

**EXPLANATORY MEMORANDUM TO  
THE LICENSING ACT 2003 (PERMITTED TEMPORARY ACTIVITIES)  
(NOTICES) REGULATIONS 2005**

**2005 No. 2918**

1. This explanatory memorandum has been prepared by the Department for Culture, Media and Sport and is laid before Parliament by Command of Her Majesty.
2. **Description**
  - 2.1 A temporary event notice authorises the use of particular premises for activities that fall within the licensing regime created by the Licensing Act 2003<sup>1</sup>. It is designed to be used for events lasting up to 96 hours and attended by less than 500 people.
  - 2.2 Such a notice must be given to the licensing authority and the police by the user of the premises. In certain circumstances (including objections from the police) the licensing authority must give a counter notice, the effect of which is to prevent the activities from going ahead under the authority of the temporary event notice.
  - 2.3 The Regulations set out the prescribed form of a temporary event notice in Schedule 1 and the prescribed form of a counter notice in Schedule 2.
  - 2.4 They also require receipt of a temporary event notice to be acknowledged by the licensing authority by the signature (which may be electronic) of an authorised person on the form (a duplicate of which must be returned to the premises user under section 102 of the Act).
  - 2.5 The Regulations also prescribe the manner in which a counter notice must be given by the licensing authority<sup>2</sup>. It may be given by delivery in person, or communication to the postal or e-mail address given by the premises user in the temporary event notice.
3. **Matters of special interest to the Joint Committee on Statutory Instruments or the Select Committee on Statutory Instruments**
  - 3.1 None.
4. **Legislative Background**

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<sup>1</sup> see paragraph 7.1 below.

<sup>2</sup> this only applies to counter notices given under section 107 of the Act.

- 4.1 These Regulations form part of the implementation of the Licensing Act 2003, which is due to come into force on 24th November 2005. They are the first use of the powers cited in the preamble.
- 4.2 The Regulations are required to be in force on 10th November. This is to allow premises users who wish to give notices for events starting on the first day of the new licensing regime to do so in accordance with the time limit of ten working days laid down in section 100(7)(a) of the 2003 Act.

## **5. Extent**

- 5.1 This instrument applies to England and Wales only.

## **6. European Convention on Human Rights**

No statement is required.

## **7. Policy background**

- 7.1 From 24th November 2005 the Licensing Act 2003 will establish a single integrated scheme for the licensing of certain activities conducted on or from particular premises.
- 7.2 The activities are the sale by retail of alcohol, the supply of alcohol by a club to its members, the provision of regulated entertainment (including plays, films etc) and the provision of late night refreshment (the supply of hot food or drink between 11pm and 5am). The precise wording and definitions of the various terms are set out in the Act: see especially sections 1, 191 and 192 and Schedules 1 and 2.
- 7.3 Permission to carry on some or all of these activities will from 24th November be contained in a single licence known as the premises licence. Previously, there were different licensing regimes and procedures for different kinds of activity.
- 7.4 The new regime will also include other forms of authorisation for licensable activities. One of these is the temporary event notice (or "TEN"), which is for occasional events for which an ongoing authorisation would be inappropriate. The TEN system is intended to be a light touch method of authorising permitted temporary activities. It will replace the existing systems of occasional licences and occasional permissions currently granted in connection with short-term alcohol and public entertainment licensing.
- 7.5 The new system will involve an event organiser (the "premises user") giving a TEN to the licensing authority and copying this to the police. The TEN will need to be in the standard form prescribed by these

Regulations. The licensing authority will have to acknowledge receipt of a TEN in the manner so prescribed.

- 7.6 In certain circumstances the licensing authority will be required to issue a counter notice which will prevent the TEN from acting as a form of authorisation for licensable activities. Such notices will need to be in the standard form prescribed by these Regulations, and may be given in the manner so prescribed.
- 7.7 The draft Regulations were subject to a public consultation for eight weeks between 9 August and 5 October 2005. It was not possible to conduct a consultation for 12 weeks because the regulations must be in force ten working days prior to 24 November, which is the latest date by which a temporary event notice can be given for an event occurring on 24 November. On 24 November, all existing arrangements for authorising temporary licensable activities will be repealed. There were 225 responses to the consultation by 5 October and a further 12 received after that date, which were in any event taken into account. Of these, 131 responses were exclusively concerned with the question of limitations on the number of temporary event notices that may be given in a calendar year, which form no part of these Regulations. With regard to the Regulations themselves and the forms of the temporary event notice and counter notice, most respondents expressed approval. The Association of Chief Police Officers and representatives of the licensing authorities (LACORS and the Local Government Association) however asked the Government to include requirements for additional information, some of which the Government accepted. The full details of the changes made and the Government's reasons for making them are set out in paragraphs 10.5 to 10.7 of the regulatory impact assessment attached.

## **8. Impact**

- 8.1 A Regulatory Impact Assessment is attached to this memorandum.
- 8.2 The impact on the public sector is to enable licensing authorities to fulfil their responsibilities under the Licensing Act 2003 in respect of TENs and counter notices. They will be required to accept temporary event notices given in the prescribed form and will be able to acknowledge receipt of such notices in accordance with the Act. They will also be able to give counter notices when required, by personal delivery or by postal or electronic means. Costs associated with the administration and enforcement of the regime relating to temporary event notices are met through the payment of fees.

