



department for  
**culture, media  
and sport**

# PROPOSAL TO INTRODUCE A NEW PROCESS FOR ELECTRONIC APPLICATIONS

Licensing Act 2003

1 October 2009

improving  
the quality  
of life for all

Our aim is to improve the quality of life for all through cultural and sporting activities, support the pursuit of excellence, and champion the tourism, creative and leisure industries.

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# Chapter 1: GENERAL INFORMATION

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## Executive Summary

- 1.1 This Consultation Document seeks your views on a proposal to amend the Licensing Act 2003 (the 2003 Act) and associated regulations to introduce a new process for making online applications and notifications. It also seeks your comments on the Impact Assessment (Annex A), draft Regulations (Annex B) and draft statutory Guidance (Annex C).
- 1.2 Recognition of the need to make the application process simpler, including greater use of electronic forms and reducing the burden of copying applications to numerous responsible authorities, has been a feature of the Department for Culture, Media and Sport's Simplification Plan since 2006. The EU Services Directive has given these measures added impetus as well as helping to address some of the practical questions for licensing authorities in developing the capability to accept electronic applications.
- 1.3 The EU Services Directive requires that, by 28 December 2009, EU Member States put in place a system to allow service providers located in the EU to apply for, vary and pay for licences and permits online. This is to be delivered through a central information portal called a Point of Single Contact (PSC) which every Member State must provide. Details of these requirements are provided in Chapter 2 of this Consultation Document.
- 1.4 In the UK, the Department for Business, Innovation and Skills (BIS) is developing a PSC called the Electronic Application Facility (EAF) that will allow applicants to make online applications for all licences and permits in scope of the Directive. Details of how the EAF will work in practice are provided in Chapter 3. The EAF will be part of the [www.businesslink.gov](http://www.businesslink.gov) website ('businesslink').
- 1.5 Regulations made under the 2003 Act currently allow applicants to make an initial application online with the agreement of the licensing authority as long as this is followed promptly by a written application. The Government proposes to allow applicants to make electronic applications and notifications via the EAF or the LA's own facility without the need to obtain the prior consent of the licensing authority or to provide a paper copy.
- 1.6 To comply fully with the Directive, the Government also proposes to transfer the requirement to copy applications to responsible authorities (the police, fire and rescue, etc) from the applicant to the licensing authority. However, this will only apply to applications made via the EAF or the LA's own facility. Written applications, including applications that include any written component, will continue to be dealt with as currently. We estimate that this will save applicants around £20 - £40.00 per application in administrative costs. There will be a small additional burden on licensing authorities, but they will also benefit from some aspects of the new process. Costs and benefits are set out in the Impact Assessment at Annex A.

- 1.7** The Government believes that the provision of regulated entertainment is the only activity licensable under the 2003 Act that is a 'service' as defined by the Directive. However, the Government proposes to take this opportunity to allow online applications for all licensable activities, whether the operators are based in the UK or abroad, so that as many businesses and organisations as possible can benefit from the simplified process.
- 1.8** The Government further proposes to allow electronic applications for all authorisations and notifications under the Act except applications for and renewals of personal licences (see paragraph 4.23) and reviews (see paragraph 4.24). A full list of the processes that the Government proposes to e-enable is at Annex D.

## **Extent of Consultation**

- 1.9** To comply with the Directive, the Government must amend the 2003 Act and associated Regulations to allow electronic applications and notifications and provide a single point of contact for applicants. We do not therefore intend to consult on these minimum requirements (although they are described), but are seeking views on the detail of the new process and proposals to extend it beyond the scope of the requirements of the Directive. These details are set out in Chapter 4.
- 1.10** The consultation period will run for 6 weeks from 1 October to 13 November. This shorter period is necessary to ensure that the necessary changes to the Regulations are in place by 28 December (the date by which the Services Directive must be implemented in Member States).

Please respond before the closing date using the questionnaire at Annex E, to [licensingconsultation@culture.gsi.gov.uk](mailto:licensingconsultation@culture.gsi.gov.uk). If you do not have access to e mail, please respond to:

**Nigel Wakelin**  
**Licensing Team**  
**Sport and Leisure Directorate**  
**2-4 Cockspur Street**  
**London SW1Y 5DH**

- 1.11** For enquiries about the consultation (handling) process only please contact the DCMS Public Engagement and Recognition Unit (PERU) at the above address or email using the form at [www.culture.gov.uk/contact\\_us](http://www.culture.gov.uk/contact_us) heading your communication "Consultation on proposal to introduce a new process for electronic applications".
- 1.12** Copies of responses will be published after the consultation closing date on the Department's website: [www.culture.gov.uk](http://www.culture.gov.uk)
- 1.13** Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000

(FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

- 1.14** If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.
- 1.15** The Department will process your personal data in accordance with the DPA, and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.
- 1.16** The consultation is guided by the Government's Code of Practice on Consultation which is available at: <http://www.berr.gov.uk/whatwedo/bre/code/page46954.html>

# Chapter 2: THE EU SERVICES DIRECTIVE

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- 2.1** The EU Services Directive is a flagship European Directive intended to develop the single market for services by breaking down barriers to cross-border trade within the EU and making it easier for service providers within scope to set up business or offer their services in other EU countries. The Department for Business, Innovation and Skills estimates that the Directive is worth £4-6 billion to the UK economy and will create about 80,000 jobs<sup>1</sup>. The Directive covers most service sectors including tourism, leisure and food services.
- 2.2** The Directive requires, amongst other things, that, by 28 December 2009:
- regulations and administrative processes that apply to the providers of services and are unnecessary, disproportionate or discriminatory are removed or amended;
  - competent authorities are given facilities, powers and obligations to exchange data about service providers with other EU Member States through the Internal Market Information (IMI) system being set up by the European Commission;
  - prospective service providers from the UK and other Member States are given clear and comprehensive information about regulation over the internet and are able to apply, pay for and vary licences and permits online. This is to be delivered through a central information portal which the Directive calls a 'Point of Single Contact'. Every Member State is developing such a facility and each competent authority will need to participate in it. The UK Point of Single Contact - the EAF - will be part of the [www. businesslink.gov](http://www.businesslink.gov) website ('businesslink');
  - applications for authorisations required to do business in an EU Member State are processed in a reasonable time by the relevant competent authority. The Directive introduces a concept of 'tacit' consent if an authority fails to respond in the time stated;
  - 'Quality of service' to recipients of services, i.e. individual or business consumers is to be enhanced, for example, by requiring businesses to make certain information routinely available to service recipients.

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<sup>1</sup> <http://www.berr.gov.uk/files/file51323.pdf> .

**2.3** The Department for Business, Innovation and Skills (BIS) is responsible for co-ordinating UK compliance with the Directive, including delivering the PSC for the UK and developing and seeking parliamentary authority for the Provision of Services Regulations 2009 which will implement the Services Directive. BIS consulted on the implementation of the Directive in the UK from November 2007 to February 2008 and will shortly be laying the 2009 Regulations in Parliament. Details of the steps that BIS is taking to comply with the Directive can be found on its website at <http://www.berr.gov.uk/>



# Chapter 3: ELECTRONIC APPLICATION FACILITY (EAF)

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## What is the function of the EAF?

- 3.1 The EAF will provide details of all licences or authorisations that apply to service providers in the UK. It will be part of businesslink and not a new, separately identified website. Service providers will be able to find online advice, which will describe the legal requirements in relation to each type of authorisation, and the relevant application forms. The EAF will also provide links to the relevant 'competent authority', i.e. the body responsible for authorisations, etc, with which a business must comply in order to establish and carry on business in the UK. All licensing authorities under the Licensing Act are competent authorities for the purposes of the Directive
- 3.2 Service providers will either use the forms provided on businesslink to complete their online applications or will be directed to the relevant competent authority website if it provides its own electronic application facility. BIS has written to licensing authorities to ask if they wish to use businesslink or will offer their own online application process. Most have said that they will use businesslink, but it is likely that more LAs will develop their own online facilities in future. Even if LAs do not have their own online application facilities, they will still need to be able to download submitted applications from businesslink and process fees electronically. LAs will be able to collect submitted applications through a businesslink facility known as the Electronic Licence Management System (ELMS).

## LA 2003 applications/notifications using the EAF

- 3.3 Applicants using the EAF will download the relevant application form from the site, complete and then upload it, together with the premises plan (where relevant) and any other supporting documents. At this point the EAF will carry out basic validation processes to check for viruses, etc. When the application has been validated, the applicant will be directed to the licensing authority's payment site. Once payment has been made and verified, the applicant will 'submit' the application and the EAF will notify the relevant licensing authority that an application is available to be downloaded from the ELMS. It is at this point in the process that the Government proposes the form should normally be taken to be 'given' (in terms of the 2003 Act) to the licensing authority (but see also paragraphs 3.16-3.18), not the point at which the LA downloads the form which may be different. This provides certainty to applicants who might otherwise be unsure of when the statutory timescale for determining their application begins.

**Question 1: Do you agree that applications submitted via the EAF should be taken to be 'given' to the LA once a completed form has been submitted to the system and is available for the LA to download? Yes/No. If no, please explain why and provide an alternative.**

**3.4** LAs may decide how often they want to be notified (twice a day, daily, etc) of completed applications via the EAF, but the Government proposes to recommend in the statutory Guidance (Annex C) that they opt for at least daily notification to ensure that applications, particularly those with short timescales such as TENs, are not left unopened and are processed promptly as required by the Directive and in line with the requirements of the 2003 Act. This is particularly important in view of the requirements for 'tacit' consent (see below).

