

2001 No. 920

DEREGULATION, ENGLAND AND WALES

The Deregulation (Sunday Licensing) Order 2001

Made - - - - 12th March 2001

Coming into force 19th March 2001

Whereas:

- (a) the Secretary of State is of the opinion that certain provisions of the Licensing Act 1964^(a) which are the subject of this Order impose burdens affecting persons in the carrying on of a trade, business, profession or otherwise and that by amending or repealing the provisions concerned and by making certain other provision it is possible to remove or reduce the burdens without removing any necessary protection;
- (b) he has consulted such organisations as appear to him to be representative of interests substantially affected by his proposals and such other persons as he considers appropriate;
- (c) it appears to the Secretary of State that it is appropriate, following that consultation, to proceed with the making of this Order;
- (d) a document setting out the Secretary of State's proposals has been laid before Parliament as required by section 3 of the Deregulation and Contracting Out Act 1994^(b) and the period for parliamentary consideration under section 4 of that Act has expired;
- (e) the Secretary of State has had regard to the representations made during that period;
- (f) a draft of this Order has been laid before Parliament with a statement giving details of those representations and the changes to the Secretary of State's proposals in the light of those representations; and
- (g) a draft of this Order has been approved by resolution of each House of Parliament;

Now, therefore, the Secretary of State, in exercise of the powers conferred upon him by section 1 of the Deregulation and Contracting Out Act 1994, hereby makes the following Order:

Citation, commencement and extent

1.—(1) This Order may be cited as the Deregulation (Sunday Licensing) Order 2001.

(2) This Order shall come into force at the end of one week beginning with the day on which it is made.

^(a) 1964 c. 26.

^(b) 1994 c. 40.

(3) This Order does not extend to Scotland or Northern Ireland.

Amendments to the Licensing Act 1964

2. The Schedule to this Order (which amends the Licensing Act 1964) shall have effect.

Home Office
12th March 2001

Mike O'Brien
Parliamentary Under-Secretary of State

SCHEDULE

Amendments to the Licensing Act 1964

1. In this Schedule “the 1964 Act” means the Licensing Act 1964.
- 2.—(1) Section 70 (extension of hours in restaurants, etc. providing entertainment) of the 1964 Act shall be amended as follows.
 - (2) In subsection (1)—
 - (a) for “weekdays” substitute “days”, and
 - (b) after “subsection (2)” insert “or (2A)”.
 - (3) In subsection (2)(a) at the beginning insert “Subject to subsection (2A),”.
 - (4) After that subsection insert—

“(2A) If the order under this section applies to the permitted hours on a Sunday, subsection (2) has effect in relation to those permitted hours as if—

 - (a) for “one o’clock” there were substituted “half an hour past midnight”, and
 - (b) for “midnight” there were substituted “half past eleven in the evening”.
 - (5) In subsection (4)—
 - (a) for “weekday” substitute “day”, and
 - (b) for “weekdays” substitute “days”.
- 3.—(1) Section 71 (order of licensing justices under section 70)(b) of the 1964 Act shall be amended as follows.
 - (2) After subsection (3) insert:

“(3A) In the case of an order under section 70 of this Act which would extend the permitted hours on a Sunday, subsections (3B) to (3D) apply.

(3B) Before making an application at a licensing sessions for such an order in respect of premises in Greater London, a person shall, not less than twenty-one days before the day of the licensing sessions, give to the relevant local authority notice in writing of the application.

(3C) In considering whether to make such an order the licensing justices shall take account of—

 - (a) the special nature of Sunday, and
 - (b) any guidance on that special nature issued by the Secretary of State.

(3D) Where the licensing justices make such an order with respect to any premises in spite of an objection from a relevant local authority which is based on the residential character of the area in which the premises are situated, they shall state their reasons for doing so.”.
 - (3) After subsection (4) insert:

“(5) In this section “relevant local authority”—

 - (a) if the premises are in England outside Greater London, means the district council;
 - (b) if the premises are in Wales, means the county or county borough council;
 - (c) if the premises are in the City of London, means the Common Council of the City of London; and
 - (d) if the premises are in a London borough, means the council of that borough.”.
 - 4.—(1) Section 72 (order of magistrates’ courts under section 70)(c) of the 1964 Act shall be amended as follows.

(a) Section 70(2) was repealed in part by section 1(2) of the Licensing (Amendment) Act 1985 (c. 40).

(b) Section 71 was amended by section 4 of the Licensing Act 1988 (c. 17).

(c) Section 72 was amended by the Licensing Act 1988.

(2) After subsection (2) insert:

“(2A) In the case of an order under section 70 of this Act which would extend the permitted hours on a Sunday, subsections (2B) to (2C) apply.

(2B) In considering whether to make such an order the magistrates’ court shall take account of—

- (a) the special nature of Sunday, and
- (b) any guidance on that special nature issued by the Secretary of State.

