

# LICENSING COMMITTEE – 20TH JULY 2021

## Report of the Head of Regulatory Services

### Part A

#### ITEM 6 LICENSING LEGISLATION - UPDATE OF CHANGES (AND PROPOSED CHANGES)

##### Purpose of Report

To inform the Committee of the current legislative and administrative changes (and proposals) for Alcohol, Regulated Entertainment, Gambling and Taxi Licensing.

##### Recommendation

That Committee Members note the content of this report.

##### Reason

To inform members of the Committee of the changes and proposed changes to licensing legislation.

##### Policy Justification and Previous Decisions

The Licensing Committee has delegated non-executive responsibility under the Council's licensing provisions which are set out both in legislation and in the Council's Constitution.

##### Implementation Timetable including Future Decisions

There is no implementation timetable for this report as guidance is yet to be come into force.

##### Report Implications

###### *Financial Implications*

None.

###### *Risk Management*

There are no specific risks associated with this report.

##### Background Papers:

<https://www.legislation.gov.uk/ukdsi/2021/9780348224412/contents>

<https://www.legislation.gov.uk/ukdsi/2021/9780348224344/contents>

<https://www.gov.uk/guidance/prove-your-right-to-work-eu-eea-and-swiss-citizens>

<https://www.gov.uk/guidance/right-to-work-checks-employing-eu-eea-and-swiss-citizens>

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## Part B

### LEGISLATION CHANGES - ALCOHOL & ENTERTAINMENT LICENSING

Draft guidance has been released entitled '*The Alcohol Licensing (Coronavirus) (Regulatory Easements) Amendments) Regulations 2021*'. This is to help hospitality venues and mitigate the effects of the coronavirus pandemic.

The Secretary of State has published draft amendments in respect of Temporary Event Notices, off sales permissions and pavement licences. It is expected that these proposed changes will come into effect in September 2021.

#### 1. Alcohol Licensing – Off Sales permissions – temporary extension.

The Business and Planning Act 2020 introduced in July 2020 amended the Licensing Act 2003 to assist with economic recovery and growth affected by the pandemic.

The Business and Planning Act automatically authorised off sales for all premises with a licence authorising 'on- sales' only (i.e. sales of alcohol for consumption on the premises) if they hadn't already got it. Off – sales means that the alcohol can be taken away from the premises for consumption elsewhere. This automatic addition of 'off sales' to the premises licence was a temporary measure due to end on the 30th September 2021.

The draft guidance extends this automatically authorised off sales until the 30th September 2022.

#### 2. Temporary Event Notices – increase in number of events and days per year

This is an amendment to the number of Temporary Event Notices (TENS) that premises can use per year to help mitigate the effects of the Coronavirus pandemic. Under the Licensing Act 2003, the number of times a TEN may be given for any particular premises is 15 times in a calendar year and the maximum total duration of the events authorised by TENS in relation to that particular premises is 21 days in a calendar year. This is for the calendar years of 2022 and 2023.

The draft guidance increases this to 20 times in a calendar year to no more than 26 days in a calendar year.

#### 3. Pavement Licences

In response to the coronavirus pandemic, sections 1-10 of the Business and Planning Act 2020 ("the 2020 Act") made temporary provision for a fast-track process to allow businesses selling food or drink to obtain authorisation from the local authority for the placement of furniture such as tables and chairs on highway adjacent to their premises (a "pavement licence").

Under the 2020 Act, a pavement licence may not extend past the 30th September 2021. '*The Business Regulation Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2021*' extends this date by 12 months to the 30th September 2022.

*The Business Regulation Act 2020 ( Pavement Licences) (Coronavirus) ( Amendment) Regulations 2021'* extension only applies to a pavement licence for which application is made on or after the date these Regulations come into force (no date known at time of writing this report) The previous date of 30th September 2021 will continue to apply in relation to any pavement licence applied for before the date these Regulations come into force, though the holder of such a licence may be able to apply for a further licence.

#### 4. Right to Licence – Licensing Act and Hackney Carriages and Private Hires

From 1st July 2021, new rules for right to work checks will apply. EU, EEA, or Swiss citizens will need to provide evidence of lawful immigration status in the UK.

From the 1st July applicants will no longer be able to use their passport or National Identity Card to prove their right to work in the UK unless they are Irish. Links to the forthcoming changes for RTW checks, that have been published on Gov.UK have been included in the background documents. Whilst these set out the key changes for employers more specifically, we are advised by the Home Office Asylum, Protection and Enforcement Directorate that there is a similarity to the impacts for LAs.

The Licensing Act application forms (which are a national form have been amended and provided to all Licensing Authorities) need be updated on the Councils web site and the Gov.uk online application platform for applicants.

This will also affect applicants applying to drive a Hackney Carriage (HC) and Private Hire Vehicles (PHV) and guidance documents for Licensing Authorities are in the process of being finalised by the Home Office.

#### 5. Tax Conditionality

New Tax check on Hackney and Private Hire Drivers (& other licence renewals) – April 2022

Members were advised at the Licensing Committee held on the 16<sup>th</sup> February 2021 that the 2020 Budget announced that the Government will legislate in the Finance Bill 2020-21 to make the renewal of licences to drive taxis, drive and operate private hire vehicles (PHVs) (for example minicabs) and deal in scrap metal conditional on applicants completing checks that confirm they are appropriately registered for tax.

HMRC are providing a series of regular updates to help Licensing bodies prepare for Tax Conditionality. The Finance Bill 2021 is expected to receive Royal Assent in the summer with draft regulations published later in the year for consultation.

The new requirements placed on Licensing bodies for tax conditionality will differ depending on whether the licence applicant is new or already licensed, i.e. a renewal.

##### 5.1 First Time Applications

Before determining these applications, the Licensing body will need to direct the applicant to HMRC's published guidance about their tax obligations which will be available on gov.uk. Licensing will also need to obtain a simple confirmation that the

applicant is aware of the guidance. No tax check will be required for these applicants.

## 5.2 Subsequent applications (renewals)

This may be a renewal of where an applicant holds a similar licence with one licensing authority and is seeking to be able to operate within an area covered by another licensing authority. A tax check will be required for these applications.

A tax check will confirm whether an individual or company was appropriately registered for tax and whether from the licensed activity has been reported on a tax return.

Licensing will need to update application processes by April 2022 to request confirmation that the tax check has been completed as part of licence renewal processes. Application processes for first time applicants to direct them to HMRC guidance on their tax obligations and to obtain a declaration that the applicant is aware of the guidance.

Once applicants have completed the digital tax check the applicant will receive a tax-check reference which they will need to provide to Licensing. The Licensing section will then use the HMRC digital service to confirm that the tax check has been completed.

The check will not go into people's financial history. It is a basic check to confirm that applicants are appropriately registered for tax and that income from the licensed activity is reported to HMRC. Any queries about the service will be re-directed to HMRC.

The system will go live from April 2022 with the guidance published on Gov. UK in January 2022.

There will be additional funding for licensing bodies to make changes to their current systems made available through the Governments New Burdens Doctrine.