**Question 2: Do you agree that LAs should request at least daily notification of completed applications available to download from the EAF? Yes/No? If no, please explain why.**

### **Applications using LA online systems**

**3.5** If an LA offers its own electronic application facility, applicants will be automatically directed from the EAF via a link to the LA's website where they will be able to access electronic forms to complete an online application and pay the fee using the LA's electronic payment facility. They may also apply directly to the LA in this way without going through the EAF. To ensure consistency with the application process via the EAF described in paragraph 3.3, the Government proposes that an application will normally be taken to be 'given' once the applicant has submitted the form and paid the fee (but see also paragraphs 3.16-3.18 below).

**Question 3: Do you agree that applications submitted via the LA's own electronic application facility should be taken to be 'given' to the LA once the applicant has submitted a complete and valid form and paid the fee? Yes/No. If no, please explain why.**

### **Tacit consent**

**3.6** The Directive requires that all applications in scope are dealt with promptly and processed within a reasonable time period which is fixed and made known to applicants in advance. This will be published on the EAF and all licensing authorities will need to ensure that details of statutory timescales are clearly published on their websites. When the competent authority fails to process an application within the published time period, the authorisation will be deemed to have been given consent.

**3.7** In principle the Government does not consider that this should pose any difficulties for applications under the 2003 Act as authorisations are effectively deemed granted if no representations are received from interested parties and/or responsible authorities (depending on the authorisation). For example an

application for a new premises or club premises certificate must be granted if no representations have been received by the end of the 28 day period. Similarly, a temporary event may be held as long as the notice has been properly given and there is no objection from the police within 48 hours of receipt of the notice.

- 3.8** The Government considers that the principle of tacit consent should apply to all licensing processes that will be e-enabled, except applications for 'Minor Variations'. The Minor Variations process provides a simplified application procedure for making small, low risk changes to licences. If the licensing authority has not determined the application within 15 working days, it is deemed refused. The Government considered that deemed refusal was necessary in this case to minimise the risk of any high risk changes being approved inadvertently, for example if the licensing authority was temporarily understaffed, or an application was lost. This could result, potentially, in the approval of an application that might result in crime and disorder, or remove protection from children. Recital 63 of the Services Directive allows alternatives to tacit consent if there are 'overriding reasons relating to the public interest, including a legitimate interest of third parties'. The Government considers that this is applicable to the Minor Variation process where local residents have a legitimate interest in the outcome of licensing decisions as upheld by Parliament.

## **Calculation of statutory timescales**

- 3.9** As described earlier, an application will normally have been taken to be submitted (or 'given') once the application form is made available on the ELMS for the LA to download. The EAF will calculate published statutory timescales from this point and send reminders to the LA when the deadline is approaching. Similarly, applications made via the LA's own facility will be taken to be given once the LA has received a complete form and the fee has been paid. This will apply to provisional statements, new applications, and full and minor variations where the statutory timescale is calculated from the day (or first working day for minor variations) after the day that the application is 'given' to the licensing authority.
- 3.10** However, for some applications and notifications under the 2003 Act, the process includes a statutory timescale that depends on the application or notification being copied, or given, to the police. The police then have a statutory period of time to object to the application or notice which is effectively the timescale for determining the outcome of the process (since, if there are no objections, the application is granted or the notice takes effect). This applies to temporary event notices, interim authority notices, applications for transfer of the licence, and applications to vary the licence to specify the DPS or disapply the mandatory DPS conditions relating to the sale of alcohol in community premises.
- 3.11** The responsibility to notify the police in these cases is currently the responsibility of the applicant, but in order to comply with the requirement in the Directive for a single point of contact, the Government considers that licensing authorities should become responsible for copying electronic applications and notifications to responsible authorities (see paragraph 4.7 for further details).
- 3.12** One consequence of this is that there may be a difference between the date when a completed application form is made available on the ELMS for the LA to download and the date when the LA is physically able to copy it to the police. For example, if an applicant sends a Temporary Event Notice via the EAF or the LA's

own website on a Friday evening, the LA will not be able to send it to the police until Monday morning at the earliest. Currently, where the applicant is required to notify the police, the time when they must do so is defined for each type of application. For TENs the police must be notified no later than 10 working days before the event period begins (s.104(1)); for change of DPS applications, interim authority notices, transfer applications and variations of DPS conditions in community premises the police must be notified on the same day as the day on which the application is given to the licensing authority (regulation 28 of SI 2005/42).

- 3.13** The Government has considered leaving these requirements as they are so that they apply equally to the applicant (written applications) and LAs (electronic applications). This option would have the advantage of retaining parity between the written and electronic procedures. However, as explained above, it may not be possible in practice for LAs to comply with these timescales and this will create uncertainty for the applicant. The Government will therefore amend the Act (TENs) and SI 2005/42 (for the other applications and notices listed in paragraph 3.10) to require that, where an application is made, or a notice is given electronically (via the EAF or the LA's own facility), the LA must notify the police on the first working day after the application is given. This will allow LAs to comply and give clarity to LAs and applicants about when statutory timescales for police response begin. Unfortunately, it is not possible to make the same adjustment for written TENs because the Provision of Services Regulations can only be used to amend the Act for the purposes of implementing the EU Services Directive).

## **Notifications to DPS/PLH**

- 3.14** Certain processes under the Act require notification to the DPS or PLH. This applies to the notification of change of name and address (s.33); request to be removed as DPS; specification of DPS(s.37); and transfer of the licence (s.46). The Government has considered whether these notifications should be given to the DPS or PLH by the LA rather than the applicant where the application or notice is given via the EAF or the LA's electronic facility. This would involve amending the Act to require (in respect of these applications) LAs to notify the DPS/PLH of electronic applications. This would be consistent with the Government's intention to require LAs to notify responsible authorities (see paragraph 4.7) and in line with the requirement for a point of single contact. However, there may also be some additional costs to LAs if, for example, a DPS or PLH does not have online access and the LA has to send a postal notification. But the Government also considers that there is a more fundamental difference between these notifications – which are essentially to provide information – and those to the police which are material to the application; determine the statutory timescale for determination; and could result in the refusal or amendment of the application. The Government will therefore exclude these notification processes from the point of single contact and place the requirement to notify the DPS/PLH on the applicant, as for written applications.

## **Weekends/public holidays**

- 3.15** Businesslink will make it clear that local authorities are generally closed at the weekend and will also publish details of UK Bank Holidays so that foreign applicants in particular are aware of any potential delays (e.g. in downloading forms from businesslink). Otherwise the current timescales (in working days or consecutive days) will apply as set out in the Act, subject to the proposed changes set out in paragraphs 3.9-3.13.

### **Incomplete or incorrect applications/ notifications**

- 3.16** If the applicant provides insufficient or incorrect details and the published deadline needs to be extended, LAs will be able to 'hold' an application as long as the applicant is notified promptly and given a full explanation. This effectively resets the 'clock' to zero in terms of the published statutory timescale for processing the application. LAs may hold the application as many times as necessary until they have all the information required to consider it, as long as they explain the reasons for this to the applicant. They should also explain how this will affect the statutory timescales and advertising requirements.
- 3.17** For example if an application has been given at the weekend, the notice advertising the application (where applicable) may already be displayed outside the premises when the LA downloads the application. The Government therefore recommends that if an LA holds an application, it should inform the applicant that the original (or if necessary, amended) notice must be displayed until the end of the revised period. The LA should also advise the applicant that they should not advertise the application in a local newspaper until they have received confirmation from the LA that the application includes all the required information. To ensure clarity for applicants, the Government proposes to include similar advice on the EAF and recommends that it is also included on LA facilities (where these exist). This should ensure that applicants do not incur any unnecessary costs as a result of the new arrangements.
- 3.18** If the applicant fails to provide the information requested in a reasonable time, the licensing authority may also reject the application

### **Hearings**

- 3.19** The Directive also permits one extension of the published time period 'when justified by the complexity of the issue' (Article 13(3)). This would apply, for example, if representations have been made and a hearing is necessary. However, licensing authorities must notify the applicant as soon as they are aware of the need for a hearing. They should also make it clear on their websites that statutory timescales may be extended (e.g. by up to 2 months) if representations are received.

# Chapter 4: DETAILED PROPOSALS

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## Application/notification process under the Licensing Act

- 4.1** Detailed requirements for applications and notifications under the 2003 Act are set out in the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 (S.I. 2005/42) (“the 2005 Regulations”). Regulation 21 states that an application, a notice or representations must be given in writing. An electronic application may be made initially if the recipient has agreed to this in advance, but it must be followed ‘forthwith’ by an application, etc in writing.
- 4.2** Requirements to copy applications to responsible authorities are set out in the relevant parts of the Act and the 2005 Regulations.

## Action required to comply with the Services Directive

- 4.3** The Directive states: “Member States shall ensure that all procedures and formalities relating to access to a service activity and to the exercise thereof may be easily completed, at a distance and by electronic means, through the relevant point of single contact and with the relevant competent authorities”. BIS advises that in practice, an online application must meet the following tests:
- Any application form in scope can be completed electronically;
  - Any other required documents can be sent to the authority electronically;
  - No hand written signature is needed;
  - Payment can be made electronically;
  - Follow up correspondence can be made electronically;
  - Approval or rejection must be notified electronically (although it is possible to follow up with paper documents such as certificates).

