

**EXPLANATORY MEMORANDUM TO
THE LICENSING ACT 2003 (TRANSITIONAL PROVISIONS) ORDER 2005**

2005 No.40

THE LICENSING ACT 2003 (PERSONAL LICENCES) REGULATIONS 2005

2005 No.41

**THE LICENSING ACT 2003 (PREMISES LICENCES AND CLUB PREMISES
CERTIFICATES) REGULATIONS 2005**

2005 No.42

**THE LICENSING ACT 2003 (LICENSING AUTHORITY'S REGISTER)
(OTHER INFORMATION) REGULATIONS 2005**

2005 No.43

THE LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005

2005 No.44

1. Introduction

- 1.1 This explanatory memorandum is laid before Parliament by Command of Her Majesty.
- 1.2 This explanatory memorandum has been prepared by the Department for Culture, Media and Sport. This memorandum relates to five instruments to better assist their scrutiny where the intent and purpose of those instruments are connected.

2. Description

- 2.1 All five instruments form the major part of the implementation of the Licensing Act 2003 necessary for the transitional provisions provided by Schedule 8 to that Act to have full force and effect for the first appointed day on 7th February 2005, this being the day appointed as such by S.I 2004/1739, and for associated purposes.
- 2.2 The Licensing Act 2003 (Transitional provisions) Order 2005 (the Order) makes detailed provision for applications to convert the authorisations in respect of using premises for the sale and supply of intoxicating liquor and the provision of public entertainment, theatre, cinema, late night refreshment and night cafes under existing licences (existing licensable activities) to

authorisations in respect of using premises for the sale and supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment (licensable activities) under new premises licences provided by the Licensing Act 2003 (the 2003 Act). The Order further makes provision for applications to convert the authorisations in respect of using club premises for the supply of intoxicating liquor under existing club certificates by registered clubs (existing qualifying club activities) to authorisations in respect of using premises for the supply of alcohol under new club premises certificates provided by the 2003 Act. Finally, the Order prescribes the form of the photograph to be provided by the holder of a justices' licence granted under Part 1 of the Licensing Act 1964 when applying for the grant of a personal licence under section 117 of the 2003 Act during the transitional period; S.I No. 2004/1739 provides that the period from 7th February 2004 to 6th August 2005 shall be the transitional period for such applications.

2.3 The Licensing Act 2003 (Licensing authority's register) (other information) Regulations 2005 (the register Regulations) prescribe, for the purposes of section 8(1)(d) of the 2003 Act, the further information each licensing authority must record in the register it is required to keep for the purposes of the said section 8 over and above the requirements of section 8 of and Schedule 3 to the 2003 Act. Section 8 of and Schedule 3 to the 2003 Act require records to be kept in the register of each premises licence, club premises certificate and personal licence issued by the licensing authority, each temporary event notice received by it and of a range of applications and notices made or given to it. The additional information each licensing authority must record in its register are operating schedules and club operating schedules (or revisions or variations of these), plans of premises and schedules of works and plans in relation to applications for authorisations under the 2003 Act. Further, the register must record the ground or grounds for a review of a premises licence or club premises certificate and the determination of the magistrates' court on its consideration of a closure order made under Part 8 of the 2003 Act. Finally, the register Regulations require a record to be kept in the register of the existing licensable activities, existing qualifying club activities and plans of premises accompanying applications for conversion of existing authorisations under the Order.

2.4 The Licensing Act 2003 (Personal licences) Regulations 2005 (the personal licences Regulations) make detailed provision for applications for the grant, or renewal, of a personal licence under section 117 of the 2003 Act. A personal licence is an authority to an individual under the 2003 Act to supply alcohol, or authorise the supply of alcohol in accordance with a premises licence. The personal licence Regulations provide for the documents to accompany applications for personal licences. The personal licences Regulations also prescribe, for the purposes of section 120(2)(b) of the 2003 Act (persons of a prescribed description) three categories of person who do not need to possess a licensing qualification to be granted a personal licence. These categories are: first, a member of the company of the Master, Wardens, Freemen and Commonalty of the Mistery of the Vintners of the City of London, secondly, a person operating under a licence granted by the University of Cambridge and, finally a person operating under a licence granted by the Board of the Green

Cloth. The latter two categories will be time limited as licences granted by the University of Cambridge and by the Board of the Green Cloth will cease to have effect when the new system introduced by the 2003 Act is fully operational on the second appointed day to be appointed under powers in paragraph 1 of Schedule 8 to the Act.

2.5 The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 (the premises licences and club premises certificates Regulations) make detailed provision for the applications for the grant of a premises licence or club premises certificate (and for variations and reviews of these) for the use of premises or club premises and for the issue of a provisional statement for the use of premises, for the supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment. Further they make detailed provision for an application to transfer a premises licence to a new holder and the giving of an interim authority notice to reinstate the authorisation granted by a premises licence following the death etc. of a licence holder. Also, the premises licences and club premises certificate Regulations make detailed provision concerning the advertising and notification of applications and reviews, the making of representations by interested parties, for example local residents, and responsible authorities, for example the police, in respect of applications and the form of plans and consents to accompany such applications. In addition, they prescribe the form of a premises licence and club premises certificate and the summary of each. Finally, the premises licence and club premises certificate Regulations prescribe weights and measures authorities as additional responsible authorities which must be notified of applications for premises licences and club premises certificates etc. and, for the purposes of section 47(2)(a) of the 2003 Act the persons to have a prescribed interest in premises so as to be eligible to give an interim authority notice and the manner in which a person giving notice of his property interest in any premises under section 178 of the 2003 Act shall give that notice to the relevant licensing authority.

2.6 The Licensing Act 2003 (Hearings) Regulations 2005 make provision for the procedure to be followed in relation to hearings held by a relevant licensing authority under the 2003 Act. In general the hearings concerned arise following the making of relevant representations or the giving of objection notices in relation to applications made and notices given under the 2003 Act.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative background

4.1 These five instruments are being made under a range of powers to make subordinate legislation provided in the 2003 Act to ensure that applicants for authorisations under the new regulatory system for the licensing of the use of

premises for licensable activities have comprehensive procedures in place to be able to make such applications and to ensure that licensing authorities appointed by section 3 of the 2003 Act can carry out the functions conferred upon them by the Act.

4.2 Schedule 8 to the 2003 Act makes provision for transitional arrangements for the conversion of existing authorisations under six current licensing regimes to the new regime introduced by the Act. The existing licensing regimes are provided under the Licensing Act 1964, the London Government Act 1963, the Private Places of Entertainment (Licensing) Act 1967, the Theatres Act 1968, the Late Night Refreshment Houses Act 1969, the Local Government (Miscellaneous Provisions) Act 1982, the Cinemas Act 1985 and the London Local Authorities Act 1990 and the arrangements in Schedule 8 to the 2003 Act provide a right to holders of existing licences and to registered clubs to move their existing authorisations into the new regime subject to minimal requirements. The transitional arrangements also provide that existing justices' licence holders can apply for the grant of a personal licence under Part 6 of the 2003 Act without having to possess a licensing qualification which would otherwise be required under the new regime. Schedule 8 to the 2003 Act contains powers for an order to be made to make provision for the more detailed requirements necessary to enable the conversions (with variations if applied for simultaneously) and for applications for personal licences to be considered by the licensing authorities. Those powers are contained in paragraphs 2, 6, 11, 12, 14, 18 and 23 of Schedule 8 to the 2003 Act.