## **9. Contact**

Andrew Cunningham at the Department for Culture, Media and Sport Tel: 020 7211 6344 or e-mail: [andrew.cunningham@culture.gsi.gov.uk](mailto:andrew.cunningham@culture.gsi.gov.uk) can answer any queries regarding the instrument.

# **FINAL REGULATORY IMPACT ASSESSMENT**

## **1. Title of the Proposal**

Licensing Act 2003 (Permitted Temporary Activities) (Notices) Regulations 2005

## **2. Purpose and Intended Effect**

### **(i) The objective**

2.1 The objectives of the proposal are to provide Regulations under the terms of the Licensing Act 2003 (“the Act”) governing permitted temporary activities that:

- enable the licensing system authorising permitted temporary activities involving supplies of alcohol, regulated entertainment and the provision of late night refreshment to function efficiently in a way agreed and understood by Parliament during the passage of the Licensing Bill and adhere to the scope of the powers given to the Secretary of State in the Act;
- are functional and practical for all people who choose to carry on permitted temporary activities;
- are easily understood by potential users;
- ensure that any burdens imposed on industry and, in particular, non-commercial organisations should be proportionate to the benefit the regulatory regime is anticipated to bring; and
- should strike a fair balance between the interests of those affected by the Regulations and the interests of the wider general public.

### **(ii) The background**

2.2 The Licensing Act 2003 received Royal Assent on 10 July 2003. The Act is expected to become fully operational on 24 November 2005. At this time the current arrangements which authorise temporary activities under the separate alcohol, public entertainment, theatre, cinema, late night refreshment and night café licensing regime will cease to have effect. These arrangements will be replaced by a new single system of authorisation for all permitted temporary activities involving:

- the sale by retail of alcohol for consumption either off or on the premises or both;
- the supply of alcohol by or on behalf of a club to, or to the order of, a member of a club;
- the provision of regulated entertainment; and
- the provision of late night refreshment.

2.3 Most of the provisions governing the arrangements for permitted temporary activities are provided on the face of the statute itself. Regulations may however be

made by the Secretary of State under sections 100(4), 100(5), 100(6), 102(2), and 107(7) which primarily cover:

- the form of a temporary event notice (the notice given by a premises user who proposes carrying temporary licensable activities);
- the information to be provided in the notice; the arrangements for the licensing authority (normally the local authority, but the exceptions are the Sub-Treasurer of the Inner Temple, the Under-Treasurer of the Middle Temple and The Council of the Isles of Scilly); and
- the form of a counter notice (a notice given by the licensing authority which prevents a temporary event notice having effect).

2.4 Permitted temporary activities are part of a very light touch regime under which only the police may object to the proposed event and then only on grounds relating to crime prevention. Local residents, for example, may not make representations. In order to ensure that the community is adequately protected, the Act sets limits on the duration and number of temporary event notices that may be given by any individual or in respect of any individual premises in a calendar year (1 January to 31 December). In addition, the events must be small and are limited to events which are attended by no more than 499 people at any one time. More precisely, the limitations are:

- the number of times a person (the “premises user”) may give a temporary event notice (50 times per year for a personal licence holder and 5 times per year for other people);
- the number of times a temporary event notice may be given in respect of any particular premises (12 times in a calendar year);
- the length of time a temporary event may last for these purposes (96 hours);
- the maximum aggregate duration of the periods covered by temporary event notices at any individual premises (15 days); and
- the scale of the event in terms of the maximum number of people attending at any one time (less than 500).

2.5 If a proposed event would exceed the first, second or fourth of these limitations, the licensing authority must issue a counter notice. If the event took place despite the issuing of a counter notice or it exceeded the third or fifth limitations, it would comprise unlicensed activities and the premises user would be liable to prosecution. If no counter notice is issued and the limits are exceeded, an offence would also be committed. The licensing authority may not otherwise intervene at its own volition. These limitations are not the subject of the regulations to which this regulatory impact assessment relates. If the police object on grounds of crime prevention, the licensing authority must hold a hearing and decide whether or not to issue a counter notice on those grounds. The Act itself already requires certain

information to be given in a temporary event notice to the licensing authority and the police for the area in which the event is to take place. These details are:

- the licensable activities to take place during the event;
- the period (not exceeding 96 hours) during which it is proposed to use the premises for licensable activities;
- the times during the event period that the premises user proposes that the licensable activities shall take place;
- the maximum number of persons (being less than 500) which it is proposed should, during those times, be allowed on the premises at the same time;
- where the licensable activities include the supply of alcohol, whether the supplies are proposed to be for consumption on the premises or off the premises or both; and
- any other matters prescribed by the Secretary of State.

2.6 It is only the requirement for additional information in the temporary event notice that represents the impact of the Regulations and creates the additional costs involved. The provisions in the Act were the subject of a separate regulatory impact assessment.

2.7 When giving a temporary event notice a proposed premises user must pay a fee. The fee is currently £21 as set out in the Licensing Act 2003 (Fees) Regulations 2005. The fee was subject to a separate regulatory impact assessment when those Regulations were made.