## Proposed amendments

- 4.4** To comply with the requirement for electronic application processes, the Government will amend the 2005 Regulations to remove, for all authorizations that are e-enabled:
- the requirement to obtain the prior agreement of the licensing authority before submitting an electronic application; and

- the requirement to follow up an electronic application with an application in writing.
- 4.5** This will ensure that service providers in England and Wales; and in other Member States; are able to make electronic applications and notifications via the EAF or via licensing authorities' own facilities. Applicants will, of course, still be able to make written applications if they choose. And the current electronic application procedure will still be available for processes which will not be e-enabled, i.e. applications for, and renewals of, personal licences and reviews. These and other proposed amendments to the Regulations are set out in the proposed Regulations at Annex 3.
- 4.6** To comply with the requirement in the Directive that applications and notifications can be made through a single point of contact, the Government will also remove the requirement in the 2003 Act and the 2005 Regulations for applicants to copy applications to responsible authorities, but only where the application process is e-enabled and the application is made via businesslink or an LA's own facility. BIS has agreed to make consequent changes to the Act in their Regulations ('the Provision of Services Regulations 2009').
- 4.7** An alternative process will be required to ensure that e-enabled applications and notifications are copied to the relevant responsible authorities at the appropriate time. The Government considers that the only option is for licensing authorities to perform this function and will insert a new requirement to this effect in the 2005 Regulations. There will be a small extra burden on licensing authorities and responsible authorities who will need to ensure that systems are in place to copy and receive electronic applications and notifications, but there will also be cost savings (see Impact Assessment at Annex A). It is proposed in the draft Regulations at Annex B that licensing authorities should be required to copy applications to responsible authorities on the first working day after they receive a valid application to ensure that applications are dealt with promptly. The Government considers that this is the only way to achieve compliance with the Directive and continue to promote the licensing objectives under the 2003 Act.
- 4.8** However, the amendments to the 2005 Regulations will preserve the requirement that applicants who apply in writing must copy the application and all supporting documents to responsible authorities.

## **Approval or rejection of applications**

- 4.9** The Directive requires that approval or rejection, etc. of an application is notified electronically. However, notification can simply be a statement describing the outcome of the decision-making process. The Directive does not require electronic licences and it is possible to follow up notification with paper documents such as licences or notices. Some concerns have been raised about a potential gap between a licensee being notified that their application has been accepted and actual receipt of the licence (particularly if this is supplied in paper format). The Government's view is that (as with non-electronic applications), once the

licensee has been notified electronically that their application has been granted, they do not need to wait for the licence to arrive to start the licensed activity.

**Question 4:** Do you agree that applicants applying electronically via the EAF or an LA's own facility, should not have to wait for the licence to arrive to start the licensed activity. Yes/No. If No, please explain why.

## **Requirement to keep and produce licence for examination**

- 4.10** The 2003 Act currently requires licensees to keep a licence or a certified copy of it available on the premises and produce it for examination (for example, by the police). This is usually a written document (although the Act does not specify that it must be), often printed by the licensing authority on watermarked or coloured paper so that the enforcement authorities, who may visit a premises at any time, can identify it as the valid licence. However, there is nothing in the Act to prevent licensing authorities from sending an electronic licence which can be printed out by the licensee to be held on the premises.
- 4.11** The Services Directive requires licensing authorities to confirm decisions on applications electronically (as described above), but it does not require an electronic licence or other authorization to be provided and authorities may continue to supply licences in paper format if they wish or choose to provide an electronic licence. The Directive and the Act are therefore compatible in this respect.
- 4.12** It has been suggested that if only an electronic licence is supplied, a small minority of licensees might try to avoid producing the licence for examination by enforcement authorities on the grounds that it is only held electronically and the computer system cannot be accessed. However, the current system is open to similar abuse, for example, if a licensee claims that the paper licence is lost or missing. Another concern is that electronic licences, even in formats such as pdf, may be altered and there is therefore the potential for licensees to produce a licence for examination (on screen or printed) which is not the valid licence. Again, this is only likely to happen in a small minority of cases and, given that the enforcing authorities can check the licence details with the licensing authority, any premises producing an altered or fraudulent licence risks significant consequences such as prosecution and licence review leading to revocation. Nevertheless an electronic licence is more susceptible to alteration than a paper, laminated copy for example. A solution to both these issues might be that, where the licence is provided electronically, the licensee is required to have a certified copy (as defined by section 58 of the Act) on paper available on the premises for examination.
- 4.13** The Government suggests that there are three possible options:

**Option 1:** No change. LAs would have the option of providing electronic licences or paper licences (as currently).

It is likely that most LAs will continue to provide paper licences, at least initially, but this option gives them the choice of moving to a completely electronic system at some stage.



**Option 2:** As above, but for electronic licences, require licensees to keep a certified paper copy of the licence on the premises.

This option allows LAs to choose whether to provide paper or electronic licences for written applications, but provides an additional safeguard for electronic licences.

**Option 3:** Stipulate that licences must always be provided on paper.

This option provides consistency, but LAs will not have the opportunity to move to a completely electronic system.

**Question 5:** Do you agree with Option 1, Option 2, Option 3, none of these options? Please say why and if you have answered 'none', please give alternatives.

## **Duty to display a summary of the licence at the premises**

**4.14** The Act requires that the holder of a premises licence or club certificate displays a summary of the licence or a certified copy of it prominently in the premises. The Government considers that these requirements would be met by the display of a printed copy of the summary without any change to the Act or associated Regulations. However, the same issues described in paragraphs 4.10 – 4.13 in relation to licences apply equally to summaries and the Government considers that same options are available:

**Option 1:** No change. LAs would have the option of providing electronic or paper summaries as currently.

**Option 2:** As above, but for electronic summaries, require licensees to keep a certified paper copy on the premises.

**Option 3:** Stipulate that summaries of licences must always be provided on paper.

**Question 6:** Do you agree with Option 1, Option 2, Option 3, none of these options? Please say why and if you have answered 'none', please give alternatives

## **Signatures**

**4.15** Clearly, written signatures will not be feasible for online applications, notifications and consent forms. The EAF will accept electronic signatures from Member States that recognize them and domestic applicants may also use digital signing facilities, but not everyone will have access to these facilities and they cannot be required. The Electronic Communications Act 2000 states that other, 'simple' signatures including where a user ticks or 'clicks' that they comply with a 'statement of truth' or scans in a signed document are equivalent to a handwritten signature.

- 4.16** The move away from handwritten signatures is a change in culture and there are understandable concerns, particularly about the potential for fraud in relation to applications for the transfer of a licence and to specify an individual as designated premises supervisor. (DPS) Both require a signed consent form, from the original licensee and the DPS respectively, and are therefore potentially more open to abuse.
- 4.17** However, the Government believes that fraudulent applications will be no more likely than they are currently (written signatures may be easily forged), particularly as applicants will be required to provide details of credit or debit cards in order to make electronic payments. In a small number of cases where there may be doubt about the validity of a transfer consent form (for example if the licence fee has not been paid for some time and the applicant may be trying to avoid making a new application), licensing authorities can check other documents such as leases, rental agreements, etc. Similarly a quick phone call to an individual specified as a DPS should ensure that the consent form is genuine. LAs already carry out these checks in relation to written applications if there is doubt that the original licensee has consented to the transfer. Similar checks can be made on foreign applicants by consulting the commercial registers that will be available on the Internal Market Information (IMI) system (see paragraph 2.2) or licensing authorities can use the IMI (or existing channels) to contact the relevant competent authorities in the applicant's country of origin.
- 4.18** The Government has considered alternatives to signatures including asking applicants to tick a 'statement of truth' on the form, or to supply a scanned copy of the page of a form which they, or relevant others, have signed in writing. However, on balance, the Government considers that in practice neither of these options would provide greater proof of identity than an unsigned application, or a heavier sanction if a false statement is made. It is already an offence under s.158 of the Act to make false statements in connection with an application. The Government does not therefore propose to require applicants applying electronically to provide any additional proof of identity.

**Question 7: Do you agree that applicants applying electronically should not be required to provide any additional proof of identity? Yes/No. If no, please explain why.**

## **Premises plans**

- 4.19** The Directive requires that all elements of an application or notification made through the EAF, including supporting documents such as premises plans, must be able to be supplied electronically. The Regulations currently require plans of premises to be drawn in 'standard' scale unless the applicant has agreed an alternative scale with the licensing authority. However, the Government understands that some licensing authorities will only accept plans drawn to a particular scale. A more flexible approach will be necessary to ensure that applicants can supply all documents electronically and the Government would like to apply the same flexibility to written applications. The Government therefore proposes to revise the Regulations to remove the reference to a 'standard' scale

and replace it with a requirement for plans (submitted electronically or in writing) to be supplied in a format which is 'clear and legible in all material respects'. Businesslink will only support plans submitted in the file formats used by the planning Portal, notably pdf which allows scaling. Most local authorities should already have the capacity to print out plans in the file formats used by the planning portal, either in-house or using a service, but should not have to do this too often.

**Question 8: Do you agree that the Regulations should be amended to allow applicants applying electronically or in writing to submit plans in any format that is clear and legible in all material respects. Yes/No. If no, please explain why.**

## **Requirement to enclose the licence**

**4.20** Applications for variation, transfer, and surrender of the licence, require the applicant to enclose 'the licence, ' or if that is not practicable, a statement of the reasons for the failure to provide the licence'. However, the Act does not state that this should be the 'original' (paper) licence and there is nothing to prevent applicants from enclosing a scanned copy of the licence if they are applying electronically. The licensing authority will have the most up to date version of the licence on file and will be able to verify that the electronic copy submitted is the valid licence. Applicants who lack the facility to scan the licence can provide a statement to that effect. It is sometimes the case now that applicants are unable to produce the 'original' licence because it has been lost, etc and in fact some licensing authorities do not ask for a copy of the licence because they have the original on file.