4.3 Section 8 of the 2003 Act places an obligation on each licensing authority to keep a register which will contain records of the authorisations granted by, notices received or given by and applications made to it. The 2003 Act confers a new right on a class of person known as interested parties (sections 13 and 69) to make representations about most applications and it is the Government's intention that such parties can use the information recorded on the register to inform their decision as to whether to make such representations. The matters required to be recorded in the register in section 8 of and Schedule 3 to the 2003 Act are statements of fact alone and such records would be insufficient to enable an interested party to decide whether to exercise his or her rights. Section 8(1)(d) provides a power to prescribe a record of other information to be contained in the register.

4.4 Section 125 of the 2003 Act, which relates to the form of a personal licence, makes provision for the licence to be in a prescribed form. Section 133 of the 2003 Act contains powers for regulations to be made to make provision for the detailed requirements as to the form of an application for a personal licence, the manner in which it is to be made and any information or documents to accompany it, including a requirement for a fee to accompany the application.

4.5 Throughout the 2003 Act there are a range of powers which are relevant to providing the detailed requirements which must be complied with if a person is applying for a premises licence, a variation of that licence or to review that licence, or for the issue of a provisional statement, the transfer of a licence or the giving of an interim authority notice if the licence has lapsed due to the death etc.

of its holder. Powers are also given which are relevant to providing the detailed requirements which must be complied with by a club applying for a club premises certificate, a variation of that certificate or by a person wishing to review a club premises certificate. Sections 17, 29, 30, 34, 37, 42, 47, 51 and 54 provide relevant powers in relation to premises licences and provisional statements and sections 71, 84, 87 and 91 provide relevant powers in relation to club premises certificates. Sections 24 and 78 confer powers on the Secretary of State to prescribe the form of the premises licence and its summary and the club premises certificate and its summary. There are a number of ancillary powers that are relevant to the issue of premises licences and club premises certificates which enable the Secretary of State to prescribe additional persons as responsible authorities (sections 13 and 69), persons who have an interest in premises for the purposes of giving an interim authority notice under section 47 of the 2003 Act and to prescribe the form of the notice and information to be given by a person wishing to register his, her or its interest in premises under section 178 of the 2003 Act. Finally, the 2003 Act provides powers for detailed requirements as to the giving of notices about and advertising of reviews it is to undertake following a closure order made under Part 8 of the Act pursuant to its section 167.

4.6 Section 183 of the 2003 Act confers power on the Secretary of State by regulations to make detailed provisions as to the procedure to be followed by a licensing authority in relation to any hearing it is required to hold under the Act. In addition, section 9 of the 2003 Act confers power on the Secretary of State by regulations to make provision about the proceedings of licensing committees and sub-committees, public access to their meetings, publicity to be given to those meetings and the agendas and records to be produced and the public access to those agendas and records. The Government considers that it should make provision for aspects of the procedure in preparation for and at hearings to be specified in relation to the regulatory role of local authorities as licensing authorities in recognition of the need for consistency and transparency across all licensing authorities. Subject to such specified requirements, section 9 of the 2003 Act states that the licensing committees and sub-committees may regulate their own procedure. Local authorities acting as licensing authorities would be subject also to general local government legislation insofar as the 2003 Act or regulations made under it do not make provision for such matters, for example the Local Government Act 1972.

5. Extent

5.1 The Licensing Act 2003 extends to England and Wales.

6. European Convention on Human Rights

6.1 Not applicable.

7. Policy background

7.1 The Government intends the new regime in relation to the regulation of the use of premises for licensable activities to be responsive to local considerations and to be conducted as necessary in the public interest at the local level by locally accountable bodies. In view of this approach the Government is keen that local decision making takes place with as little central interference as possible. However, it is recognised that for the new regime to be and be seen as fair to all who are to be regulated by it and to provide rights that are exercisable by interested parties and responsible authorities in a transparent and accessible way certain detailed requirements which must be adhered to by all applicants, notice givers, makers of representations and licensing authorities are necessary to ensure that the new regime provides an effective, fair and enforceable control for all affected by it.

7.2 Between 15 September and 11 November 2004 the Government conducted a public consultation about the content of these Regulations and Order. This built upon extensive discussions which the Government had held with local authority representative bodies, industry, the police and representatives of various community and voluntary groups and performers. There were 269 responses to the consultation from 230 public bodies, organisations and individuals, some of which wrote more than once. These included:

- 115 local authorities and local authority representative bodies;
- 18 solicitors
- 1 magistrates' court
- 5 Members of Parliament
- 4 fire authorities
- 49 industry
- 9 police forces and their representative bodies
- 8 Crime and Disorder Reduction Partnerships
- 21 others

7.3 As a result of the consultation, the Government made several changes to the drafts on which it had consulted. The main policy changes included deciding:

- to clarify various forms on which applications would be made under the terms of the legislation;
- not to prescribe the Mayor of London (and other similar Mayors) or Crime and Disorder Reduction Partnerships as responsible authorities;
- to prescribe weights and measures authorities (trading standards authorities) as responsible authorities;
- not to require licensing authorities to advertise reviews of premises licences and club premises certificates in newspapers circulating locally in the area; and
- not to require that plans accompanying applications for premises licences and club premises certificates to include areas where consumption of alcohol takes place on or in conjunction with licensed premises and

alternatively, to require a written description of this information on application forms.

8. Impact

8.1 A Regulatory Impact Assessment has been prepared in relation to all five instruments. The Regulatory Impact Assessment is attached to this memorandum.

9. Contact

9.1 Andrew Cunningham at the Department for Culture Media and Sport, telephone: 020 7211 6344 or e-mail: andrew.cunningham@culture.gsi.gov.uk can answer any queries regarding these instruments.