### **(iii) Rationale for Government intervention**

2.8 The new arrangements are deregulatory replacing six more complex regimes which place greater demands on those carrying on temporary licensable activities on a small scale. If the Government did not set out the form of a temporary event notice and the information required, four problems could occur:

- The only requirement would be to give the information required by the Act. In particular, the information provided may be insufficient to enable the chief officer of police to make a considered assessment of the proposal in terms of the likelihood of it giving rise to crime prevention issues;
- This in turn could lead to excessive caution and the police making more interventions than is strictly necessary. This would lead to more hearings and therefore costs to organisations seeking to hold such events and similar costs to licensing authorities;

- Licensing authorities would be involved in unnecessary costs by pursuing checks on whether premises users and premises were adhering to the limitations in the Act. These additional enforcement costs would have to be met by increasing the fee levels for giving a temporary event notice; and
- Each licensing authority might respond by generating its own form with excessive and unnecessary requests for additional information (which would not be enforceable, but which could undermine the light touch and deregulatory nature of the arrangements approved by Parliament).

2.9 The Secretary of State is required to prescribe the manner in which the temporary event notice is acknowledged by the licensing authority. The Act so required because the acknowledgment is important proof for the premises user that a temporary event notice has been given. Without it, he or she would have no easy way of proving to the police or licensing officers that the licensable activities taking place have been authorised and are not criminal. In addition, by prescribing that one copy of the temporary event notice given by the proposed premises user is endorsed and used as an acknowledgement, bureaucracy is minimised for the licensing authority.

2.10 The Secretary of State is required by the primary legislation to prescribe the form and content of a counter notice. This was included in the Act to ensure consistency across England and Wales and to ensure that counter notices issued are clear and understandable to recipients. Failure to ensure such counter notices are clear could lead to unnecessary prosecutions and costs in the courts.

### **3. Options**

#### **Option 1 – Make Regulations but do not require additional information**

3.1 Option 1 would involve prescribing the form of the temporary event notice (a legal requirement) and the form of the counter notice (a legal requirement), but not requiring the provision of additional information under the terms of the regulations over and above that required by the Act. Not requiring this information could lead to the four potential problems identified in paragraphs 2.8 and, in addition, could make it impossible to enforce the Act efficiently. No information would be automatically available on the personal details of the premise user or details of the premises involved. There would be no mechanism to enable the licensing authorities to check if an individual had exceeded the limits placed on premises users by the Act. Licensing authorities would have no alternative but to visit premises users to obtain the information so that checks could be made about the limits applying to people and premises.

3.2 For example, if a village hall without a premises licence was hired out to an organisation for a wedding party with a pay bar, the premises user would be required by law only to give the following information in the temporary event notice covering the event:

- that the event would involve the sale of alcohol;

- that it would last for 12 hours;
- that the bar would be selling alcohol between 4pm and midnight;
- that no more than 120 people would be present in the hall at any one time;
- that alcohol would be for consumption on the premises only and no off-sales would be made; and
- that it is a condition of using the premises that all supplies of alcohol would be by the premises user or under his authority.

3.3 This means that the information required by primary legislation does not include:

- the name and address of the premises user and his contact details;
- the number of temporary event notices the premises user has given in the same calendar year;
- any temporary event notices given by associates or business partners of the premises user within 24 hours of the event in question, and how many any such associates or partners have given in the same calendar year;
- whether or not he holds a personal licence and if so, its details;
- the address or location of the village hall in question; and
- the nature of the event (a wedding reception and not a young people's discotheque).

3.4 All of this information is relevant to the limitations set by the Act on permitted temporary activities and may lead to the issuing of a counter notice, and may be relevant to the decision by the chief officer of police as to whether to exercise his powers to intervene (for example, because the proposed premises user has criminal convictions for selling alcohol to children or because the fact that the event is a wedding would give the police confidence that no issues relating to crime prevention are likely to arise).

3.5 Accordingly, in order for the system contained in the Act to work sensibly, some form of voluntary agreement would have to be secured regarding the provision of this crucial information. Given the range of businesses and non-commercial



organisations potentially involved, it may be difficult to secure a single voluntary agreement across England and Wales or alternatively, for each of the almost 400 licensing authorities to secure a single voluntary agreement locally. However, if it was possible to secure such an agreement, the main difficulty would be the inability of the licensing authority or the police to enforce the voluntary agreement where any individual simply chose not to adhere to its terms (for example, a notice could not be held to have failed to comply with the law because crucial information had not been provided).

3.6 A possibility is that any lack of detail in the information provided with temporary event notices (for example, about the nature of the event) may cause a more cautious approach by the police leading to some unnecessary interventions and additional hearings. We estimate that this could result in up to five times the number of hearings required if Option 2 is adopted. This is an assumption based on previous discussions that we have held with police officers about the arrangements for authorising permitted temporary activities. However, the increase is set against a very low base of perhaps only 1 per cent of temporary event notices leading to hearings if Option 2 were to be adopted. But there is risk that pursuing an apparently deregulatory course may result in an increase to the bureaucracy of the system and its overall costs which are met by premises users through fees. Increased intervention by the police and enforcement action by licensing authorities could therefore damage the balance between the light touch bureaucracy and the protection of the local community. Option 1 therefore turns on the final assessment of that risk.

3.7 We estimate that, if the police react in the public interest as we expect, the Option would cost industry and non-commercial organisations about £1.2 million and the police an additional £75,000 annually.

