Unit/Directorate: **Licensing Team/Industry Directorate**	
Date: **04/08/2009**	

Competition Assessment

We do not believe that the proposed policy is likely to raise any competition concerns. It will be for a premises or club to decide whether to apply for a minor variation and there would be no restriction to a particular type of premises or club, so to that extent the proposals apply equally to all premises. Therefore, it will not directly or indirectly limit the number or range of suppliers, limit the ability of suppliers to compete or reduce suppliers' incentives to compete vigorously.

Small firms impact test

Since these proposals will impact equally on all premises, merely altering the mechanism by which a minor variation is made, we do not believe there is likely to be a significant impact on small businesses. Where these proposals affect small businesses, the impact will be to reduce burden and allowing greater flexibility in business operation. The stakeholder group set up to advise us on these proposals includes a wide range of bodies representing small businesses, including the Federation of Small Businesses, Association of Convenience Stores, Cinema Exhibitors Association, British Retail Consortium, Business in Sport and Leisure, British Beer and Pub Association, Musicians Union, Bar Entertainment and Dance Association, and Committee of Registered Clubs Associations. None of these groups have advised us of any adverse impact of the proposals on small businesses.

Rural Proofing

Action with Communities in Rural England (ACRE) is a member of our stakeholder group and has not raised any concerns about the impact of these proposals on rural communities.

Health Impact Assessment Screening

We have undertaken a screening process to determine whether this policy needs a full health impact assessment. The proposal only potentially changes the process through which a variation may be made for certain low risk variations which will not impact on the licensing objectives (which include the prevention of crime and disorder and public nuisance) which would otherwise be granted without any difficulty. Since it does not otherwise change any other element of licensing policy, we do not believe that a health impact assessment is required.

We have considered that the policy will not have:

- a significant impact on human health by virtue of its effects on the following wider determinants of health: Income, Crime,

Environment, Transport, Housing, Education, Employment, Agriculture or Social cohesion.

- **a significant impact on any of the following lifestyle related variables:** Physical activity, Diet, Smoking, drugs, or alcohol use, Sexual behaviour, Accidents and stress at home or work.
- **a significant demand on any of the following health and social care services:** Primary care, Community services, Hospital care, Need for medicines, Accident or emergency attendances, Social services, Health protection and preparedness response