(2C) Where the magistrates’ court makes such an order with respect to any premises in spite of an objection from a relevant local authority which is based on the residential character of the area in which the premises are situated, they shall state their reasons for doing so.”.

(3) After subsection (3) insert:

“(4) In this section “relevant local authority” has the same meaning as in section 71(5) of this Act.”.

5.—(1) Section 73 (supplementary provisions as to orders under section 70)(a) of the 1964 Act shall be amended as follows.

(2) In subsection (1) for “weekdays” substitute “days”.

(3) In subsection (2)—

- (a) for “weekdays”, in both places where it occurs, substitute “days”, and
- (b) after “morning” insert “or, in the case of the morning following Sunday, half an hour past midnight”.

6.—(1) Section 76 (permitted hours where special hours certificate in force)(b) of the 1964 Act shall be amended as follows.

(2) After subsection (3) insert—

“(3A) Subject to the following provisions of this section, the permitted hours on Sundays in any premises or part of premises to which this section applies shall extend until thirty minutes past midnight in the morning following, except that—

- (a) the permitted hours shall end at midnight on any Sunday on which music and dancing is not or, in the case of casino premises, gaming facilities are not provided after midnight;
- (b) where music and dancing end or, in the case of casino premises, gaming ends between midnight on any Sunday and thirty minutes past midnight, the permitted hours on that Sunday shall end when the music and dancing end or, as the case may be, when the gaming ends; and
- (c) in any premises or part for which a certificate is in force subject to a limitation imposed in relation to Sundays in pursuance of section 78A or 81A of this Act, the permitted hours shall not extend beyond the time specified in the certificate.

(3B) In relation to any Sunday which falls immediately before a day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971(c), other than Easter Sunday, subsection (3A) shall have effect—

- (a) in the case of premises which are situated as mentioned in subsection (3), with the substitution for the references to thirty minutes past midnight in the morning following of references to three o’clock in the morning following; and
- (b) in the case of any other premises, with the substitution for the references to thirty minutes past midnight in the morning following of references to two o’clock in the morning following.”.

(a) Section 73(1) was repealed in part by Schedule 4 to the Licensing Act 1988.

(b) Section 76 has been amended but the amendments are not relevant to the subject matter of this Order.

(c) 1971 c. 80.

(3) After subsection (6) insert:

“(6A) Subsections (3A) and (3B) shall not apply to a certificate granted before the coming into force of those subsections or to a certificate granted after that time that does not extend to Sundays; but any such certificate may be varied by the licensing justices or, as the case may be, magistrates’ court on the application of the licensee or club.”.

7. At the end of section 78A (limitations on special hours certificates)(a) of the 1964 Act insert:

“(5) Subsections (6) to (9) apply to an application to the licensing justices or, as the case may be, the magistrates’ court for the grant of a special hours certificate which extends to Sundays or for the variation of a limitation so as to affect the operation of a special hours certificate in relation to Sundays.

(6) Not less than twenty-one days before making such an application to licensing justices, a person shall give notice to the relevant local authority.

(7) In considering whether to grant or vary a certificate in the manner described in subsection (5), the licensing justices or, as the case may be, the magistrates’ court shall (without prejudice to other functions in relation to the grant or variation) consider the exercise of the power to limit the certificate—

(a) to days not including Sunday, or

(b) to different times of the day on Sundays and on other days.

(8) In discharging their function under subsection (7), the licensing justices or, as the case may be, the magistrates’ court shall take account of—

(a) the special nature of Sunday, and

(b) any guidance on that special nature issued by the Secretary of State.

(9) Where the licensing justices or, as the case may be, the magistrates’ court grant a special hours certificate which extends to Sundays or vary a limitation so as to affect the operation of such a certificate in relation to Sundays in spite of an objection from a relevant local authority which is based on the residential character of the area in which the premises are situated, they shall state their reasons for doing so.

(10) In this section “relevant local authority” has the same meaning as in section 71(5) of this Act.”.

8. In subsections (1) and (1A) of section 80 (special hours certificates limited to particular days or parts of the year)(b) of the 1964 Act for “weekdays” substitute “days”.

9. At the end of section 81A (special hours certificates: further powers to impose limitations as to hours)(c) of the 1964 Act insert:

“(5) Not less than twenty-one days before making an application under subsection (4) to licensing justices to vary a limitation under this section so as to affect the operation of a special hours certificate in relation to Sundays, the person making the application shall give notice to the relevant local authority.

(6) In considering under subsection (2) or (3) whether to attach any limitation authorised by subsection (1) or, under those subsections or subsection (4), whether to vary any limitation to which a special hours certificate is subject, the licensing justices or, as the case may be, the magistrates’ court shall consider the exercise of the power to limit the certificate—

(a) to days not including Sundays, or

(b) to different times of the day on Sundays and on other days.

(7) In discharging their function under subsection (6), the licensing justices or, as the case may be, the magistrates’ court shall take account of—

(a) Section 78A was inserted by section 5(2) of the Licensing Act 1988 and amended by S.I. 1996/977.