### **Option 2 – Introduce the regulations as currently drafted**

3.8 Under Option 2, the Regulations would be made without making any changes following the public consultation. The additional information, over and above that required by the Act would be that described in paragraph 3.3 above. It would become a legal requirement to provide this information. The requirement would be enforceable because failure to provide it would mean that a temporary event notice had not been given “in the prescribed form” and the temporary licensable activities would be unlawful in such circumstances.

3.9 We estimate that the provision of this information would require a person giving a temporary event notice to spend perhaps 10-15 minutes longer completing the notice than would otherwise be required at an estimated cost of £5 - £7. This would cost businesses and non-commercial organisations approximately £250,000 - £350,000 annually if 50,000 temporary event notices are given (and proportionately more if more notices are given). The predicted number of hearings should however stay at the one per cent level. Option 2 should cost businesses and non-commercial organisations approximately £0.75 million annually less than Option 1.

3.10 Prescribing a counter notice is a requirement of the primary legislation and the arrangements for acknowledging temporary event notices would not impose any costs

on licensing authorities as they would be recovered through existing fee levels. There should be no additional costs to the police.

### **Option 3 – Introduce the regulations with amendments emerging from the public consultation**

3.11 Option 3 would involve making the Regulations with amendments arising from the public consultation. The Government has considered carefully the suggestions emerging from the public consultation that ended on 5 October, particularly those from the licensing authorities and the police who are required to enforce the provisions. As explained in Section 10 below, the Government has concluded that some of these suggestions should be adopted in the form of the temporary notice and the counter notice, and Option 3 is now the Government's preferred Option.

3.12 The additional information that must be given would include information about the place of birth of a premises user, to aid police identification within their records and the National Insurance number of the premises user, to provide licensing authorities with a unique identifier, which they consider necessary to monitor the limits on the number of temporary event notices that may be given by any individual. The counter notice has also been made easier to understand through some slight modifications. A number of corrections have been made to the form of the temporary event notice such as the inclusion of an optional separate address box for the purposes of correspondence. Finally, the Government has included an additional statement in the declaration box to be signed by the applicant that he or she understands certain offences and the potential consequences. In the Government's view, the provision of this additional information will not add to the overall costs falling on premises users; and are not a burden that detracts from the light touch bureaucracy that Parliament intended should characterise the procedures. Option 3 therefore should also cost businesses and non-commercial organisations approximately £0.75 million annually less than Option 1 and be identical in cost to Option 2.

## **4. Costs and Benefits**

### **(i) Sectors and Groups Affected**

4.1 Those affected by Options 1 - 3 because any of them may at one time or another give temporary event notices include:

- about 170,000 licensed businesses in the hospitality, entertainment and retail industries, including;
  - 113,000 pubs, bars, restaurants and hotels;
  - 47,000 shops, stores and supermarkets;
  - 300 theatres and 600 cinemas;
  - 600 pleasure boats;
  - concert halls;
  - late night cafes; and

- fast food and take-away outlets operating between 11pm and 5am.
- about 20,000 qualifying members' clubs, including political, sports, ex-services, working men's and social clubs, and Miners' Welfare Institutes;
- many charitable, community and voluntary groups who run permanent venues and carry on events involving sales of alcohol;
- clubs, charities, community and voluntary groups who do not have permanent venues and hire venues, such as village and community halls, for individual events;
- performers such as musicians and dancers;
- the general public living near any premises utilised for temporary events;
- police forces; and
- licensing authorities (mostly local authorities).

4.2 Presently, some 25,000 non-commercial organisations seek approximately 54,000 occasional permissions to sell alcohol under the existing licensing regime. There are up to 1.5 million special orders of exemption issued annually for special occasions such as Silver Wedding anniversaries, special birthdays, Christmas Eve and bank holidays and major sporting events. The licensed trade also obtains as many 200,000 occasional licences annually for the purpose of setting up a bar at premises away from their licensed premises, for example, for a local ball. The number of occasional public entertainment, theatre, cinema and late night refreshment licences is not known centrally. However, many of the events affected will be the same event for which an occasional permission or licence to sell alcohol has been obtained.

4.3 Under the new licensing regime, from 24 November 2005 most of those using permanent premises for licensable activities can be expected to have accommodated their requirements for occasional extensions of hours and occasional regulated entertainment within their premises licences. However, any of those listed above other than police and licensing authorities, may require occasionally making use of the arrangements for authorising permitted temporary activities. As a result the number of temporary permissions required annually should fall from around 1.7 million now to around 50,000 annually from 24 November onwards. It is this more limited number that would require adherence to the proposed Regulations.

#### **(ii) Benefits**

4.4 There are no benefits associated with Option 1 unless a single voluntary agreement could be delivered across the enormous range of businesses and non-commercial organisations involved. If such an agreement could be secured universally, there would be no additional costs and similar benefits to Options 2 and 3. However, if only a relatively small percentage of premises users chose not to adhere to any agreement, the benefits would have to be balanced with a potential rise in the number of hearings likely to arise following police interventions.

4.5 Option 2 should enable the system of authorising permitted temporary

activities to function efficiently and as anticipated by Parliament following completion of their scrutiny of the Licensing Bill.