Department for Culture, Media and Sport
January 2005

Regulatory Impact Assessment

1. Title of Proposals

Licensing Act 2003 (Personal licences) Regulations 2005

Licensing Act 2003 (Hearings) Regulations 2005

Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005

Licensing Act 2003 (Transitional provisions) Order 2005

Licensing Act 2003 (Licensing authority's register)(other information) Regulations 2005

2. Purpose and Intended Effect of Measures

2.1 The objective

- 2.1.1 The regulations concerning **personal licences** would prescribe persons who will not be required to hold particular qualifications approved by the Secretary of State in order to qualify for a personal licence; the form of the personal licence itself; and the application form to be used when applying for a personal licence.
- 2.1.2 Those concerning **hearings** would regulate the period of time during which hearings relating to representations or notices about and variations and reviews of these applications for personal and premises licences and club premises certificates and police objections to temporary event notices must take place; the information that must accompany notices of hearings; and the actions to be taken by parties on receipt of such notices. The regulations also prescribe certain procedures that must be followed in hearings, for keeping records of hearings and arrangements and time limits for determining the outcome of hearings.
- 2.1.3 The regulations concerning **premises licences** and **club premises certificates** would provide the application forms for a range of permissions associated with Parts 3 and 4 of the Licensing Act 2003. They would also prescribe the form and timing of representations which may be made by interested parties and responsible authorities defined in the 2003 Act. They would require certain documents and information which must accompany applications, such as plans of premises and the content of those plans. They would prescribe the form of written consents required under Parts 3 and 4 of the Act, the form of the licences and certificates themselves and summaries to be displayed at premises, and the form in which applications must be advertised publicly. 2.1.4 These regulations would also prescribe the form of notices that must be given to responsible authorities and interested parties in certain circumstances and the advertising of applications. Finally, the regulations would also prescribe any additional "responsible authorities" for the purpose of the 2003 Act.
- 2.1.4 The **transitional order** would provide the application form to be used when applying to convert existing licences and club certificates or to convert and vary existing licences and certificates during the period of transition. It would require that converted licences and certificates must be granted subject to conditions which reproduce the effect of any restriction imposed by certain enactments prescribed by the Order. It would specify the period (as the period between the first and second appointed days and, in the latter case the first anniversary of the second appointed day) when certain protections included in Schedule 8 to the 2003 Act regarding opening hours will apply and in the case of provisional grant of justices' licences. It would prescribe the form of photograph that

must accompany applications during the transitional period for personal licences and certain forms of written consent required by Schedule 8 to accompany certain applications.

- 2.1.5 The regulations concerning the **licensing registers** would require licensing authorities to keep certain additional information and documents in the licensing registers that they are required by the Act to maintain. The additional information primarily relates to operating schedules, club operating schedules and plans that accompany applications. In the context of applications made during the first six months, they would also require a record to be kept of the existing licensable activities authorised by converted licences and certificates and plans of premises that accompany applications to convert during the period of transition.
- 2.1.6 The regulations and order are essential to the fair, proportionate, effective, efficient and consistent operation of the new licensing regime created by the Licensing Act 2003, which received Royal Assent on 10 July 2003.

Devolution: The regulations and Order would apply to England and Wales only.

2.2 The background

- 2.2.1 The Licensing Act 2003 received Royal Assent on 10 July 2003 and was the subject of a Regulatory Impact Assessment presented to Parliament with the Licensing Bill¹. The RIA presented with the Bill considered the full impact of the Licensing Act 2003 and estimated that it should produce savings for the retail, hospitality, entertainment and leisure industry of almost £2 billion over the first ten years of operation and increased savings thereafter, while introducing greater democratic accountability for people directly affected by the decisions of the licensing authorities concerning sales of alcohol.
- 2.2.2 This regulatory impact assessment attempts to isolate costs associated with the regulations and order it addresses, but which form only part of the regulatory requirements which are embodied in the primary legislation itself and which affect those described in paragraph 2.3.2 below. However, it needs to be recognised that the impact of the individual regulations and order cannot be wholly separated from the impact of the primary legislation itself and the Guidance issued by the Secretary of State with Parliamentary approval.
- 2.2.3 The 2003 Act reforms and modernises the existing arrangements for licensing the sale of alcohol, the provision of public entertainment, including music, dancing and indoor sports, theatres, cinemas and the provision of late night refreshment between 11.00pm and 5.00am in England and Wales. The purpose of the 2003 Act is to promote four fundamental objectives (“the licensing objectives”)
- the prevention of crime and disorder;
 - public safety;
 - the prevention of public nuisance; and
 - the protection of children from harm.
- 2.2.4 Overall, the 2003 Act and the regulations and order should help produce:

¹ The Regulatory Impact Assessment for the Licensing Bill can be viewed on the DCMS website.

- reductions in underage purchase and consumption of alcohol, and the long term damage that does to individuals in terms of educational attainment, poor health, job prospects, and the propensity to commit crime;
- reductions in disorder, anti-social behaviour, and public nuisance particularly at the current fixed closing times which cause peak disturbance and disorder and prevent the easy dispersal of large numbers of consumers;
- a proper balance between the rights and responsibilities of individuals, business and the community;
- in a period of ten years a reduction from 16.6 million separate licensing administrative processes to 2.3 million processes; and a reduction over ten years from 2.4 million individual hearings before committees to 85,000;
- savings to charities, schools and community organisations that hold small temporary events currently requiring various forms of occasional licences;
- greater choice for consumers; and
- benefits for the tourist economy by creating safer and more attractive town and city centres and improving our competitiveness with other European cities.

2.2.5 Those affected by the Act and therefore by these regulations include:

- almost the entire population of England and Wales who live in the vicinity of premises that will require to be licensed under the terms of the 2003 Act and who may engage in the licensing processes as “interested parties”;
- residents associations;
- about 180,000 businesses in the hospitality, leisure, entertainment, retail and late night refreshment industries, including for the first time passenger boats (about 600) and circuses (about 30);
- about 200,000 individuals employed in the on- and off- licence sector who will want to apply for personal licences and around 1 million people employed in the industry generally;
- about 20,000 non-profit making members’ clubs – including political, sports, ex-services and other clubs;
- charitable, community and voluntary groups who run permanent venues for forms of entertainment;
- a large body of performers who provide entertainment;
- about 400 licensing authorities (mostly local authorities);
- the police; and
- a range of other responsible authorities including fire authorities, environment health, health and safety bodies, the Maritime and Coastguard Agency, Area Child Protection Committees and social services departments, and weights and measures authorities (trading standards officers).

- 2.2.6 Under the existing licensing regimes passenger vessels and late-night take-aways outside London have not been regulated and will be subject to licensing restrictions for the first time with the associated costs and burdens. In the case of circuses and travelling fairs, their position under current public entertainment and theatre legislation has been at best unclear as to whether they are exempt or not, but the fact remains that we are unaware of any circus or travelling fair that is currently licensed under these Acts by any local authority.
- 2.2.7 Fees for the regime will be set centrally by the Secretary of State and will be the subject of a separate consultation. The estimates in this regulatory impact assessment are based on existing estimates published by the Government at the time the Licensing Bill was presented to Parliament.
- 2.2.8 The system is also built around three pillars:
- the statute itself;
 - Guidance issued by the Secretary of State under section 182 of the Act to which licensing authorities must have regard in carrying out their licensing functions; and
 - subordinate legislation made by the Secretary of State under the Act.

2.3 Risk Assessment

- 2.3.1 A delay in the implementation of the 2003 Act arising from a delay in making the necessary regulations and order would impact on all four licensing objectives set out at paragraph 2.2.3 above and the benefits of the 2003 Act described above and in the RIA that accompanied the Licensing Bill.
- 2.3.2 Industry and the public bodies involved have invested significantly in planning and preparation for the start of the transitional period. The period of transition cannot proceed unless the draft regulations and order have been made. The start date of 7 February 2005 would have to be revised by Order. Uncertainty over this date would create unwelcome and damaging planning blight. In addition, delaying the start date would mean that there would be a prolonged period during which licensing authorities could not recover their outlay through fee income.