(b) Subsection (1) was amended by S.I. 1996/977 and subsection (1A) was inserted by S.I. 1997/950.

(c) Section 81A was substituted by the Licensing Act 1988, section 5(4).

- (a) the special nature of Sunday, and
- (b) any guidance on that special nature issued by the Secretary of State.

(8) Where the licensing justices or, as the case may be, the magistrates' court vary a limitation so as to affect the operation of a special hours certificate in relation to Sundays in spite of an objection from a relevant local authority which is based on the residential character of the area in which the premises are situated, they shall state their reasons for doing so.

(9) In this section "relevant local authority" has the same meaning as in section 71(5) of this Act."

10. After section 81A insert the following section:

"Special hours certificates: exclusion of Sundays in case of disturbance etc.

81AA.—(1) At any time while there is in force for any premises or for part of any premises a special hours certificate which extends to Sundays, a person or authority mentioned in subsection (3) may apply to the licensing justices or, if it was granted under section 78 or 78ZA of this Act^(a), to the magistrates' court, for the imposition of a limitation excluding Sundays on the following grounds.

(2) The grounds referred to are that such a limitation is desirable to avoid or reduce on Sundays—

- (a) any disturbance of or annoyance to—
 - (i) persons living or working in the neighbourhood, or
 - (ii) customers or clients of any business in the neighbourhood; or
- (b) the occurrence in the vicinity of the premises of disorderly conduct on the part of persons resorting to the premises or part of the premises.

(3) The persons and authorities referred to in subsection (1) are—

- (a) a person falling within sub-paragraph (i) of subsection (2)(a);
- (b) the chief officer of police; or
- (c) a relevant local authority within the meaning of section 71(5) of this Act.

(4) If on an application under this section the licensing justices or, as the case may be, the magistrates' court are satisfied that the grounds of the application are made out, they shall attach a limitation to the special hours certificate which has the effect of excluding Sundays."

11.—(1) Section 81B (special hours certificates: appeals)^(b) of the 1964 Act shall be amended as follows.

(2) In subsection (1)(c)^(c) after "section 81A" insert "or 81AA".

(3) In subsection (2) after "81A(2)" insert "or 81AA".

(4) After subsection (2) insert:

"(2A) Subsection (2C) applies where the condition in subsection (2B) is satisfied and the effect of the Crown Court allowing or dismissing an appeal under this section is that—

- (a) a special hours certificate which extends to Sundays is granted,
- (b) a special hours certificate which extends to Sundays is varied so as to relax a limitation in respect of Sundays, or
- (c) a special hours certificate not extending to Sundays is varied so as to extend to Sundays.

(2B) The condition referred to in subsection (2A) is that a relevant local authority made to the licensing justices or, as the case may be, the magistrates' court an objection to the

^(a) Section 78ZA was inserted by S.I. 1996/977.

^(b) Section 81B was inserted by section 3 of the Licensing (Amendment) Act 1980 (c. 40) and amended by the Licensing Act 1988, Schedule 3, and S.I. 1996/977.

^(c) Subsections (1)(c) and (2) were substituted by the Licensing Act 1988, Schedule 3.

grant or variation of the certificate on grounds based on the residential character of the area in which the premises to which the certificate relates are situated.

(2C) Where this subsection applies, the Crown Court shall state the reasons for their decision.”.

(5) After subsection (4) insert:

“(5) In this section “relevant local authority” has the same meaning as in section 71(5) of this Act.”.

12. In section 83(2) (supplementary provision as to special hours certificates)(a) of the 1964 Act—

(a) for “weekday” substitute “day”, and

(b) for “weekdays” substitute “days”.

13.—(1) Section 88 (saving as to Sunday observance) of the 1964 Act shall be amended as follows.

(2) Omit the words “or under a special hours certificate”.

(3) For paragraphs (a) and (b) substitute “to the premises or part, by reason of the provision there of entertainment (in addition to substantial refreshment)”.

14. In section 91 (procedure of licensing justices)(b) of the 1964 Act for “or 81A” substitute “, 81A or 81AA”.

15. At the end of section 92(2) (procedure on applications to magistrates’ courts)(c) of the 1964 Act insert—

“(d) an application under section 81AA of this Act for the variation of a special hours certificate”.

(a) Section 83(2) was amended by S.I. 1997/950.

(b) Section 91 has been amended by the Licensing Act 1988, Schedule 3, and S.I. 1996/977.

(c) Section 92 has been amended but the amendments are not relevant to the subject matter of this Order.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made under section 1 of the Deregulation and Contracting Out Act 1994. Article 2 reduces burdens on business by amending the provisions of the Licensing Act 1964 relating to extended hours in restaurants to apply them to Sundays, and those relating to special hours certificates to permit such certificates to apply on Sundays where the licensing authority consider it appropriate to do so.

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