4.6 Option 3 should enable the system of authorising permitted temporary activities to function as anticipated by Parliament following completion of their scrutiny of the Licensing Bill but more efficiently from an enforcement perspective which is important to ensure adequate public protection.

4.7 Options 1 – 3 involve the introduction of the new system which replaces highly complex multiple systems for authorising different kinds of temporary permissions. The relevant authorisations are:

#### Supplies of alcohol

- for organisations not carried on for the purposes of private gain, **occasional permissions** (Licensing (Occasional Permissions) Act 1983);
- for holders of justices' on-licences, **occasional licences** (Licensing Act 1964); and
- for holders' of justices' on-licences and registered members' clubs, **special orders of exemption** (Licensing Act 1964).

#### Public entertainment (music, dancing, boxing and wrestling and indoor sports entertainments)

- occasional public entertainment licences (London Government Act 1963 and the Local Authorities (Miscellaneous Provisions) Act 1982);

#### Plays

- occasional theatre licences (Theatres Act 1968);

#### Film exhibitions

- occasional cinema licences (Cinemas Act 1985);

#### Night cafes

- occasional night café licences (London Local Authorities Act 1990).

4.8 The authorisations concerning alcohol are obtained from the licensing justices or magistrates' courts. In London, special orders of exemption are obtained from the Commissioners of Police for the City and the Metropolis.

4.9 Special orders of exemption are obtained several times each year by approximately 113,000 holders of justices' on-licences and 20,000 registered members' clubs to extend the hours during which they sell or supply alcohol on special occasions. This includes national special occasions, like World Cups,

Christmas Eve or bank holidays, and special local occasions, like balls, festivals, Golden and Silver Wedding Anniversaries and special birthday celebrations. As many as 1.5 million are authorised each year.

4.10 Occasional permissions involve attendance at court to satisfy the justices that:

- the individual member of the organisation is fit and proper;
- the eligibility of the organisation (for example, that it is not operating for private gain);
- the suitability of the premises; and that
- the sale of alcohol is not likely to result in disturbance or annoyance to residents living in the neighbourhood or in any disorderly conduct.

4.11 No more than 12 occasional permissions may be sought in any period of 12 months by any eligible organisation or branch. The licensing justices may attach any condition that they consider fit to the grant of the permission. About 54,000 are authorised annually for about 25,000 eligible organisations.

4.12 An occasional licence is an authority enabling the holder of a full justices' on-licence (for example, a publican) to sell alcohol at premises other than his own licensed premises. It can be granted for a period up to three weeks at a time for a specified occasion. This might be a local festival or a wedding with a "pay bar". They cannot be granted to holders of "residential" licences. In the case of a person holding a "restaurant" or "restaurant and residential" licence, the justices have to be satisfied that sales of alcohol will be ancillary to the provision of substantial refreshment (i.e. food). Occasional licences may not be granted for Christmas Day, Good Friday or "any day appointed for public fast or thanksgiving". Each occasional licence costs £10 but the number which may be granted is not restricted.

4.13 The streamlining and deregulating of these unnecessarily complex arrangements involving multiple permissions from different licensing authorities for the same event which combined several licensable activities is a major benefit. The Regulations should ensure that the deregulation is delivered efficiently and would preserve the necessary balance between ease of use and flexibility and public protection.

### **Economic**

4.14 In fees, management and administrative time and legal costs, we estimate that the cost of the existing complex arrangements to businesses and non-commercial organisations is about £35 million annually. These costs should be reduced to around £1.75 million annually if about 50,000 are sought annually. These economic benefits to both the business, club, voluntary and charitable sectors involved will be realised if the new regime functions as anticipated by Parliament. The achievement of these benefits will be better guaranteed on the introduction of the Regulations which ensure that information is available to enable enforcement of the regime as Parliament intended. But they may also be achieved under Option 1 at no additional cost, if the higher risk strategy of seeking a universal voluntary agreement was entirely successful.

## **Environmental**

4.15 None.

## **Social**

4.16 Effective systems for authorising temporary licensable activities, such as sales of alcohol and provision of regulated entertainment and late night refreshment are essential for the enjoyment of celebrations held by almost every sector of society in England and Wales in a way that does not disturb others. The permissions granted facilitate celebrations such as anniversaries, birthdays, weddings and major sporting events. In addition, a range of temporary activities also require occasional authorities such as amateur theatrical groups presenting plays or film clubs holding small film festivals. Such occasions can at times cause disturbance and annoyance to neighbours; and some events may give rise to more serious concerns about crime and disorder, public safety and the protection of children from harm. Accordingly, the Licensing Act 2003 sets limitations which ensure that levels of potential problems do not exceed what is judged by Parliament to be tolerable.

4.17 The Regulations enable the enforcement of that important balance between the rights of the individuals holding the celebration and the rights of the wider community who may be affected.

## **(iii) Costs**

4.18 It should be noted that the overall cost of the existing seven systems of authorising temporary and occasional permitted activities (detailed in paragraph 4.7) for approximately 1.7 million occasions is the cost of the fees plus associated management, administrative and legal costs. Because of bulk applications which some of the systems permit, we estimate that about 0.5 million processes are involved. The annual cost now is estimated to be £35 million annually of which only about £5 million represents fee expenditure. Because so many of these additional permissions are absorbed into the authorisations under premises licences and club premises certificates, the equivalent costs under new arrangements should be about £1.75 million if our estimate of 50,000 temporary event notices annually is correct.

