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House of Lords Select Committee Report on The Licensing Act 2003 Published

The House of Lords Select Committee on The Licensing Act 2003 publishes its report on the post-legislative scrutiny of the Licensing Act 2003

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“The House of Lords has published its report on the post-legislative scrutiny of The Licensing Act 2003, and whilst we will provide a longer article detailing the main points of the report and its recommendations in full, below is a brief summary of the main recommendations it makes:

- ◆ All Councillors sitting on Licensing Committees should undertake compulsory training, and the Guidance is amended to introduce a requirement to undertake training to a standard set out in the S182 Guidance;
- ◆ There should be a trial merger of Licensing Committees and Planning Committees. This is not a merger of licensing and planning law that is recommended, but rather Councillors who sit on Planning Committees consider licensing applications using the procedures and practices, and with the same support that they already have to deal with planning applications. The recommendation is that this proposal should be trialled in a few pilot areas;
- ◆ The equivalent of The Planning Inspectorate, which hears planning appeals, to hear licensing appeals, rather than the Magistrates' Courts;
- ◆ Magistrates' Courts to be given powers to better supervise the exercise of the Police powers on Closure Orders, and Summary / Expedited Reviews;
- ◆ Similar measures aimed at how the off-trade sells alcohol in Scotland to be adopted in England and Wales;
- ◆ The powers providing for the introduction of Early Morning Restriction Orders should be repealed;
- ◆ The powers for Licensing Authorities to introduce Late Night Levies also be repealed and, if not, the pending amendments to Levies should be reviewed and the legislation abolished unless an affirmative resolution is passed for Levies to continue. If they do continue, the proceeds to be split 50/50 between Police and Councils;
- ◆ If a minimum unit price is brought into force in Scotland, once Scottish ministers have published their assessment of its workings, if the assessment demonstrates that the policy is successful, a minimum unit price should be introduced in England and Wales;
- ◆ Licensing Authorities should publicise the reasons which lead them to settle an appeal, and should "hesitate to compromise if they are effectively reversing an earlier decision, which residents and others intervening may have thought they could rely on";
- ◆ Applicants should not need to give notice by advertisements in the local newspaper, but notices should be given prominently by online notification systems run by the Local Authority;
- ◆ Licensing Committees should take into account and, where appropriate, follow any relevant decision given by a Planning Committee, and vice versa;
- ◆ The promotion of health and wellbeing is a necessary and desirable objective for an alcohol strategy, but it is not appropriate as a licensing objective;
- ◆ Whilst not recommending as a licensing objective, "compliance with the Equality Act 2010" or "securing accessibility for disabled persons", the law should be amended to require, as in Scotland, an application for a Premises Licence should be accompanied by a disabled access and facilities statement;
- ◆ Licensing Authorities should be given the power to object to Temporary Event Notices, alongside Police and Environmental Health Officers, and a system for notifying local Councillors and local residents of TENs in a timely fashion should be implemented;
- ◆ The provisions relating to Community and Ancillary Sellers Notices should not be brought into force and should be repealed;
- ◆ The development and implementation of a comprehensive Police Licensing Officer training programme, designed by the College of Policing;
- ◆ Paragraph 9.12 of the Guidance should be removed, which provides Licensing Authorities should "accept all reasonable and proportionate representations made by the Police unless the Authority has evidence that to do so would not be appropriate for the promotion of the licensing objectives";
- ◆ Support for the Government's intention to transfer Cumulative Impact Policies onto a statutory footing from the Section 182 Guidance;
- ◆ The Section 182 Guidance should be amended to make it clear that a Closure Notice does not require a premises to close or cease selling alcohol immediately, does not entitle Police to require it to do so, nor entitle the Police to arrest a person on the sole ground of non-compliance with the notice
- ◆ Instead of the amendment which is about to be introduced so that Licensing Sub-Committees reconsider the interim steps on a full review, it would be preferable if the Sub-Committee had the discretion to impose with immediate effect its determination reached at the full review;
- ◆ A full Agent of Change principle be adopted in both planning and licensing guidance to help protect existing licensed premises and local residents from the consequences arising from any new build development in their nearby vicinity i.e., those developing or changing a land use would have to take into account the nearby properties and their functions, and take mitigating steps should they impact upon the development or building work planned;
- ◆ Licensing fees should be set locally to reflect the fact that the cost of administering the Act varies from place to place;
- ◆ The creation of a National Database of Personal Licence Holders for use by Courts and Licensing Authorities which is linked to the Police National Database;
- ◆ The removal of the requirement for a two day waiting period for new members of premises holding Club Premises Certificates;
- ◆ The Licensing Act 2003 be amended so that it applies airside at airports, ports and hoverports, so that premises providing licensable activities would require a Premises Licence that are airside or portside."