Draft Order laid before Parliament under section 197(4) of the Licensing Act 2003, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2014 No.

LICENCES AND LICENSING

The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2014

Made - - - -	*2014*
Coming into force - -	*6th April 2014*

The Secretary of State, in exercise of the powers conferred by sections 19A, 73B and 197(2) of the Licensing Act 2003(**a**), makes the following Order.

In accordance with section 197(4) of that Act(**b**), a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

In accordance with sections 19A(1) and 73B(1) of that Act, the Secretary of State considers it appropriate for the promotion of the licensing objectives(**c**) to specify the condition set out in this Order.

Citation and commencement

1. This Order may be cited as the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2014 and comes into force on 6th April 2014.

Mandatory licensing condition

2.—(1) In relation to an existing or future relevant premises licence, the condition set out in the Schedule is specified for the purposes of section 19(4)(**d**) of the Licensing Act 2003.

(2) In relation to an existing or future relevant club premises certificate, the condition set out in the Schedule is specified for the purposes of section 73A(**e**) of the Licensing Act 2003.

Home Office
Date

Name
Minister of State

(**a**) 2003 c. 17; sections 19A and 73B were inserted by paragraphs 2 and 4 respectively of Schedule 4 to the Policing and Crime Act 2009 (c. 26).
(**b**) Section 197(4) was amended by paragraphs 29 and 44 of Schedule 7 to the Policing and Crime Act 2009.
(**c**) See section 4(2) of the Licensing Act 2003.
(**d**) Section 19(4) was inserted by paragraph 1 of Schedule 4 to the Policing and Crime Act 2009.
(**e**) Section 73A was inserted by paragraph 3 of Schedule 4 to the Policing and Crime Act 2009.

SCHEDULE

Article 2

Mandatory Licensing Condition

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1—

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(**a**);

(b) "permitted price" is the price found by applying the formula—

$$P = D + (DxV)$$

where—

(i) P is the permitted price,

(ii) D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence—

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "valued added tax" means value added tax charged in accordance with the Value Added Tax Act 1994(**b**).

(**a**) 1979 c. 4. Section 1 was amended by regulation 2 of the Excise Duty (Amendment of the Alcoholic Liquor Duties Act 1979 and the Hydrocarbon Oil Duties Act 1979) Regulations 1992 (S.I. 1992/3158), section 162 of and Part I of Schedule 29 to the Finance Act 1995 (c. 4), section 7 of and paragraph 2(a) of Schedule 2 to the Finance Act 1991 (c. 31), section 3 of the Finance Act 1993 (c. 34), section 227 of and paragraph 51 of Schedule 39 to the Finance Act 2012 (c. 14), section 1 of the Finance Act 1995, section 1 of and Part 2 of Schedule 1 to the Finance Act 1988 (c. 39), section 5 of the Finance Act 1997 (c. 16) and article 2 of the Alcoholic Liquor Duties (Definition of Cider) Order 2010 (S.I. 2010/1914). Section 2 was amended by article 6 of the Alcoholic Liquors (Amendment of Enactments Relating to Strength and to Units of Measurement) Order 1979 (S.I. 1979/241), regulation 2 of S.I. 1992/3158, section 11 of and Part 2 of Schedule 8 to the Finance Act 1981 (c. 35), section 7 of and paragraph 3 of Schedule 2 to the Finance Act 1991 and section 5 of the Finance Act 1997. Section 3 was amended by article 7 of S.I. 1979/241. Section 4 was amended by article 8 of S.I. 1979/241, section 15 of and paragraphs 2 and 3 of Schedule 1 to the Finance Act 2011 (c. 11) and section 227 of and paragraph 51 of Schedule 39 to the Finance Act 2012 (c. 14). Section 5 was amended by section 1 of the Finance Act 1982 (c. 39) and section 180 of the Finance Act 2013. Section 36 was amended by section 7 of the Finance Act 1991, section 4 of and paragraph 1 of Schedule 1 to the Finance Act 2002 (c. 23), sections 14 and 15 of and paragraphs 2 and 4 of Schedule 1 to the Finance Act 2011, section 180 of the Finance Act 2013 and section 1 of and paragraph 9 of Schedule 1 to the Finance (No. 2) Act 1992 (c. 48). Section 37 was amended by section 15 of and paragraph 1 of Schedule 1 to the Finance Act 2011 and section 180 of the Finance Act 2013. Section 54 was amended by section 1 of and paragraph 12 of Schedule 1 to the Finance (No. 2) Act 1992 and section 5 of the Finance Act 1985 (c. 54). Section 55 was amended by section 1 of the Finance Act 1984 (c. 43) and section 1 of and paragraph 13 of Schedule 1 to the Finance (No. 2) Act 1992. Section 62 was amended by section 3 of the Finance Act 1996 (c. 8), section 10 of the Finance (No. 2) Act 1997 (c. 58), section 180 of the Finance Act 2013, section 4 of the Finance Act 1998 (c. 36) and section 3 of the Finance Act 1997. There are other amendments which are not relevant to this Order.

(**b**) 1994 c. 23. Section 2 was amended by section 3 of the Finance (No. 2) Act 2010 (c. 31). Section 7 was amended by section 76 of and Part 1 of Schedule 36 to the Finance Act 2009 (c. 10) and section 203 of and paragraphs 2 and 3 of Schedule 28 to the Finance Act 2012 (c. 14). Section 24 was amended by section 19 of and paragraph 1 of Schedule 8 to the Finance (No. 3) Act 2010 (c. 33). There are other amendments which are not relevant to this Order.

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4.—(1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

EXPLANATORY NOTE

(This note is not part of the Order)

Sections 19A and 73A of the Licensing Act 2003 (as inserted by section 32 of and Schedule 4 to the Policing and Crime Act 2009) provide for the Secretary of State to prescribe by order up to nine mandatory conditions applicable to relevant premises licences and club premises certificates. Relevant premises licences and relevant club premises certificates are those authorising the sale and supply of alcohol to the public in licensed premises or to members or guests of clubs in club premises.

The Schedule to the Order sets out a mandatory condition which applies to relevant premises licences and club premises certificates.

Paragraph 1 provides that the condition requires a relevant person to ensure that no alcohol is supplied from the premises to which the licence or certificate relates at a price below the permitted price.

Paragraph 2 contains relevant definitions for the purposes of paragraph 1. The permitted price is defined as the aggregate of the duty chargeable in relation to the alcohol on the date of its sale or supply and the amount of that duty multiplied by a percentage which represents the rate of VAT chargeable in relation to the alcohol on the date of its sale or supply. A relevant person is defined as a premises licence holder, designated premises supervisor or personal licence holder (in relation to premises in respect of which there is a premises licence) and a member or officer of a club who is present and able to prevent a supply of alcohol (in relation to premises in respect of which there is a club premises certificate).

Paragraph 3 provides that the permitted price is rounded up to the nearest penny.

Paragraph 4 provides that a change to the permitted price which would apply as a result of a change to the rate of duty or VAT charged in relation to alcohol would not apply until the expiry of the period of 14 days beginning on the day on which the change in the rate of duty or VAT takes effect.

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