3. Options

- 3.1 Before bringing the Licensing Bill before Parliament, the Government considered a range of options. The potential impact of each was fully analysed in the Regulatory Impact Assessment presented with the Bill. The options below concern the making of the regulations and order described in paragraph 2.1 and are now extremely limited. Draft regulations and order were subject to a public consultation between 15 September and 10 November. A summary of the main points covered by the consultation is at Annex A.

Option 1

- 3.1.1 Option 1 would involve not making the regulations and order. In effect this would mean the Government electing not to give effect to the new legislation. The Government does not consider this to be a viable option. Following intensive scrutiny and consideration, Parliament has approved the terms of the 2003 Act and it received Royal Assent on 10 July 2003. The relevant regulation and order making powers have been commenced by Order. The Act itself requires the Secretary of State to make certain regulations while others are discretionary. However, the regulations and order are one of the three pillars, described in

paragraph 2.2.10 above, that are central to the effective, efficient and consistent operation of the licensing regime that the Act creates.

- 3.1.2 Not introducing these regulations would mean not bringing the 2003 Act into force and the six existing licensing regimes would continue. Costs to industry (as estimated by the Regulatory Impact Assessment presented to Parliament with the Licensing Bill) would remain at an estimated £400 million annually. Levels of bureaucracy, unnecessary costs to industry and inconsistent decision-making would remain as they are now.
- 3.1.3 Residents would remain dissatisfied with the inaccessible nature of the procedures, requiring in the case of alcohol licensing, court attendance. Tourists would remain confused and dissatisfied by the rules under which licensed premises in England and Wales operate.
- 3.1.4 Permitted hours would continue to contribute to police problems of controlling public order at 11pm and 2am (3am in London) in town and city centres. Measures to improve public disorder would be inhibited and their effectiveness reduced by the maintenance of fixed closing times. Prevention of purchase and consumption of alcohol by minors would not improve.
- 3.1.5 Concerns highlighted by the Thames Safety Inquiry about the exemption of pleasure boats from alcohol licensing controls would not be addressed.
- 3.1.6 However, there would be no upheaval for industry, local government and the police associated with the transition to any new arrangements.
- 3.1.7 Circuses, travelling fairs and late-night take-aways outside London would remain unregulated because of existing exemptions and anomalies under public entertainment and late night refreshment licensing law and therefore would avoid additional costs arising from being licensed for the first time.
- 3.1.8 Local authorities currently estimate that £7 million annually is not recovered through public entertainment licence fees, which falls on the taxpayer, and this would not be saved following the second appointed day if implementation of the 2003 Act is delayed.

3.2 **Option 2**

- 3.2.1 Option 2 would involve making the regulations and order as proposed in the recent document on which the Government consulted between September and November 2004. This should not involve significant interference with the broad outcomes and costs of Option 3 below,
- 3.2.2 However, it would, for example, involve not accepting reasonable changes to application forms which would make them easier to use; changes to required plans of premises to make them less confusing; not clarifying the position of delivering applications electronically; and various technical changes designed to improve the use of the regulations and order in actual practice. In addition, it would also involve rejecting the arguments presented in the responses to the consultation that it would not be cost effective

to prescribe Crime and Disorder Reduction Partnerships (and Community Safety Partnerships) and the Mayor of Greater London (and other similar Mayors) as responsible authorities. On the other hand, it would also mean not prescribing weights and measures authorities (trading standards officers) as responsible authorities, when the responses to the consultation suggest that they could make a valuable contribution in connection with the protection of children from harm (with regard to the sale of alcohol to minors).

3.2.3 Proceeding as proposed in the consultation document would still generate savings to industry of about £2 billion over ten years, but, for example, each responsible authority generates costs in respect of the transitional period of about £350k. Accordingly, if CDRPs and the Mayor of Greater London (and other similar Mayors) were to be prescribed, costs over Option 3 would be increased by about £700k. However, the prescription of trading standards officers proposed in option 3 would reduce the difference to £350k

3.3 Option 3.

3.3.1 Option 3 would involve making the regulations and order but subject to variations arising out of the recent consultation. As explained under Option 2, the Government would make a number of a changes to those on which it consulted. It would also deliver Parliamentary expectations.

3.3.2 Most of the benefits described in Section 4 below would arise and the deregulatory elements would contribute significantly to the savings of almost £2 billion over a period of ten years, which the Regulatory Impact Assessment presented with the Licensing Bill indicated should be achievable.

- 3.3.3 Unnecessary bureaucracy and inconsistent decision-making would all be significantly reduced for businesses whose main activity is selling and serving alcohol.
- 3.3.4 Savings to industry would accrue from the elimination of the overlaps at the intersection of the alcohol, public entertainment, cinema, theatre and late night refreshment licensing systems.
- 3.3.5 Flexible licensing hours would improve public order problems. Underage purchase and consumption of alcohol could be reduced. Local residents would have a more accessible and democratically accountable system – through the review procedures - for pursuing problems of nuisance and annoyance caused by premises licensed for the sale of alcohol. The industry would also be encouraged to develop more family- and tourist-friendly environments within pubs.
- 3.3.6 Option 3 would better match business strategies within the hospitality, leisure, retail and entertainment industries, remove disincentives to diversification and ease the bureaucratic burden across the board in the field of alcohol and entertainment.
- 3.3.7 Circuses, travelling fairs, late night take-aways outside London and passenger boats would be regulated for the first time and therefore incur the costs and burdens associated with licensing. In the case of circuses, for example, the burden is significant because an individual circus may require multiple licences for multiple sites. For example, the 30 circuses in England and Wales may require up to 1600 premises licences.
- 3.3.8 The advantages of Options 2/3 over Option 1 are basically those set out in the RIA that accompanied the Licensing Bill.
- 3.3.9 The advantage of Option 3 over Option 2 concerns accepting changes emerging from the consultation which would make the regulations and order easier to use for both applicants and licensing authorities; and a small saving of about £350k during the period of transition and about £60k in each subsequent year,
- 3.3.10 The Government therefore favours Option 3 and has proceeded on that basis.

3.4 **Option 4**

- 3.4.1 A further option would be a variation on option 3 that excluded certain decisions made in light of the consultation exercise. The main changes as a result of the consultation are set out in paras 10.3.5 – 10.3.7 below.
- 3.4.2 Changes to application forms, the requirements for plans of premises and technical changes to the regulations carried widespread support as measures which would make compliance easier.
- 3.4.3 There were, however, two decisions which would create additional costs.
- 3.4.4 The requirement of advertising applications for the grant and variation of premises licences and club premises certificates in locally circulated newspapers. This can be

estimated at between £200 - £400 in each case. . Over a ten year, we estimate the total cost would be between £82m and £164m. This is four times the level under the existing regime where we estimate total costs to be between £20 - £40 million over ten years.