4.19 These costs and savings mainly arise because of the requirements of primary legislation. In terms of overall compliance, the comparison is between £35 million under the old system (fees, form filling, management and administrative time, court/committee attendance, legal costs etc) and £1.75 million under the new (form filling, management and administrative time, committee attendance where the police object, legal costs etc). The overall saving to the businesses and non-commercial organisations affected is therefore about £33 million annually.

4.20 The Options below discuss the costs only in relation to the regulations and the relative costs of each.

### **Option 1**

4.21 Option 1 would involve prescribing the form of the temporary event notice (a legal requirement) and the form of the counter notice (a legal requirement), but not requiring the provision of additional information under the terms of the regulations

over and above that required by the Act.

4.22 If a voluntary agreement to provide the information, required under Option 2, could not be secured with all the sectors affected, the lack of detail in the information provided with temporary event notices could be expected to cause a greater degree of caution in the police leading to some unnecessary additional hearings whose real purpose would be to gather information. Each hearing before a licensing authority is estimated to cost about £1,200. There should be around 50,000 temporary event notices each year but under Options 2 and 3, we would expect no more than 1 per cent of them to generate police objections (500) of which about 50 per cent (250) would lead to a hearing. This represents a cost of about £300,000 to the licensing authority which is recovered by the fees for temporary event notices. If the police are unable to make a proper assessment of the event because the information is limited and they therefore adopt more cautionary tactics of objecting more regularly, we could expect these costs to rise to £1.5 million annually (5 per cent of notices given). The additional £1.2 million would have to be recovered by raising the current fee for giving a temporary event notice. This would therefore be a direct additional cost of £1.2 million to the businesses and non-commercial organisations paying the fees over and above Option 2. We estimate that the fee would need to increase from £21 now to £46.

4.23 We estimate that an additional 1,000 hearings would cost the police £75,000 annually in officers' time and administration.

4.24 If a voluntary agreement could be secured before 24 November 2005 to which there was universal adherence, Option 1 would cost between £0.25million and £0.375 million less than Options 2 and 3. In effect, this would be a zero cost option with the only costs deriving from the primary legislation itself. The Government does not however believe that it would be possible to secure such a voluntary agreement from the vast range of people who may give temporary event notices, many of whom are not represented at national or regional level.

#### Option 2

4.25 Under Option 2, the Regulations would be made without any changes emerging from the public consultation. The additional costs, over and above those attributable to the Act, would amount to the additional administrative time taken by businesses and non-commercial organisations sourcing the information and entering it on to the form.

4.26 The information concerns:

- the name and address of the premises user and his contact details;
- the number of temporary event notices that the premises user has given in the same calendar year;
- any temporary event notices given by associates or business partners of the premises user within 24 hours of the event in question, and how many temporary

event notices any such associates or partners have given in the same calendar year;

- whether or not he holds a personal licence and if so, its details;
- the address or location of the premises in question; and
- the nature of the event.

4.27 All this information is either personal or should be readily to hand for any person planning an event requiring such authorisations. We estimate that it would take no more than 10 – 15 minutes to provide this additional information in the notice. The costs associated with the time taken by those completing the notice would vary but we have assumed an average cost of £30 per hour for their time for this purpose, even if it is given freely by volunteers in many cases. We therefore estimate that the additional cost would be £5 - £7.50 per form or between £0.25 million and £0.375 million annually over and above the costs arising from compliance with 2003 Act itself.

4.28 There would no additional costs to the licensing authority and the current fee levels would not need to be increased as they were calculated on the assumption that this information would always be available.

4.29 There would be no additional costs to the police.

### **Option 3**

4.30 The costs associated with Option 3 would be those attributable to Option 2 plus the costs associated with the time each piece of additional information takes to enter on a notice and any other costs associated with assembling it. The changes which the Government is prepared to make following the consultation require the addition of only three pieces of additional information:

- the national insurance number of the individual giving the notice;
- the place of birth of the person giving the notice; and
- an alternative address for correspondence with the person giving the notice (which would be optional).

4.31 As in all cases, this information would be immediately known to the person giving the notice and the time taken to add it so marginal to Option 2 that the Government considers that the costs associated with Option 3 are virtually identical to those associated with Option 2.

## **5. Small Firms Impact Assessment**

5.1 The proposals for the system of authorisation of temporary events which are included in the Licensing Act 2003 were the subject of a public consultation between



April and July 2000, including with small businesses. The vast majority of the businesses affected by the proposals are small businesses, for example, small public houses, pleasure boats and take-away outlets. However, most who have permanent premises at which they conduct licensable activities will have met most of their requirements for occasional events through their new premises licences. However, some businesses producing alcohol or providing regulated entertainment do so at non-permanent premises such as farmers' markets and festivals. Some of the sites used will not have pre-existing premises licences, and therefore these businesses are more likely to make greater use of the temporary event notice arrangements than others.

5.2 No more than half of the costs expected to result from Option 3, the Government's preferred Option reflected in the Regulations, are likely to fall on businesses. The rest would fall on non-commercial organisations. The costs to business of Option 3 can therefore be expected to be in the region of £125k and £188k annually. However, small businesses will also benefit most from the savings of £33 million annually which arise from the replacement of the existing systems of occasional authorisations by the temporary event notice system. We estimate that industry's share of these savings would be between £20 million and £25 million.