**Question 9: Do you agree that the requirement to enclose the licence is compatible with the new electronic application arrangements. Yes/No? If no, please explain why.**

## **Licensable activities in scope of the electronic process**

**4.21** As stated earlier in this document, the Directive does not apply to the sale or supply of alcohol or the provision of late night refreshment. However, the Government proposes to take this opportunity to extend the above provisions to all licensable activities under the Act so that as many applicants as possible can benefit from the simplified and cheaper process. The Government considers that it would not be practical or cost effective to allow electronic applications for regulated entertainment, but require applicants to apply in writing, through a separate process, to sell or supply alcohol or provide late night refreshment. Indeed, this would be entirely counter to the aim of the 2003 Act to reduce administrative burdens in introducing a single licence to cover these activities.

**Question 10: Do you agree that the new provisions for electronic applications should be available for all licensable activities? Yes/No. If no, please explain why.**

## **Licensing processes in scope of the electronic process**

**4.22** The Government proposes to e-enable all licensing processes except personal licence applications and renewals and reviews (see below).

### **Personal licences**

**4.23** Personal licences are required solely for the sale of alcohol and are therefore outside the scope of the Services Directive. Also, applications must include signed photographs and a criminal record check certificate. It is difficult to see how these requirements could be met currently through a fully electronic approach. The Government does not therefore propose to apply the new process to personal licences at this point in time.

**Question 11: Do you agree that applications for personal licences should not be included in the new arrangements for electronic applications? Yes/No. If no, please explain why.**

### **Reviews**

**4.24** Reviews relate to the enforcement of regulatory requirements once an applicant has been authorised to provide a service. They are therefore outside the scope of the Directive and the Government does not propose at present to include them in the new arrangements.

**Question 12: Do you agree that applications for review should not be included in the new arrangements for electronic applications? Yes/No. If no, please explain why.**

### **DPS-related processes**

**4.25** While the DPS is required in relation to the sale of alcohol, the Government recognizes that in many instances, bar receipts help to fund the provision of entertainment and provide an important revenue stream for allowing activities such as theatre, live music or arts events to take place. It therefore proposes to include all DPS-related applications and notifications in the new electronic arrangements (save to the extent outlined in paragraph 3.14 above).

**Question 13: Do you agree that all DPS-related applications should be included in the new electronic arrangements? Yes/No. If no, please explain why.**

## **Application/ Notification Fees**

- 4.26** Article 13 of the Directive states that ‘any charges which the applicants may incur from their application shall be **reasonable and proportionate** to the cost of the authorization procedures in question and shall not exceed the cost of the procedures’. Recital 43 of the Directive explains that, in the interests of simplification, Member States should seek to eliminate (inter alia) ‘**disproportionate fees and penalties**’ and recital 49 adds that fees should be ‘**proportionate** to the cost of the procedures and formalities with which they deal’.
- 4.27** The Government believes that the portion of the application fee that relates to the application is proportionate to the costs of the work involved, i.e. considering and processing the application; associated enforcement such as checking that notices have been displayed, holding hearings to consider evidence if representations are received, etc; and checking that the conditions of the authorization are being observed correctly once it has been given.

**Question 14: Do you agree that the cost of the portion of the fee that relates to the application/notification process is proportionate to the costs of the work involved? Yes/No. If no, please explain why.**

## **Estimated benefits of the new process**

- 4.28** We estimate that the administrative cost savings of electronic applications will be around £0.5m - £1.5m per year. Full details of administrative cost savings are set out in the Impact Assessment at Annex 1.

**Question 15: Do you agree that with the estimated costs and benefits set out in the Impact Assessment. Yes/No. If no, please explain why and provide alternative estimates.**

# Annex A: Impact Assessment

## Summary: Intervention & Options

Department /Agency: Department for Culture, Media and Sport		Title: Impact assessment of proposed extension of electronic application to all licensable activities under the Licensing Act 2003	
Stage: Consultation	Version: 1.5	Date: 23/09/2009	
Related Publications: Impact Assessment of the Implementation of the Services Directive (BIS, 12/5/9)			
Available to view or download at: <a href="http://www.culture.gov.uk">http://www.culture.gov.uk</a>			
Contact for enquiries: Amanda Stevens		Telephone: 020 7211	

**What is the problem under consideration? Why is government intervention necessary?** The EU Services Directive requires that EU Member States put in place a system to allow service providers located in the EU to apply for, vary and pay for licences and permits online via a single point of contact. Government intervention is necessary to amend the Licensing Act 2003 (the 2003 Act) and associated Regulations to achieve compliance with the Directive.

**What are the policy objectives and the intended effects?**

Compliance with the EU Services Directive and the removal of administrative burdens on licence and certificate holders. The intended effects are: to allow applicants to apply electronically via a single point of contact for all licensable activities and most applications and notifications under the 2003 Act.

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

The policy options were to restrict electronic application to applications for regulated entertainment (the only licensable activity that is a 'service' as defined by the Directive) or extend it to all regulated activities under the 2003 Act. The Government considers that it would not be cost effective or practical to allow electronic applications for regulated entertainment, but require written applications for other licensable activities. The preferred option is therefore to extend the benefits of electronic application to all licensable activities and most application and notifications processes under the 2003 Act.

**When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?** If appropriate, after three full financial years of the policy in operation (2013).

**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:

Summary: Analysis & Evidence

Policy: Electronic Application      Description: Extension of EA to most LA2003 Processes

<b>COSTS</b>	<b>ANNUAL COSTS</b>		Description and scale of <b>key monetised costs</b> by 'main affected groups'	
	<b>One-off</b> (Transition)	<b>Yrs</b>		
	£0			
	<b>Average Annual Cost</b> (excluding one-off)			
£0		<b>Total Cost (PV)</b>	£0	
<p>Other <b>key non-monetised costs</b> by 'main affected groups': Licensing Authorities (LAs) will have to email copies of certain types of applications and notifications to Responsible Authorities (RAs). However, the set-up costs necessary to deliver this will have been incurred to comply with the Directive in respect of regulated entertainment, and the additional ongoing costs are minimal. There will also be non-monetised benefits from the extension of this across all licensable activities</p>				

<b>BENEFITS</b>	<b>ANNUAL BENEFITS</b>		Description and scale of <b>key monetised benefits</b> by 'main affected groups': Potential annual savings to those submitting applications and notifications, largely derived from the removal of the requirement to send hard copies to RAs.	
	<b>One-off</b>	<b>Yrs</b>		
	£0			
	<b>Average Annual Benefit</b> (excluding one-off)			
£1m (0.5 - £1.5m)		<b>Total Benefit (PV)</b>	£8.3m (£4.2m-£12.5m)	
<p>Other <b>key non-monetised benefits</b> by 'main affected groups': There will be no need for LAs to check that applications and notifications have been copied to the appropriate RAs. However, although we know that this task is sometimes undertaken, we do not know the administrative burden. Additionally, LAs will more easily be able to acknowledge TENs via email instead of hard copy. As described below, paragraph. 9, there may be small savings for applicants in terms of legal fees, and resulting from the new specification on plans.</p>				

Key Assumptions/Sensitivities/Risks:

Price Base Year 2009	Time Period Years 10	<b>Net Benefit Range (NPV)</b> £4.2m-£12.5m	<b>NET BENEFIT (NPV)</b> Best estimate) <b>£8.3m</b>
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What is the geographic coverage of the policy/option?	England and Wales		
On what date will the policy be implemented?	December 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?	Yes		
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 £0	Small £0	Medium £0
Are any of these organisations exempt?	No	No	No

<b>Impact on Admin Burdens Baseline</b> (2007 Prices)		(Increase - Decrease)	
Increase of      £0	Decrease of      £1m	<b>Net Impact</b>	<b>-£1m</b>

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

[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 Issue**

1. The EU Services Directive requires that EU Member States put in place a system to allow service providers located in the EU to apply for, vary and pay for licences and permits online via a point of single contact. The 2003 Act and associated Regulations do not currently comply with the Directive because, although electronic applications are allowed, they must be followed up in hard copy and applicants must copy applications to all Responsible Authorities (RAs).

### **The Government's proposal**

2. The Government proposes to amend the Act and Regulations to remove the requirements for applicants to follow up electronic applications in hard copy and to copy applications to RAs. In order to comply with the requirement for a single point of contact, the Government also proposes to require Licensing Authorities (LAs) to copy applications to RAs and to make some further consequent changes to processes under the Act.
3. Although only regulated entertainment is a 'service' as defined, the Government proposes to extend the benefits of electronic application to all regulated activities and most applications and notifications under the Act.

### **Who is affected by the burden?**

4. The range of affected groups includes:
  - pubs, bars, nightclubs, hotels, guesthouses and other premises licensed for the sale of alcohol on the premises;
  - private members' clubs e.g. sports, working means', and political clubs;
  - voluntary bodies (such as village and community halls) and schools;
  - supermarkets, off-licences and convenience stores;
  - providers of regulated entertainment (such as theatres, cinemas, and live music venues) if also licensed for the sale of alcohol or the provision of late night refreshment; and
  - premises providing late night refreshment, such as takeaways and restaurants.