3.4.5 However, despite strong representations during the consultation, the Government considers that these additional costs are justified because of the importance in ensuring that the general public (“interested parties”) are properly informed about applications about which they may want to make representations. This broad public interest overrides the additional saving that otherwise might have been made. In addition, the primary legislation puts the Secretary of State under a strong legal obligation to ensure that applications are advertised in a manner which is likely to bring them to the attention of interested parties.

3.4.6 The Government could also have chosen not to prescribe weights and measures authorities (trading standards officers) as responsible authorities. However, Ministers agreed with the strong representations, particularly from local government and the police, that they could make a valuable contribution in connection with the protection of children from harm (with regard to the sale of alcohol to minors). We estimate that the additional compliance cost cost of £350,000 in transitional year.

4. Benefits

4.1 The benefits of these regulations are broadly those that result from the implementation of the 2003 Act and set out in the RIA that accompanied the Bill. In economic terms these related to a reduction in processes and simplification of the licencing system that should allow hospitality and leisure business to expand. While there are no quantifiable environmental impacts, the reduction in the number of licensing requirements and associated bureaucracy should ensure a positive environmental impact over time. In social terms there are benefits to be gained through the abolition of fixed closing times for the sale and supply of alcohol that should help avoid binge drinking.

4.2 Some specific decisions which were made following the consultation will provide the following additional benefits for the important stakeholders described below, in addition to the wider benefits of licensing reform already described:

4.3 Residents and the local community

- Requiring notices on premises and use of local media to advertise new applications and variations in will ensure greater awareness of proposals and an opportunity to be involved.
- Specifying trading standards as responsible authority will enable them to input their views into licensing decisions based on their local knowledge in relation to issues such as the sale of alcohol to children.

4.4 Retail, hospitality, entertainment and leisure industries and other applicants

- will benefit from changes to make the application forms easier to use;
- changes to plans of premises that must accompany applications will make them less confusing

- the decision not to prescribe the Mayor and CDRPs as responsible authorities will save administration costs.

4.5 **Local authorities**

- Not requiring licensing authorities to advertise reviews of licences in the local media will allow them to adopt a cost effective approach to alerting interested parties and others about forthcoming reviews.

4.6 **The police**

- Clarifying that personal licence applications should be accompanied by a certificate issued under the 1997 Police Act or the results of a subject access search under the Data Protection Act 1998(2) of the Police National Computer by the National Identification Service, will remove the risk that the individual forces will be inundated with requests to check the Police National Computer in the absence of a Criminal Records Bureau basic check..

4.7 **Business Sectors Affected**

- 4.7.1 There is no individual business which can be described as wholly typical of the retail, hospitality, entertainment and leisure sectors affected because the new licensing regime covers such a wide-range of business outlets.
- 4.7.2 In England and Wales, there are currently 113,000 premises licensed for the sale of alcohol for consumption on the premises. These include pubs, nightclubs, restaurants, hotels, wine-bars and café bars. Some are owned by major companies, which own as many as 9,000 premises, many of which are often directly operated by tenants. Other major companies directly manage and operate the venues themselves through managers. A large proportion comprises single businesses.
- 4.7.3 There are also about 47,000 shops, stores and supermarkets currently licensed to sell alcohol for consumption exclusively off the premises. Once again the businesses range from major chains of supermarkets (about 8,000) to small shops (about 32,700) run individually. Some of the shops form part of medium and large chains, while the majority are individual businesses. In general, garage forecourt convenience stores find it difficult to obtain alcohol licences because of special provisions in the Licensing Act 1964. About 1600 garages and petrol stations are licensed to sell alcohol.
- 4.7.4 Just over 20,000 non-profit making registered members' clubs hold certificates granted by magistrates' courts permitting them to supply alcohol for their members and guests for consumption off or on those premises. Such clubs include political clubs (eg. Labour, Liberal, Liberal Democrat and Conservative Clubs), ex-services clubs (eg. the Royal British Legion), sports clubs (eg rugby, tennis and golf clubs) and various others. Membership of such clubs varies from as few as twenty-five members to several thousands.

- 4.7.5 Just over 200 theatres are also licensed to sell alcohol.
- 4.7.6 The 160,000 licensed premises are required to renew their licences every three years. Renewal periods for club registration certificates vary at the discretion of magistrates' courts between three, five and ten years.
- 4.7.7 Full details are provided in Table 1 below.

Table 1

Premises licensed for the sale of alcohol	England	Wales	Total
Pubs, nightclubs, bars, wine-bars etc	75,972	5,483	81,455
Restaurants	19,910	1,344	21,254
Residential	3,686	284	3,970
Combined residential and Restaurant	2,539	401	2,940
Proprietary membership clubs (commercial)	3,488	263	3,751
Registered members' clubs (non-profit making)	18,471	1,442	19,913
Theatres	201	17	218
Supermarkets	10,179	501	10,680
Shops and stores	31,852	2,500	34,352
Garages/petrol stations	1,417	133	1,550
Total	149,244	10,926	160,170

- 4.7.8 In addition, about 25,000 organisations each year seek "occasional permissions" from magistrates to sell alcohol temporarily at premises which are normally unlicensed. These organisations include, for example, charities, schools and local community groups. Around 54,500 occasional permissions are sought each year by these organisations and just over 53,600 are granted. Each application requires the applicant to attend court and satisfy the licensing justices that the applicant is fit and proper to hold such a permission and that the premises involved are suitable.
- 4.7.9 The number of venues licensed for public entertainment on a permanent basis is not known but surveys suggest that 46,000 public entertainment licences are issued in England and Wales annually and that as many as 30 per cent of premises licensed to sell alcohol for consumption on the premises also hold public entertainment licences. Just over 12,000 on-licensed premises and registered members' clubs hold public entertainment licences (or "certificates of suitability" as they are called for registered clubs) to enable them to obtain special hours certificates and sell alcohol up to 2.00am (or 3.00am in the West End of London). About 2,000 of the premises holding such licences are traditional nightclubs which provide dancing or the "clubbing" experience. The businesses affected again vary considerably from small independent clubs with capacities in the low hundreds to major chains and a small number of very large nightclubs with capacities over 2,000. Public entertainment licences must be renewed annually by application to the local authority.
- 4.7.10 There are also about 600 cinemas in England and Wales employing about 13,000 people. Each holds a cinema licence issued by the local authority, which must be renewed annually. The number of theatres holding theatre licences – other than those that are also licensed to sell alcohol – is uncertain.
- 4.7.11 Figures for the number of premises licensed as night cafes or for the provision of late night refreshment (where no alcohol is involved) are also uncertain as no central data is maintained, and many local authorities maintain only paper records. In London, night

cafes include “sit down” cafes not serving alcohol, take-aways, and similar fast food outlets. The interpretation of which premises should be so licensed under the legislation is unclear with local authorities taking widely differing attitudes. Some London boroughs consider that the existing legal definitions justify licensing grocers, supermarkets and garage forecourt shops selling sandwiches late at night.