5.3 The public consultation revealed no objections or anxieties about the proposed regulations.

5.4 The Government is currently confident that the introduction of the new arrangements for authorising permitted temporary activities is beneficial to all businesses.

## **6. Competition Assessment**

6.1 A competition filter has been applied and the Government is confident that no competition issues arise. Options 1, 2 and 3 treat all sectors of industry and non-commercial organisations equally. The Government does not currently intend to make different arrangements regarding permitted temporary activities for different categories of premises. If this policy changes in the future, a full competition assessment would be prepared.

## **7. Enforcement, Sanctions and Monitoring**

### **(i) Enforcement and sanctions**

7.1 Knowingly or recklessly giving false information on a temporary event notice is an offence under section 158 of the Licensing Act 2003. The penalty on conviction is a fine of up to £5,000. Carrying on or attempting to carry on unauthorised licensable activities (for example, where no temporary event notice had been given before an event involving licensable activities took place) is an offence under section 136 of the Licensing Act 2003 and the penalty on conviction is imprisonment for up to six months, or a fine of up to £20,000, or both.

7.2 The police and the licensing authority are both responsible for enforcing the licensing arrangements under the Act.

## **(ii) Monitoring**

7.3 A High Level Group, chaired by the Minister responsible for licensing policy, and including representatives of industry, clubs, village halls, licensing authorities and the police will continue to monitor the benefits of the new arrangements and their impact following full implementation. In addition, the Government intends to consider carefully the case for increasing the limits associated with permitted temporary activities in the light of evidence emerging from actual practice.

## **8. Implementation and delivery plan**

8.1 The Government expects to bring in the new provisions before 24 November in accordance with the following timetable:

- Consultation August - October
- Regulations made October
- Regulations in force by 13 November
- Full implementation 24 November

## **9. Post-implementation Review**

9.1 Monitoring would commence in November 2005 for 12 months and at the conclusion of the review at the end of 2006 decisions would be taken on whether to amend the regulations or continue for a further period without changes.

## **10. Consultation**

### **(i) Within Government**

10.1 The following Government Departments have been consulted about the policy regarding temporary event notices given effect by the Licensing Act 2003:

- The Department for Culture, Media and Sport (the lead Department);
- The Home Office;
- The Department of Health;
- The Office of the Deputy Prime Minister;
- The Department for Environment, Food and Rural Affairs;
- The Department of Constitutional Affairs;
- The Cabinet Office (Better Regulation Executive); and
- The Treasury

### **(ii) Public consultation**

10.2 The draft Regulations were subject to a full public consultation for eight weeks between 9 August and 5 October 2005. It was not possible to conduct a consultation for 12 weeks because the regulations must be in force ten days prior to 24 November, which is the latest date on which a temporary event notice can be given

for an event occurring on 24 November. On 24 November, all existing arrangements for authorising temporary licensable activities will be repealed.

10.3 The consultation focused on the following key groups:

- licensing authorities;
- the police;
- industry sectors carrying on licensable activities as part of their businesses;
- qualifying clubs – including political, sports, ex-services, working men’s and social clubs, and Miners’ Welfare Institutes;
- performers (for example, musicians and dancers)
- village, church, chapel and community halls;
- schools;
- voluntary groups;
- charities;
- residents’ associations; and
- members of the public living near premises that may be used for temporary events.

10.4 The Government also used the opportunity of the consultation to take initial soundings on the question of increasing the limits associated with permitted temporary activities, with a view to bringing forward proposals at a later date. There were 225 responses to the consultation by 5 October and a further 12 received after that date, which were in any event taken into account. Of these, 131 were exclusively concerned with the question of limitations. On the question of limits, there were widely divergent views, but this assessment is not concerned with them. Many correspondents also commented on matters which relate to the requirements of the Licensing Act 2003 itself, which cannot be addressed through the Regulations. With regard to the Regulations themselves and the forms of the temporary event notice and counter notice, most respondents expressed approval. The Association of Chief Police Officers and representatives of the licensing authorities (LACORS and the Local Government Association ) however asked the Government to include requirements for additional information, some of which the Government accepted.

10.5 The police asked that the place of birth of the premises user be required information because it would ease record checks that they will need to make when deciding whether to object to a temporary event notice on grounds relating to the prevention of crime. The Government agreed to include this requirement. They also recommended that the Notes for Guidance which form part of a temporary event notice should include a list of offences (with their associated penalties) which may be committed by a premises user carrying on a temporary event (such as sales of alcohol to children and to people who are drunk); and the time limit for copying notices to the chief police officer. The Government agreed to include this advice in the Notes for Guidance.