### **Number of Applications Affected**

5. The DCMS Statistical Bulletin "Alcohol, Entertainment and Late Night Refreshment Licensing" (covering 2007-2008) provides data on the number of applications in sections (a) and (b). The figures have been scaled up to provide estimated totals<sup>2</sup>:

#### **a) Processes copied to multiple RAs**

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<sup>2</sup> "DCMS Statistical Bulletin: Alcohol, Entertainment and Late Night Refreshment Licensing; England and Wales, April 2007 – March 2008". Figures have been scaled up to take account of the fact that not all licensing authorities responded to each survey question. Therefore, the figures are estimates and not identical with those in the Bulletin.



The following processes currently require the applicant to send hard copies to all RAs in addition to the Licensing Authority:

Applications for new premises licences	12, 900
Applications for new club premises certificates	205
Applications to vary premises licences	11,700
Applications to vary club premises certificates	560
Provisional Statements	57
<b><i>subtotal for multiple RA processes</i></b>	<b><i>25,422</i></b>

**b) Processes copied to a single RA**

The following processes currently require the applicant to send hard copies to the police, in addition to the Licensing Authority:

Requests to specify Designated Premises Supervisor	44, 300
Temporary Event Notices	119,100
Transfer of Premises Licences	18,700

We have also estimated the number of interim authority notices, by asking licensing officers in a selection of nine authorities and scaling up this figure across all authorities<sup>3</sup>:

Interim Authority ( <i>estimated</i> )	568
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The number of applications to disapply the mandatory condition requiring a designated premises supervisor was estimated in the Impact Assessment for that process<sup>4</sup>. It was estimated that there would be around 6,000 applications in total, an average of 600 per year over ten years.

Applications to disapply DPS ( <i>estimated</i> )	600
<b><i>subtotal for single RA processes</i></b>	<b><i>183,268<sup>5</sup></i></b>

**c) Other Processes (not requiring copies sent to RAs)**

A surrender of a licence or certificate and a request to be removed as Designated Premises Supervisor (DPS) require notification to be sent to the Licensing Authority only. The benefits per application will be relatively small, given that it does not include the administrative saving arising from the removal of the requirement to copy to other

<sup>3</sup> Nine LAs with a total of 6747 premises licences estimated that they had a total of only 9 IAs in 2007-08. If we use this proportion across the estimated 213,000 licences and certificates, this equates to 284 in total. However, the LAs generally reported considerably more in 2008-09. The figure has been double to 568 to reflect this.

<sup>4</sup> "Legislative reform orders: proposals to: (1) Introduce a simplified process for minor variations to premises licences and club premises certificates and (2) Remove the requirement for a designated premises supervisor and personal licence at community premises." (DCMS, August 2008).

<sup>5</sup> This assumes that there are no appreciable savings from notifications of change of name and address of DPS; and surrenders of licences.

bodies. We think that the number of such notifications is also relatively small and we are therefore assuming that the total benefits are negligible.

### **Estimated Effect of New Minor Variations Application Process**

6. A new application process, Minor Variations, was introduced in July 2009. We have previously estimated<sup>6</sup> that there would be about 5000 Minor Variations in the first year that the process is in operation. We will assume that half of these replace existing full variations, and half are applications that would not otherwise occur. This leads to a revised total for application process types as follows:

Total for multiple RA processes:	<u>22,922</u>
Total for the single RA processes	<u>188,268</u>

### **Proportion of Applications that are for Regulated Entertainment Only**

7. Regulated entertainment is the only licensable activity that is a 'service' as defined and therefore in scope of the European Services Directive. The direct impacts of the Directive, and the full implementation costs, have been previously assessed by the Department for Business, Innovation and Skills (BIS)<sup>7</sup>. The current proposal is to extend the process to all licensable activities under the 2003 Act. Therefore, to avoid double counting, we must exclude applications that relate only to regulated entertainment. We do not have precise figures for what proportion of applications fall into this category. However, scaled estimates<sup>8</sup> indicate that, amongst the 207,800 existing licences, 155,400 were authorised to sell alcohol and 66,500 were licensed for late night refreshment. Therefore, although 104,500 premises are licensed for regulated entertainment, an absolute maximum of 25%, and most probably substantially fewer, are **ONLY** licensed for regulated entertainment. This may nevertheless be the case with some theatres, community premises and schools. This is especially because schools and community premises may be exempt from paying a fee if they are licensed for regulated entertainment only. For example, DCMS has previously estimated that around 2,500 community premises fall into this category<sup>9</sup>. There will also be some schools. This gives us a range of around 3%-20%. We will assume that this reflects the number of applications<sup>10</sup> for regulated entertainment only. This leaves us with 18,338 - 22,234 and 150,614 – 182,620 for the two types of processes.

### **Proportion of Applications Taking Advantage of Electronic Application**

8. We do not have data on what proportion of stakeholders are equipped to make electronic applications, or will choose to do so. The situation is likely to be different in different LAs.

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<sup>6</sup> final version of Impact Assessment for revised Minor Variations, submitted to Parliament March 2009.

<sup>7</sup> Department for Business, Enterprise and Regulatory Reform, Services Directive Impact Assessment (May 2009).

<sup>8</sup> "DCMS Statistical Bulletin: Alcohol, Entertainment and Late Night Refreshment Licensing; England and Wales, April 2007 – March 2008".

<sup>9</sup> See note 3.

<sup>10</sup> The figures for existing licences may mask a small proportion of cases where premises apply to have regulated entertainment added to their licence but are refused. We do not know how many such cases there are.

For example, the London Borough of Westminster, which is conducting a pilot of electronic applications, has estimated that 50-60% of applications will be electronic within the first year. However, Westminster considers that it may receive an untypically large proportion of its applications via solicitors (who are more likely to take advantage of electronic application). Further evidence has been supplied by Action with Communities in Rural England (ACRE), which represents rural stakeholders, such as village halls. It considers that its members are generally less likely than average to have access to computers. However, it recently conducted a survey of its members and just over 40% of the responses were received by email. It can be assumed that the proportion using electronic application will generally increase over time as more applicants become familiar with the process. We will therefore assume 40-60%, meaning an estimated **7,335-13,340** applications under the multiple RA processes and **60,246 – 109,572** for the single RA processes.

## The Administrative Savings of Electronic Applications

### 9. More complex application processes

The administrative tasks that must be conducted by applicants for full variation of a licence or certificate are described in the Minor Variations impact assessment<sup>11</sup>, along with the estimated average cost of each task. The same costs apply to new licence or club premises certificate applications and applications for provisional statements. The requirement to copy applications to RAs will be removed for those making applications electronically. The administrative burden of sending the form will also be reduced. (There may also be other savings, such as reduced average legal costs if a higher proportion of applicants decide that they can conduct the application themselves, or if legal firms find other cost savings that they can pass on to their clients. Also, the requirement for plans to be ‘clear and legible in all material respects’ instead of ‘to standard scale’ might result in savings in some circumstances. However, any such savings would probably be relatively small on average, and are difficult to predict.)

<b>Task and Burden</b>	<b>Saving</b>
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 <sup>12</sup> )	Form & plan will not require printing and posting. Saving of approx. £5-£8
Copy all documents to RAs - usually seven bodies, possibly eight or nine: (£20-£40)	No longer required. Saving of £20-£40
	Average saving: £25-£48

### **Total estimated annual saving for more complex processes:**

**7,335-13,340 x £25-£48 = £0.18m - £0.64m**

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<sup>11</sup> Ibid, note 5.

<sup>12</sup> Based on 1-5 hours of management time at an hourly cost of £16.23 (estimated from discussions with stakeholders).

10. Simpler processes:

We estimate that it takes an average of about one hour of administrative time (around £16) to complete the simpler applications (the majority of which are TENs). Under the proposals for electronic applications, applicants will not be required to make and send the additional copy to the police. We will assume this takes about twenty to thirty minutes (about £5-£8).

<b>Task and Burden</b>	<b>Saving</b>
Send application to Licensing Authority and copy application to police (£16)	Copy to police no longer required. Average saving of £5-£8.