- 4.7.12 Outside London, late night refreshment houses refer solely to “sit down” cafes not serving alcohol, but the authorities have powers to issue closing orders in respect of take-aways causing disturbance in the community. Many late night refreshment retailers, take-aways and cafes currently close before pub closing times to avoid the peak density of disorderly males and the uneven spread of demand. The range of premises affected is extremely diverse, including sandwich bars, coffee shops, cafes, fish and chip shops, mainstream chicken, burger and pizza suppliers, and a huge range of ethnically diverse takeaway meal providers. These businesses range from major chains to small independents.
- 4.7.13 There are estimated to be 23,500 takeaways in the United Kingdom of which about 9,000 are fish and chip shops, but the figures are questionable because the uncertainty about which premises are being included. The number that open later than 11.00pm is unknown and as has been pointed out above, many choose not to open later because of the problems associated with the exodus of vast numbers of people from public houses simultaneously.
- 4.7.14 Private and public transport services such as buses, train and underground services, taxis and mini cabs to a lesser extent would also be affected by the reform of the licensing regimes but not by the regulations and order described in section 2.1.
- 4.7.15 The hospitality, leisure and entertainment industries affected broadly employ around 2.3 million people, of whom about 1 million are employed in alcohol licensed premises. The retail sector employs very large numbers but not all of these staff (for example, in a supermarket) are engaged in the sale of alcohol or do so incidentally to their main jobs.
- 4.7.16 Recent surveys also show that an estimated 1.7m live music events are staged in each year in small and medium sized venues. To this must be added live music events in major venues and concert halls.

4.8 Issues of Equity and Fairness

- 4.8.1 The Licensing Act 2003 will remove a range of current inequalities, which are no longer justified the Act also includes a number of exemptions which were debated and approved by Parliament. The regulations and order described in section 2.1 cannot create exemptions over and above those created by the primary legislation, except in one context. This concerns the requirement on individuals to obtain a qualification approved by the Secretary of State in order to qualify for a personal licence. The draft regulations may prescribe persons who will not be required to hold particular qualifications approved by the Secretary of State in order to qualify for a personal licence. Those prescribed by the regulations and order are all in circumstances whereby they will either have already reached standards set by a particular organisation which the Secretary of State considers to be equivalent to obtaining any qualification she might approve; or have been judged by a body that she regards as authoritative as being qualified to sell alcohol.
- 4.8.2 No other group will bear any costs or burdens as a result of the exceptions made.

5. Costs

5.1 Business compliance costs/savings

Option 1

- 5.1.1 Option 1 would involve not bringing the new licensing regime into effect. Costs to industry would therefore continue to be those determined by the six existing licensing regimes as estimated by the Regulatory Impact Assessment presented to Parliament with the Licensing Bill when it entered the House of Commons.
- 5.1.2 Over a ten year period, the estimated total number of licensing processes under the current six licensing regimes is 16.6 million. The related licence fee costs are only a small part of the total costs incurred by the businesses affected. The main costs to fall into three main categories: fees, administration/management and legal services. The alcohol licensing regime is court based and therefore a high percentage of businesses use legal advisers to process their applications. The cost of legal services will vary. From consultations with the courts services, we believe that there are no more than 240,000 hearings related to alcohol licensing annually. Accordingly, we estimate that the total number of hearings over a period of 10 years is around 2.4 million.
- 5.1.3 Based on our knowledge of the market, Table 3 shows the total compliance cost associated with the current licensing regimes over a period of ten years for all businesses.

Table 3

Licensing costs over a period of ten years			
Nature of business	Number of Premises	Estimated costs over ten years for each business	Total over ten years
Mainly pubs, restaurants, bars, hotels, registered clubs etc	121,000	£10,000 - £70,000	£1.2 billion - £8.5 billion
Shops, stores and supermarkets	47,000	£1,000 - £15,000	£47 million - £705 million
Nightclubs, pubs and bars holding PELs	12,000	£12,000 - £320,000	£144 million - £3.8 billion
New licences granted	40,000	£1,000 - £15,000	£40 million - £600 million
Cinemas	600	£5,000	£3 million
Passenger boats	600	£nil	£nil
Circuses	30	£nil	£nil
Night cafes, take aways and late night refreshment houses	2,000	£7,500 - £31,000	£15 million - £62 million
Take-aways outside London	3,000	£nil	£nil
Total estimated compliance cost over ten years			£1.4 billion - £13.6 billion

- 5.1.4 Total compliance cost over ten years can therefore be very broadly estimated at between £1.4 billion and £13.6 billion depending on the number of legal disputes arising from between 1.6 and 1.8 million licensing processes annually. However, because of the capacity for significant variation, the broad estimates in Table 3 are not particularly helpful. In calculating the compliance costs of the proposed new regime, we have assumed on the basis of consultation that serious legal disputes are not that widespread. We therefore consider that a more reasonable estimate lies at the lower end of the range described in Table 3.

5.1.5 Prior to the completion of the regulatory impact assessment that was presented to Parliament with the Licensing Bill, we tested our assumptions in consultation with various parts of the industry. The outcome of these consultations, involving samples of more than 4,000 premises selling alcohol and samples of the other business areas, strongly suggested that the cost of compliance currently is between £400 - £500 million annually. A reasonable estimate of the total current compliance cost is therefore of £4 billion over ten years, with these costs spread relatively evenly over the entire period. Of this cost only about £400m (or one tenth of the total compliance cost) relates to the payment of licence fees.

Option 2

5.1.6 Option 2 which would involve making no changes to the draft regulations on which the Government consulted is unlikely to be markedly different from Option 3 which is discussed fully below.

Option 3

5.1.7 Under Option 3 it is difficult to separate the costs of the regulations described in section 2.1 from whole compliance costs associated with the Licensing Act 2003. The regulations and order primarily govern the licensing processes (applications etc) associated with personal and premises licences and club premises certificates and the hearings (both during and after the transitional period) and reviews generated (after the transitional period). Some processes are dictated partially by compliance with the provisions in the primary legislation and partially with those in the regulations and order. Each process cannot be sensibly divided into individual cost elements.

5.1.8 However, there are several key comparators: the potential volume of applications and licensing processes, the estimated levels of fees and the number of hearings arising out of those licensing processes. Hearings are a particular driver of cost. In addition, the numbers will not be uniform throughout the ten year period we are using for comparison. For example, the period of transition will produce higher numbers of applications and hearings than subsequent years as there are no renewal procedures for premises licences and club premises certificates, and the renewal period for personal licences is ten years. We believe that the system will begin to settle down in the second year following the transitional period and that the number of processes will be relatively uniform from then on.

5.1.9 Although there is no renewal procedure, an annual fee is payable to cover costs continuing costs of inspection and enforcement. In Tables 4.1, 4.2, 4.3 and 4.4 we have set out our current estimates of the number of licensing processes, which will replace the 1.6 million to 1.8 million currently occurring under the six existing licensing regimes. These estimates have been revised following consultation.