10.6 LACORS and the Local Government Association asked for a range of information to be required and additional statements made in the temporary event notice. The Government accepted some of these but not all of them for the reasons given below:

- Information on licensing authorities to which the premises user has previously given temporary event notices because it would allow a licensing authority “to track applicants that have events where there are incidents relating to the licensing objectives”. The Government did not agree to add this because it would add a significant burden on applicants, who in the case of a personal licence holder selling alcohol at markets, might have to list up to 49 licensing authorities. In addition, licensing authorities are not themselves empowered under the 2003 Act to object to temporary events on grounds relating to the four licensing objectives.
- A requirement to provide the premises user’s National Insurance number, which would provide a unique identifier for monitoring the personal limits relating to permitted temporary activities. The Government has included the requirement for this information which it is satisfied would be readily available to premises users and would assist in the enforcement of the relevant individual limits.
- The inclusion of a separate box in the temporary event notice for correspondence purposes, where an individual did not wish to receive correspondence at his home address. The Government has agreed to include such a box.
- The inclusion of a requirement to state in the temporary event notice whether the premises concerned operates generally under a premises licence because “this will enable the licensing authority to assess the suitability of the premises in safety terms as being able to hold a temporary event”. While understanding the licensing authorities concerns about public safety, the Government does not consider it appropriate to use licensing legislation to enforce quite separate health and safety legislation. Moreover, no objection can be lawfully given against a temporary event notice under the Licensing Act 2003 relating to public safety. The Government also considered that this information would not be readily available to an applicant, for example, where the individual had hired a hall, and would therefore be an unreasonable additional burden in respect of which there was no legal justification for imposing.
- The notice should make clear that risk assessments should be carried out by the premises user and that copies should be made available to responsible authorities. The Government considered that this runs directly contrary to the light touch bureaucracy which Parliament expected to characterise the procedures for temporary events; that there is no legal requirement in the 2003 Act to carry out such risk assessments; and that it is not the function of the 2003 Act to enforce other legislation on health and safety and other matters. This addition was not therefore made.
- The temporary event notice should clarify whether the limit of 499 persons on the premises includes staff, organisers and performers etc. The Government has clarified the position in both the main notice and in the

Notes for Guidance accompanying it.

- The declaration in the temporary event notice should include a signed statement that the premises user understands that it is an offence to make a false statement and to carry on unauthorised licensable activities. The Government has expanded the declaration to include these matters.

10.7 LACORS and the Local Government Association also asked the Government to make some small changes to the counter notice to make it clearer. These changes have been made.

## **11. Summary and Recommendation**

11.1 The Options are summarised in table below:

<b>Option</b>	<b>Cost</b>	<b>Benefit</b>
Option 1 - prescribing the form of the temporary event notice (a legal requirement) and the form of the counter notice, but not requiring the provision of additional information under the terms of the regulations over and above that required by the 2003	<ul style="list-style-type: none"> <li>• If a voluntary agreement with industry and non-commercial businesses could be universally secured before 24 November 2005, none.</li> <li>• If only a partially effective voluntary agreement was secured, additional £1.2 million; and</li> <li>• TEN fee would need to increase from £21 to £46; and</li> <li>• Additional police costs of £75,000 annually.</li> <li>• Uncertainty around the efficiency of any enforcement regime.</li> </ul>	<ul style="list-style-type: none"> <li>• Savings of 0.25 million - £0.375 million over Option 2 if a voluntary agreement to which businesses and non-commercial premises adhered.</li> </ul>
Option 2 - prescribing the form of the temporary event notice (a legal requirement) and the form of the counter notice, and require provision of additional information as described in the original draft Regulations.	<ul style="list-style-type: none"> <li>• Additional £0.25million – 0.375 million.</li> </ul>	<ul style="list-style-type: none"> <li>• Efficient enforcement of limitations imposed by 2003 Act.</li> <li>• No additional costs for police.</li> <li>• No increase in fee for TEN.</li> </ul>
Option 3 - prescribing the form of the temporary event notice (a legal requirement) and the form of the counter notice, and require provision of additional information as described in the original draft Regulations plus any additional information added as a result of the public consultation.	<ul style="list-style-type: none"> <li>• Additional £0.25million – 0.375 million</li> </ul>	<ul style="list-style-type: none"> <li>• Better monitoring and more efficient enforcement of limitations imposed by 2003 Act than Option 2</li> <li>• No additional costs for police.</li> <li>• No increase in fee for TEN</li> </ul>

11.2 Having carefully considered the costs and benefits presented in the above analysis, the Government considers that Option 3 presents the preferred way forward. Parliament approved the arrangements and limitations set out in the Act on the basis that they would be enforced efficiently to ensure the light touch bureaucracy of the new regime was effectively balanced with necessary public protection, particularly the protection of the public living in the vicinity of the premises involved. While the low cost associated with Option 1 makes it attractive, there would be a significantly higher risk of inefficient and ineffective enforcement. Indeed, an additional risk is that the police and licensing authority would “fill the gap” by a very proactive approach to additional enforcement than would otherwise be involved, resulting in unnecessary additional costs. These costs would have to be reflected in increased fee levels. The Government therefore prefers the more cautious approach represented by Options 2 and 3, but believes that the helpful points emerging from the public consultation which have been included in the Regulations enhance the benefits of Option 3 and make it the preferable option. These points should enhance enforcement in a way that is not overly burdensome on those giving temporary event notices. The additional information required under Option 3 is important to the effectiveness of the new arrangements and cannot be obtained from other sources either within Government or elsewhere.

## 12. Declaration

12.1 I have read the Regulatory Impact Assessment and I am satisfied the benefits justify the costs.

Signed: *Richard Caborn*, Minister of State, DCMS

Date: 19th October 2005

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