**Total estimated annual saving for simpler processes:**

**60,246 – 109,572 x £5 - £8 = 0.30m- 0.88m**

**Total estimated annual saving for all processes = £0.5m - £1.5m**

## 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	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
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
<p>1. Name of the function/policy to be assessed:</p> <p><b>Impact assessment of proposed extension of electronic application to all licensable activities under the Licensing Act 2003.</b></p>	
<p>2. What is the aim, objective or purpose of the policy?</p> <p><b>The removal of administrative burdens through the extension of electronic application to most applications and notifications under the LA2003. Most importantly, the removal of the requirement for applicants to submit applications and notifications in hard copy, and copy them to Responsible Authorities (RAs).</b></p>	
<p>3. What are the intended outcomes?</p> <p><b>A reduction in administrative burdens. If appropriate, the impact of the change will be reviewed, possibly after three full financial years of the policy in operation (2013).</b></p>	<p><i>Consider:</i></p> <ul style="list-style-type: none"> <li>• <i>How will you monitor progress towards these outcomes?</i></li> <li>• <i>Do the outcomes support or hinder other policies, values or objectives within the Department?</i></li> <li>• <i>If they hinder other work is this justifiable?</i></li> </ul>
<p>4. Who are the key stakeholders?</p> <p><b>Organisations representing premises licence holders; private members' clubs; users of the temporary event regime (such as schools); the licensing authorities as administrators of the regime; and responsible authorities (such as the police).</b></p>	<ul style="list-style-type: none"> <li>• <i>Who are the groups/individuals likely to be affected by the function or policy?</i></li> <li>• <i>Who else might have a significant interest in the implementation of this policy?</i></li> <li>• <i>Who else might have knowledge of the impact or potential impact of the policy or function?</i></li> </ul>
<p>5. Is the aim of the policy or any of its intended outcomes designed specifically to meet the Public Duties, for example to:</p> <ul style="list-style-type: none"> <li>➤ Eliminate discrimination?</li> <li>➤ Promote equality of opportunity?</li> <li>➤ Promote good relations between different groups?</li> </ul> <p><b>No</b></p> <p><i>[Most functions, policies and practices will not be designed <b>specifically</b> to meet the Public Duties. You need only answer 'yes' if the <b>specific intent</b> of the function, policy or practice is to meet the public duties. Otherwise, move on to section 6]</i></p>	<ul style="list-style-type: none"> <li>• <i>For example, a policy that has the aim of preventing harassment and bullying</i></li> <li>• <i>If the answer is <b>YES</b> to any of the questions, then you are required to proceed to a full impact assessment. You should turn to section 13, though please note that sections 7-12 will help you to conduct a full assessment</i></li> </ul>
<p>6. Does the function or policy involve or have consequences for members of the public or staff employed by the Department?</p>	<ul style="list-style-type: none"> <li>• <i>If the answer is <b>YES</b> proceed to section 7</i></li> <li>• <i>If the answer is <b>NO</b> list the evidence or other</i></li> </ul>

**Yes**

justification opposite or on an attached sheet that identifies why the function or policy has no consequences for members of the public or 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 conduct an impact assessment but you do need to monitor the implementation of the policy 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 is **NO**, proceed to sections 13 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 a substantial proportion of stakeholders are likely to take advantage of the proposed electronic application processes. Groups representing licensing and certificate holders consider that the proposal will reduce administrative burdens.**

- If you have no evidence available, then **you will not be able to assess if the policy is relevant to equality**
- You will need to gather evidence about the effects of the policy on stakeholders. (Please refer to section 2 of the guidance notes on gathering evidence)
- You should also consider consulting with stakeholder groups and involving disabled people at this stage (Please refer to section 5 on consulting and involving)
- When you have gathered evidence of the effects of the policy on the intended stakeholders, you can then proceed with the initial screening
- You should ensure that the actions necessary to collect the evidence are identified in an action plan

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	

- If the answer to any of these questions is **Yes** for any of the strands, you will need to proceed to a full impact assessment. In which case, proceed to section 13, though please note that sections 9-12 will help you to conduct a full assessment
- 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,

Religion or Belief		X		you will need to gather more evidence that allows you to do this. Refer back to section 7 above
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.**

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

- If the answer to any of these questions is **Yes** for any of the strands, you will need to proceed to a full impact assessment. In which case, proceed to section 13, though please note that sections 10-12 will help you to conduct a full assessment
- 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 more evidence that allows you to do this. Refer back to section 7 above

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

- If the answer to any of these questions is **Yes** for any of the strands, you will need to 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 assessment
- 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 more evidence that allows you to do this. Refer back to section 7 above



available

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

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 these questions is **Yes** for any of the strands, you will need to proceed to a full impact assessment. In which case, 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 more 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 these questions is **Yes** for any of the strands, you will need to proceed to a full impact assessment. In which case, 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 more evidence that allows you to do this. Refer back to section 7 above

13. Is a full impact assessment required?

**No.**

- If the answer is **NO** please use the space opposite to summarise why and attach any further supporting

<p><b>We do not believe that the proposed regulatory change will affect any of the groups under the listed strands in a different way.</b></p>	<p><i>evidence</i></p> <ul style="list-style-type: none"> <li>• <i>If the answer is YES you will need to arrange to carry out a full impact assessment</i></li> <li>• <i>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</i></li> </ul>
<p>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.</p> <p><b>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.</b></p>	
<p>15. Please return a copy of this form to:</p>	
<p>Name: <b>Mandy Stevens</b></p>	
<p>Unit/Directorate: <b>Licensing Team/Industry Directorate</b></p>	
<p>Date: <b>15/09/2009</b></p>	

## Competition Assessment

We do not believe that the proposed policy is likely to raise any competition concerns. It will be for the applicant to decide whether to apply electronically, 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

These proposals will make electronic application available to all applicants. It may be that a slightly smaller proportion of small businesses are equipped to make applications and notifications electronically, but this effect will be marginal. In general, the proposal will result in administrative savings for small businesses in common with other applicants and there is no reason why it would have a negative impact on small businesses.

## Rural Proofing

Action with Communities in Rural England (ACRE) is a member of our stakeholder group. It has suggested that, from its research, around 40% of its members are equipped to deal with applications and notifications electronically. This is only slightly smaller than the proportion estimated by Westminster Borough Council (50%). Therefore, although it may be the case that a slightly smaller proportion of rural businesses, clubs and voluntary organisations will be able to take advantage of electronic application, this effect is likely to be marginal.

## Health Impact Assessment Screening

This proposal does not change any element of licensing policy, only the mechanism for making applications and notifications. Therefore, 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

# Annex B: Draft Regulations

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The draft regulations presented here do not include amendments relating to change of DPS (s37), transfer applications (s42), interim authority notices (s47) or temporary event notices (TENS) (s100). For technical reasons concerning powers in the European Communities Act 1972, these require amendments to the Licensing Act 2003, which will be enacted in the Provision of Services Regulations 2009, to be made by the Department for Business, Innovation and Skills (BIS). The text of these Regulations will be available later in the year when laid before Parliament by BIS.”

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## STATUTORY INSTRUMENTS

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**2009 No. 0000**

### **LICENCES AND LICENSING**

#### **The Licensing Act 2003 (Premises Licences and Club Premises Certificates) (Amendment) Regulations 2009**

<i>Made</i> - - - -	<i>xx November 2009</i>
<i>Laid before Parliament</i>	<i>xx November 2009</i>
<i>Coming into force</i> - -	<i>28 December 2009</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 (fn) section 54 and 91 of the Licensing Act 2003<sup>(13)</sup>.

#### **Citation and commencement**

1. These Regulations may be cited as the Licensing Act 2003 (Premises Licences and Club Premises Certificates)(Amendment) Regulations 2009 and come into force on 28 December 2009.

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<sup>(13)</sup> 2003 c. 17.

## **Amendment of the 2005 Regulations**

2. The Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005<sup>(14)</sup> are amended as set out in regulations 3 to 7.

### **Interpretation**

3. In regulation 2(1)—

(a) after the definition of “prescribed fee” insert—

“relevant electronic facility” means the electronic assistance facility referred to in regulation 38 of the Provision of Services Regulations 2009<sup>(15)</sup> or any facility established and maintained by a licensing authority for the purpose of receiving applications, notices or representations electronically;”

(b) in the definition of “second appointed day” for “; and” substitute “.”;

(c) omit the definition of “standard scale”.

### **Applications, notices and representations**

4. For regulation 21 substitute—

#### **“Applications, notices and representations**

**21.** Subject to regulations 21A and 21B an application, notice or representations (other than representations of the kind referred to in section 41B(2)(b)(i) or 86B(2)(b)(i)) must be given in writing.”.

5. After regulation 21 insert—

#### **“Applications and notices given by means of relevant electronic facility**

**21A.**—(1) The requirement in regulation 21 is satisfied in relation to an application or notice if the information comprising the application or notice is transmitted to the recipient by means of a relevant electronic facility.

(2) A plan or other document that accompanies an application or notice, and which is capable of being transmitted by means of a relevant electronic facility may be transmitted to the recipient by means of that facility, together with the application or notice.

(3) Subject to paragraph (4) where information comprising an application or notice is transmitted by means of a relevant electronic facility the application or notice is to be taken as given at the time the information comprising it, and any accompanying plan or document becomes accessible to the recipient by means of that facility.

(4) But an application or notice that is required to be accompanied by a fee is not to be taken as given until the fee has been received by the recipient.

#### **Applications, notices and representations given by other electronic means**

**21B.**—(1) In the case of an application for review under section 51 or section 87, or representations the requirement in regulation 21 is satisfied if—

(a) the information comprising the application or representations is—

(i) transmitted by electronic means (other than a relevant electronic facility),

(ii) capable of being accessed by the recipient,

(iii) clear and legible in all material respects, and

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<sup>(14)</sup> S.I. 2005/42. Those Regulations were amended by....

<sup>(15)</sup> S.I. 2009/xxxx.

- (iv) capable of being—
  - (aa) read and reproduced in written form, and
  - (bb) used for subsequent referenceby the recipient;

(b) the person to whom the application is to be given, or to whom the representations are to be made has agreed in advance to the use of electronic means for that purpose; and

(c) forthwith on sending the information contained in the application or representations by electronic means the application is, or the representations are, given to the recipient in writing.

(2) A plan or other document that accompanies an application given pursuant to paragraph (1) may be given by electronic means, provided that the requirements of that paragraph are met in relation to the information contained in the plan or document.

(3) Subject to paragraph (4), where information comprising an application or representations (“the information”) is transmitted by electronic means pursuant to paragraph (1) the application is, or the representations are, to be taken as given at the time the requirements of paragraph (1)(a) are satisfied with respect to—

- (a) the information, and
- (b) any accompanying plan or document.

(4) But an application or notice that is required to be accompanied by a fee is not to be taken as given until the fee has been received by the recipient.”.