Table 4.1

Transition	
Estimated Number	Type of application/activity
200,000	Conversion personal licence
40,000	New personal licence

63,000	Conversion premises licence or club certificate
117,000	Conversion/Vary premises licence or club certificate
10,000	New premises licence or club premises certificate
150	Provisional statements
Total: 430,150	

Table 4.2

Year 1 (post transition)	
Estimated Number	Type of application/activity
15,000	New personal licence
10,000	Changes of address
10,000	New premises licences/club premises certificate
48,000	Applications to vary premises licence or certificate
15,000	Transfer of premises licence
200	Provisional statements
50,000	Temporary Event Notices
Total: 148,200	

Table 4.3

Year 2 (post transition)	
Estimated Number	Type of application/activity
15,000	New personal licence
10,000	Changes of address
10,000	New premises licences/club premises certificate
20,000	Applications to vary premises licence or certificate
15,000	Transfer of premises licence
200	Provisional statements
50,000	Temporary Event Notices
Total: 120,200	

Table 4.4

Year 3 (post transition)	
Estimated Number	Type of application/activity
15,000	New personal licence
10,000	Changes of address

10,000	New premises licences/club premises certificate
21,000	Applications to vary premises licence or certificate
15,000	Transfer of premises licence
200	Provisional statements
50,000	Temporary Event Notices
Total: 121,200	

- 5.1.10 Over a period of 10 years, we are therefore able to estimate that there will be 1.6 million licensing processes under the new regime. This is a tenfold reduction from the 16.6 million processes and red tape under the existing regimes (Option 1).
- 5.1.11 In paragraph 5.1.4 above, we estimated that there are approximately 2.4 million hearings over a ten year period now. Under the new regime, hearings may arise primarily in seven main contexts. Reviews of licences and objections to temporary event notices cannot arise during the period of transition because the authorisations are as yet without effect.
- 5.1.12 In order to estimate the potential number of hearings, we have examined the current levels of objections raised by the police, local authorities and local residents to applications made under the existing licensing regimes for licences and certificates, and for special hours certificates and evidence from the recent summer enforcement campaign involved police and trading standards officers. We have also consulted extensively about the expected level of variation likely to be sought by the businesses involved and the number of representations (which give rise to hearings) likely to be made.
- 5.1.13 From this analysis, we have calculated an estimate for the potential number of hearings during the period of transition and in each of the subsequent three years. Because these figures are inevitably subject to wide possible variation, we have added a safety margin of 20 per cent to the total. Our estimates are as shown in Table 5 and have been revised significantly following our consultation.

Table 5

Period	Estimated Number of Hearings	Estimated Number of Hearings plus 20% safety margin
Transition	13,000	15,600
Year 1	9,700	11,600
Year 2	5,700	6,900
Year 3	5,700	6,900

- 5.1.14 Over a period of ten years, this suggests that there would be approximately 83,000 hearings (Options 2/3) compared with 2.4 million if the current licensing arrangements continued (Option 1).
- 5.1.15 Fees for the new regime will be set centrally by regulation by the Secretary of State. The fees associated with the new regime have not yet been finalised and are the subject of a separate public consultation. This draft regulatory impact assessment therefore adopts the estimates that were made public in that consultation.
- 5.1.16 In addition, as under Option 1, each application will incur:
- legal costs which will vary according to the complexity of any disputed matter and whether or not it involves hearings and/or appeals;

- administrative/management time which will vary depending on whether an application involves a hearing;
- advertising costs
- administrative/management costs of hearings involving reviews;
- the cost of the licensing qualification and CRB check for new personal licence applicants.

5.1.17 Table 6 below shows our estimates of the potential compliance costs over a period of ten years:

Table 6

Compliance costs: First ten years		
Est. Number	Type of application/activity	Est. compliance cost, (including fees, legal, admin/management, advertising, CRB checks, qualification cost etc)
200,000	Conversion of personal licence	£10 million
63,000	Conversion premises licence or club premises certificate	£18.9m - £315m
117,000	Conversion/vary premises licence or club premises certificate	£46.8m - £585m
185,000	New personal licence	£37m
90,000	Changes of address	£3.6m
100,000	New premises licences/club premises certificate	£40m - £500m
168,000	Applications to vary premises licence or certificate	£67m - £840m
135,000	Transfer of premises licence	£5.4m - £27m
600,000	Registration of interest	£18m
2000	Provisional statements	£0.8m - £10m
400,000	Temporary Event Notices	£10m - £40m
83,000	Hearings	£83m - £415m
1,815,000	Annual Charge	£109m - £290m
1,000,000	Training of staff	£1000m
	Existing regime in Year of transition	£400m
Total compliance cost of new regime		£1.85 billion - £4.5 billion

5.1.18 Without the general training costs (which is not a compulsory aspect of the 2003 Act or the draft regulations) and the residual costs of the existing licensing regimes during transition, the range of potential costs over a period of ten years is between £450 million and £3.1 billion. Such a wide range is again not particularly helpful. As before in analysing the compliance costs associated with the current regimes, we do not believe that protracted and costly legal disputes will be widespread, and that the actual costs will be at the lower end of the range. We therefore estimate that the compliance cost of the regime should be between £600 million - £800 million to which must be added £1 billion for the cost of

training and £400 million for the cost of the existing licensing regimes during the period of transition.

- 5.1.19 Accordingly, the total compliance cost over the period of ten years is estimated to be between £2 billion - £2.2 billion (Options 2/3) compared with £4 billion if the six existing licensing regimes continued (Option 1).
- 5.1.20 Option 3 should therefore generate savings of about £2 billion for industry over a period of ten years. It should be noted that savings will not arise during the period of transition when the old and new regimes are running in parallel, but the savings should begin to accumulate from the start of the second year after the period of transition.
- 5.1.21 In addition, it should be noted that these compliance costs include the costs of advertising applications for the grant and variation of premises licences and club premises certificates in locally circulated newspapers which can be estimated at between £200 - £400 in each case. Under the old licensing regime, these costs are between £20 - £40 million over ten years. Under the new regulations these costs would be considerably higher, particularly during the period of transition. During the period of transition, the costs would be between £28.5m and £57m. Over the full period of ten years, the costs would be between £82m and £164m or four times the current level. Despite strong representations during the consultation, the Government considers that these additional costs are justified because of the importance in ensuring that the general public (“interested parties”) are properly informed about applications about which they may want to make representations. This broad public interest overrides the additional saving that otherwise might have been made. In addition, the primary legislation puts the Secretary of State under a strong legal obligation to ensure that applications are advertised in a manner which is likely to bring them to the attention of interested parties.

5.2 **Other costs/savings**

The police

- 5.2.1 All of the administrative licensing procedures in the regulations described in section 2.1 involve chief officers of police.
- 5.2.2 We estimate that the police are currently engaged in administrative duties involving 1.8 million licensing processes triennially and 1.6 million in each of the two intervening years. We estimate that police time processing these cases administratively and in court (in the context of alcohol licensing) will vary between 5 minutes and 2 hours for most of these processes. In a triennial year, it would be reasonable to assume the longer timescales will apply to about 300,000 cases involving their presence in court, while most others will be at the lower end of the range. For the remaining cases, we think it reasonable to assume an average of 15 minutes. Accordingly, some 975,000 man-hours are spent by the police in a triennial year processing such applications. In other years, the figure is probably closer to 500,000 man-hours.
- 5.2.3 If we assume police administrative costs at £25 per hour, the costs of this activity may be estimated at £24.4 million in a triennial year; and £12.5 million in the other intervening years. These costs equate to costs of £160.7 million over ten years if the six existing licensing regimes remained in place (Option 1).