## **Plans**

6. For paragraph (2) of regulation 23 substitute—

“(2) The information contained in the plan must be clear and legible in all material respects.”.

## **Notice to responsible authority**

7.—(1) For regulation 27 substitute—

### **“Notice to responsible authority: applications made by means of relevant facility**

27.—(1) Where—

- (a) an application to which this regulation applies is made by means of a relevant electronic facility, and
- (b) any plan or document required to accompany the application is given by means of that facility,

the relevant licensing authority must, no later than the first working day after the day on which the application was given to the authority, give notice of the application to each responsible authority by giving each authority a copy of the application together with any accompanying plan or document.

(2) This regulation applies to an application for—

- (a) a premises licence under section 17;
- (b) a provisional statement under section 29;
- (c) variation of a premises licence under section 34;
- (d) minor variation of a premises licence under section 41A
- (e) a club premises certificate under section 71;
- (f) variation of a club premises certificate under section 84;
- (g) minor variation of a club premises certificate under section 86A.”.

(2) After regulation 27 insert—

### **“Notice to responsible authority: other cases**

27A. In the case of—

- (a) an application of a kind referred to in regulation 27(2) made otherwise than as described in regulation 27(1), or
- (b) an application for a review under section 51 or section 87

the person making the application must give notice of the application to each responsible authority by giving each authority a copy of the application together with its accompanying plan, document or other information on the same day as the day on which the application is given to the relevant licensing authority.”.

**Notice to chief officer of police etc.**

**8.**In regulation 28—

- (a) in paragraph (1) for “In” substitute “Subject to paragraph (1A), in”;
- (b) after paragraph (1) insert—

“(1A) But where an application or notice is given by means of a relevant electronic facility the relevant licensing authority shall give a copy of the application or notice, together with its accompanying documents (if any) to the chief officer of police on the first working day after the day on which the application was given to the authority.”;

- (c) for paragraph (3) substitute—

“(3) In a case falling within paragraph (2)(b) the person making the application must give the designated premises supervisor (if any) a copy of the application together with its accompanying documents (if any) on the same day as the day on which the application is given to relevant licensing authority.”.

Date

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

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

# Annex C: Draft Statutory Guidance

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NOTE: *The initial paragraph in each section below is numbered as in the consolidated Guidance published on the DCMS website at [http://www.culture.gov.uk/reference\\_library/publications/6287.aspx](http://www.culture.gov.uk/reference_library/publications/6287.aspx) for ease of reference. This produces some anomalies (e.g. two paragraphs numbered 34) which will be addressed when the revised consolidated Guidance is published and the paragraphs re-numbered throughout.*

## **CHAPTER 1: INTRODUCTION:**

### **RELATED LEGISLATION AND STRATEGIES**

(New paragraphs 1.38-1.39)

1.38 The EU Services Directive is a flagship European Directive intended to develop the single market for services by breaking down barriers to cross border trade within the EU and making it easier for service providers within scope to set up business or offer their services in other EU countries. The Directive requires that all notices and authorisations in scope are able to be completed electronically and via a 'point of single contact'. The Directive was implemented in the UK on [date] by the Provision of Services Regulations 2009. The UK point of single contact is the Electronic Application Facility (EAF) which is part of the [www.businesslink.gov](http://www.businesslink.gov) website ('businesslink')

1.39 Although only regulated entertainment is a 'service' as defined under the Directive, the Government has extended the electronic application process to all regulated activities under the 2003 Act and to all authorisations and notices with the exception of applications for, and renewals of, personal licences and reviews. Guidance on the new electronic application process is provided in paragraphs 8.24-8.35 and in relevant chapters.

## **CHAPTER 4: PERSONAL LICENCES:**

### **SPECIFICATION OF NEW DESIGNATED PREMISES SUPERVISORS**

(Revised paragraph 4.22, new paragraphs 4.23-4.25)

4.21 To specify a new designated premises supervisor, the premises licence holder – perhaps a supermarket chain or a pub operating company – should normally submit an application to the licensing authority (which may include an application for immediate interim effect) with:



- a form of consent by the individual concerned to show that they consent to taking on this responsible role, and
- the relevant part (Part A) of the licence.

4.22 If they are applying in writing, they must also notify the police of the application.

4.23 If the application is made electronically via businesslink or the licensing authority's own electronic facility, the licensing authority must notify the police no later than the first working day after the application is given.

4.24 The premises licence holder must notify the existing DPS (if there is one) of the application on the same day as the application is given to the licensing authority. This requirement applies regardless of whether the application was given by means of an electronic facility, or by some other means.

4.25 The general guidance in paragraphs 8.27 – 8.35 on electronic applications applies in respect of new DPS applications.

## **CHAPTER 7: TEMPORARY EVENT NOTICES:**

### **NOTIFICATION ARRANGEMENTS** (Revised paragraph 7.15, new paragraph 7.16)

7.15 Premises users notifying a temporary event in writing are required to send a temporary event notice, in the form prescribed in the regulations, to the licensing authority and the police at least 10 working days before an event. The police have a period of no later than 48 hours from when they are given the notice to object to the temporary event on crime prevention grounds.

7.16 If the notice is sent electronically via businesslink or the licensing authority's own facility, the licensing authority must notify the police no later than the first working day after the notice is given. Otherwise the general guidance in paragraphs 8.27 – 8.35 on electronic applications applies.

## **CHAPTER 8: APPLICATIONS FOR PREMISES LICENCES:**

### **APPLICATION FORMS** (Revised section replaces existing paragraphs 8.24 – 8.26)

8.24 An application for a premises licence may be made in writing, or electronically via businesslink or the licensing authority's own electronic application facility (if one exists).

#### **Written applications**

8.25 A written application for a premises licence must be made in the prescribed form to the relevant licensing authority and be copied to each of the appropriate responsible authorities. For example, applications for premises which are not vessels should not be sent to the Maritime and Coastguard Agency. The application must be accompanied by:

- the required fee (details of fees may be viewed on the DCMS website);

- an operating schedule (see below);
- a plan of the premises in a prescribed form; and
- if the application involves the supply of alcohol, a form of consent from the individual who is to be specified in the licence as the designated premises supervisor.

8.26 The Government recommends that forms should not be returned if they contain obvious and minor factual errors that can easily be amended. Regulations containing provisions on fees and the prescribed form of applications, operating schedules and plans may be viewed on the DCMS website.

### **Electronic applications**

8.27 Applicants may apply using the licensing forms available on the Electronic Application Facility (EAF) which is part of businesslink, or will be re-directed from businesslink to the licensing authority's own electronic facility if one is available. Applicants may also apply directly to the licensing authority's facility (if one is available) without going through businesslink.

### **Electronic applications using forms on the EAF**

8.28 The EAF will send a notification to the licensing authority when a completed application form is available for it to download from the 'Electronic Licensing Management System' (ELMS). This is the day that the application is taken to be 'given' to the licensing authority, even if it is downloaded at a later stage, and the application must be advertised from the day after that day (as for a written application). The Government recommends that licensing authorities request at least daily notification of completed application forms available on the ELMS to ensure that applications are processed promptly. The licensing authority must acknowledge the application as quickly as possible, specifying the statutory time period and giving details of the appeal procedure.

8.29 The period of 28 consecutive days during which the application must be advertised on a notice outside the premises is, effectively, the statutory timescale by which the application must be determined (unless representations are made). This will be published on businesslink and must also be published on the licensing authority's own electronic facility if one exists. If no representations are made during this period, the licensing authority must notify the applicant as quickly as possible that the licence has been granted. The licensing authority must send a [written/electronic] [subject to outcome of consultation] licence to the applicant as soon as possible after this, but the applicant may start the licensed activity as soon as they have been notified that the application is granted. If representations are made, the guidance in paragraph 8.33 below applies.

### **Requirement to copy application to responsible authorities**

8.30 The licensing authority must copy electronic applications, made via businesslink or its own facility, to responsible authorities no later than the first working day after the application is given.

## **Applications via the local authority electronic application facility**

8.31 Where applications are made on the licensing authority's own electronic facility, the application will be taken to be 'given' when the applicant has submitted a complete application form and paid the fee. The licensing authority must acknowledge the application as quickly as possible, specifying the statutory time period and giving details of the appeal procedure.

## **'Holding' and 'deferring' electronic applications**

8.32 The Government recommends (as for written applications) that electronic applications should not be returned if they contain obvious and minor errors such as typing mistakes, or small errors that can be rectified with information already in the authority's possession. However, if this is not the case and required information is missing or incorrect, the licensing authority may 'hold' the application until the applicant has supplied all the required information. This effectively resets the 28 day period for determining an application and may be done any number of times until the application form is complete. Licensing authorities must ensure that they notify the applicant as quickly as possible of any missing (or incorrect) information, and explain how this will affect the statutory timescale and advertising requirements.

8.33 If an application has been given at the weekend, the notice advertising the application (where applicable) may already be displayed outside the premises by the time that the licensing authority downloads the application. The Government therefore recommends that if a licensing authority holds an application, it should inform the applicant that the original (or if necessary, amended) notice must be displayed until the end of the revised period. The licensing authority should also advise the applicant that they should not advertise the application in a local newspaper until they have received confirmation from the LA that the application includes all the required information. To ensure clarity for applicants, the Government recommends that licensing authorities include similar advice on their electronic application facilities (where these exist) to ensure that applicants do not incur any unnecessary costs.

8.34 If an applicant persistently fails to supply the required information, the licensing authority may refuse the application and the applicant must submit a new application.

8.35 Licensing authorities may also 'defer' electronic applications once if the application is particularly complicated, for example if representations are received and a hearing is required. This allows the licensing authority to extend the statutory time period for the determination of the application by such time as is necessary, including, if necessary, arranging and holding a hearing. Licensing authorities must ensure that applicants are informed as quickly as possible of a decision to defer, and the reasons for the deferral, before the original 28 days has expired.

## **PLANS (revised paragraph 8.27)**

8.27 Plans, for written and electronic applications, will not be required to be submitted in any particular scale, but they must be in a format which is accessible, legible and provides sufficient detail for the licensing authority to be able to determine the application. There is no

requirement for plans to be professionally drawn as long as they clearly show all the prescribed information.

## **VARIATIONS**

### **Introduction (revised paragraphs 8.33, 8.34, new paragraphs 8.35 – 8.37)**

8.33 This Guidance revises and replaces the Guidance on variations of premises licences published on 28 June 2007<sup>4</sup>. 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. Applications to vary can be made electronically via the EAF or the licensing authority's own electronic facility following the procedures set out in paragraphs 8.27 – 8.35 above.

### **Simplified processes**

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);
- a request to be removed as the designated premises supervisor (section 41);
- an application in relation to a licence in respect of community premises that authorises the sale of alcohol to disapply the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act 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); and
- an application for minor variation of a premises licence (sections 41A to 41C) [or club premises certificate?].

8.35 If an application to specify a new DPS or to disapply the mandatory conditions concerning the supervision of alcohol sales is made electronically via businesslink or the licensing authority's own electronic facility, the authority must notify the police no later than the first working day after the application is given.

8.36 Where a simplified process set out in paragraph 8.34 requires the applicant (if they are not also the personal licence holder) to copy the application to the licence holder for information, this will apply regardless of whether the application is made in writing or electronically.

8.37 Otherwise the general guidance set out in paragraphs 8.27 – 8.35 on electronic applications applies.

### **Minor variations process (existing paragraphs 8.36, revised paragraph 8.37)**

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 (whether the application is made in writing or electronically) 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.

### **PROVISIONAL STATEMENTS** (revised paragraph 8.85)

8.85 “Person” in this context includes a business. The applicant could be a firm of architects, a construction company or a financier. The application would include the particulars and plans of the premises, describe the work to be done and the licensable activities planned to take place at the premises. The application must be advertised and notified to responsible authorities in a similar way to the arrangements for applications for premises licences and as set out in regulations. However, where the application is made electronically via businesslink or the licensing authority’s electronic facility, the licensing authority must copy the application to responsible authorities no later than the first working day after it is given and the general guidance on electronic applications set out in paragraphs 8.27 – 8.35 applies. Responsible authorities and interested parties may make representations. Where no representations are made, a provisional statement must be issued. Where relevant representations are made, the licensing authority must arrange a hearing to consider them. The need for a hearing can be dispensed with only by agreement of the licensing authority, the applicant for the provisional statement and all the parties who made relevant representations.

### **TRANSFERS OF PREMISES LICENCES** (revised paragraph 8.92)

8.92 The 2003 Act provides for any person who may apply for a premises licence, which includes a business, to apply for a premises licence to be transferred to them. Where the application is made in writing, the applicant must give notice of the application to the chief officer of police. Where it is made electronically via businesslink or the licensing authority’s electronic facility, the licensing authority must notify the police no later than the first working day after the application is given. However, the responsibility to notify the DPS remains with the applicant. Otherwise the general guidance on electronic applications set out in paragraphs 8.27 – 8.35 applies.

### **INTERIM AUTHORITIES** (revised paragraphs 8.97, 8.102)

8.97 These circumstances arise only where a premises licence has lapsed owing to the death, incapacity or insolvency of the holder. In such circumstances, an “interim authority” notice may be given to the licensing authority within seven days beginning the day after the licence lapsed. Where applications are made in writing, the applicant must give notice of the

application to the chief officer of police. If an application is made electronically via businesslink or the licensing authority's electronic facility, the licensing authority must notify the police no later than the first working day after the notice is given. Otherwise the general guidance on electronic applications set out in paragraphs 8.27 – 8.35 applies.

8.102 It should also be noted that, under section 50 of the 2003 Act, where the premises licence lapses (because of death, incapacity or insolvency of the holder etc) or by its surrender, but no interim authority notice has effect, a person who may apply for the grant of a premises licence under section 16(1) may apply within 7 days of the lapse for the transfer of the licence to them with immediate effect pending the determination of the application. This will result in the licence being reinstated from the point at which the transfer application was received by the licensing authority. Where the application is made in writing, the person applying for the transfer must copy their application to the chief officer of police. If the application is made electronically the licensing authority must copy the application to the police in a similar manner to the process referred to in paragraph 8.97.

#### **RIGHT OF FREEHOLDERS ETC TO BE NOTIFIED OF LICENSING MATTERS** (revised paragraph 8.103)

8.103 A person (which will include a business or company) with a property interest in any premises situated in the licensing authority's area may give notice of their interest to the authority using a prescribed form and on payment of a fee prescribed by the Secretary of State. The application may be made in writing or electronically via businesslink or the licensing authority's own facility, in which case the guidance in paragraphs 8.28 and 8.31 applies. Details of fees and forms are available on the DCMS website. It is entirely at the discretion of such persons whether they choose to register or not. It is not a legal requirement. Those who may take advantage of this arrangement include the freeholder or leaseholder, a legal mortgagee in respect of the premises, a person in occupation of the premises or any other person prescribed by the Secretary of State.

### **CHAPTER 11: REVIEWS: THE REVIEW PROCESS**

(Revised paragraph 11.2, new paragraph 11.3)

- 11.2 At any stage, following the grant of a premises licence, a responsible authority, or an interested party, may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.
- 11.3 The Regulations allow requests for reviews to be made by electronic means. However, this is subject to certain restrictions (see regulations 21B and 27A for further details) including that the application must also be sent promptly to the recipient in writing, along with any fee, plan or other document or information if appropriate and the licensing authority must agree that the application may be made electronically.

# Annex D: Licensing processes to be e-enabled

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- Application for premises licence or club premises certificate (s.17, s.71)
- Application for premises licence that includes an application to apply the alternative mandatory condition (community premises) (s.25A)
- Surrender of premises licence or club premises certificate (s.81)
- Application for provisional statement (s.29)
- Notification of change of name or address (s.33, s.83)
- Application to vary premises licence or club premises certificate ('full' variation) (s.34, s.84)
- Application to vary premises licence to specify individual as DPS (s.37)
- Request to be removed as DPS (s.41)
- Minor variation of premises licence or club premises certificate (s.41A, s.86A)
- Application for full variation of premises licence that consists of, or includes, an application to apply the alternative mandatory condition (community premises) (s.41D)
- Application for transfer of premises licence (s.42, s.46)
- Interim authority notice (s.47, s.49)
- Temporary Event Notice (s.100)
- Notification of change of club name and rules (s.82)
- Reinstatement of licence on transfer following death, etc of holder. (s.50)
- Notification of freeholder, etc. re licensing matters (s.178)

# Annex E: Questionnaire

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**Question 1:** Do you agree that applications submitted via the EAF should be taken to be 'given' to the LA once a completed form has been submitted to the system and is available for the LA to download? Yes/No. If no, please explain why and provide an alternative

**Question 2:** Do you agree that LAs should request at least daily notification of completed applications available to download from the EAF? Yes/No? If no, please explain why

**Question 3:** Do you agree that applications submitted via the LA's own electronic application facility should be taken to be 'given' to the LA once the applicant has submitted a complete and valid form and paid the fee? Yes/No. If no, please explain why.

**Question 4:** Do you agree that applicants applying electronically via the EAF or an LA's own facility should not have to wait for the licence to arrive to start the licensed activity. Yes/No. If No, please explain why.

**Question 5: (Licences)** Do you agree with Option 1, Option 2, Option 3, none of these options? Please say why and if you have answered 'none', please give alternatives.

**Question 6: (Licence summaries)** Do you agree with Option 1, Option 2, Option 3, none of these options? Please say why and if you have answered 'none', please give alternatives.

**Question 7:** Do you agree that applicants applying electronically should not be required to provide any additional proof of identity? Yes/No. If no, please explain why.

**Question 8:** Do you agree that the Regulations should be amended to allow applicants applying electronically or in writing to submit plans in any format that is clear and legible in all material respects. Yes/No. If no, please explain why.



**Question 9:** Do you agree that the requirement to enclose the licence is compatible with the new electronic application arrangements. Yes/No? If no, please explain why.

**Question 10:** Do you agree that the new provisions for electronic applications should be available for all licensable activities? Yes/No. If no, please explain why.

**Question 11:** Do you agree that applications for personal licences should not be included in the new arrangements for electronic applications? Yes/No. If no, please explain why.

**Question 12:** Do you agree that applications for review should not be included in the new arrangements for electronic applications? Yes/No. If no, please explain why.

**Question 13:** Do you agree that all DPS-related applications should be included in the new electronic arrangements? Yes/No. If no, please explain why.

**Question 14:** Do you agree that the cost of the portion of the fee that relates to the application/notification process is proportionate to the costs of the work involved? Yes/No. If no, please explain why

**Question 15:** Do you agree that with the estimated costs and benefits set out in the Impact Assessment. Yes/No. If no, please explain why and provide alternative estimates.