- 5.2.4 Under the new regime (Options 2/3), the number of processes will reduce considerably, though the police will continue to be involved in most of them.
- 5.2.5 The number of individual licensing processes under the Licensing Act 2003 is set out in Tables 4.1 – 4.4, indicating just over 430,000 processes during transition, almost 150,000 in the first year following transition and settling from that point on at around 120,000 annually. We estimate that police administrative involvement will again range between 5 minutes and 2 hours, but that the average will be about 15 minutes generally from year to year (slightly less during the period of transition).

- 5.2.6 Table 7 shows the resulting numbers of police man-hours and associated costs in each year:

Table 7

Period	police man-hours	police cost
Transition	110,000	£2.75 million
Year 1	37,500	£1.00 million
Year 2	30,000	£0.75 million
Year 3	30,000	£0.75 million

- 5.2.7 Comparing the old and new regimes, from the second year after transition police administrative involvement would therefore reduce to about 30,000 man-hours and their annual costs to £0.75 million.
- 5.2.8 Over a period of ten years, police administrative costs would therefore be expected to fall from £160.7 million (Option 1) to £9.75 million (Option 3): a saving of £151 million over ten years. Chief Officers of Police would therefore be able to re-deploy these administrative resources to front line police work.
- 5.2.9 Under Option 3, the police would continue to have a major role in enforcing licensing law particularly in respect of premises licensed to sell alcohol. Their costs will continue to be marginal to and indivisible from their general role of policing the community, particularly at night. Associated police costs will also continue to arise mainly from the policing of the streets after customers leave the controlled environment of licensed premises. These duties do not arise from the Licensing Act 2003. Offences relating to drunkenness, disorder and related acts of anti-social behaviour outside licensed premises are provided in other legislation such as the Licensing Act 1902 and various public order Acts.
- 5.2.10 However, the abolition of fixed closing times and the prospect of a more orderly and gradual dispersal of customers should significantly reduce the number of public order incidents which the police currently are required to attend.
- 5.2.11 Although the number of such incidents should be fewer, they could be expected to occur later and be more evenly spread throughout the night. There should be no increased costs for the police, but it is therefore unlikely that there would be significant savings in respect of their enforcement role. However, the administrative saving of £151 million over ten years could be diverted, where chief officers of police considered it appropriate, to enforcement work.

Licensing authorities

5.2.12 All local government costs arising from the new licensing regime would be recovered through the licence fees and the annual charges. Fees would cover the costs of their expenditure on administration, inspection and enforcement. Regulations concerning fees are subject of separate regulations and have been subject to a separate public consultation. However, local authorities currently estimate that they fail to recover £7 million annually in England and Wales from the fees charged for public entertainment licensing (Option 1). This deficit falls as a cost to the local taxpayer. This deficit would be saved from the second appointed day because public entertainment licences would be abolished from that time. Accordingly, over a period of ten years, licensing authorities would save £63 million through the implementation of the new reforms.

Legal profession

5.2.13 In the mid- to long-term, a substantial proportion of the savings on the current costs to industry would be in the form of income lost to the legal profession because legal costs are the heaviest costs within the existing alcohol licensing regime. Because of the exceptional range of potential costs exhibited by Option 1, it is difficult to quantify how much income would be lost to the legal profession over a period of ten years. However, we estimate that between 50 - 70 per cent of the savings to industry would represent a loss in income to the legal profession. Over a period of ten years, this equals a potential loss of between £1 billion - £1.5 billion.

Training companies

5.2.14 However, up to £100 million annually, would shift to businesses marketing appropriate training packages to the staff of licensed premises. But this is dependent on businesses within the retail, hospitality, entertainment and leisure sectors choosing to reduce their risks of incurring action under the new licensing laws by investing in staff training about the new laws and their social responsibilities. Given the high rate of turnover of staff within these industries, this should represent income of £1 billion over a period of ten years.

Local newspapers

5.2.15 The decision to maintain the requirement of advertising applications for the grant and variation of premises licences and club premises certificates in locally circulated newspapers will generate new income for local newspapers of between £82m and £164m over a ten year period.

Performers and entertainers

5.2.16 Performers and entertainers should benefit significantly from the reforms proposed. Currently, the presentation of public entertainment in premises licensed to sell alcohol requires the venue to incur the additional costs of acquiring such a licence. An exception concerns the provisions of Section 182 of the Licensing Act 1964 which permits up to two live performers to perform in on-licensed premises without the requirement for a public entertainment licence. This means that only two performers may be involved throughout an entire evening.

5.2.17 The combination of this exception and the high cost of public entertainment licences in some areas deters many premises holding justices' on-licences from obtaining public entertainment licences. In turn, this reduces the opportunities to perform for entertainers and performers and their income.

5.2.18 The implementation of the Licensing Act 2003 (Option 3) would mean that venues obtaining permission to sell alcohol under a premises licence could obtain permission at the same time to put on regulated entertainment without paying an additional fee. This should remove the main deterrent to the provision of live entertainment. Accordingly, there is a potential for the overall amount of income of performers and entertainers to increase.

5.3 **Costs for a typical business**

5.3.1 As described in section 4.9 above, the hospitality, retail, entertainment and leisure sectors affected are immensely diverse and there is no wholly typical business. For example, even within the pub market types of business vary significantly. We have therefore sought below to examine a range of businesses.

Option 1

5.3.2 Table 8 below sets out the compliance costs of the current licensing regimes of a range of businesses and charities operating varied licensable activities (Option 1). Figures are also given for the costs over a period of ten years. As has been explained earlier, this is because the compliance costs of the arrangements in the Licensing Act occur "up front" in the life of a business, with dwindling costs in subsequent years. The figures take account of the costs of fees for various licensing authorisations, management/administrative time, legal costs which vary depending on whether applications are disputed or not, advertising and other matters.

Table 8

Summary table of current compliance costs for individual businesses	
Type of business	Approx. Costs over ten years
On-licensed premises (a pub or restaurant), without permissions for public entertainment	£10,000 - £70,000
On-licensed premises (a nightclub), with extended permitted hours and public entertainment licence	£12,000 - £320,000
Charity with two occasional permissions to sell alcohol each year	£1,200 - £3,200
Charity with two occasional permissions to sell alcohol and two temporary public entertainment licences each year	£4,200 - £6,200
Pleasure boat providing alcohol and entertainment on permanent or temporary basis	£nil
Ordinary person or business seeking a single temporary public entertainment licence for a small event annually	£3,550
Cinema without bar	£5,000
Cinema with a bar	£15,000 - £75,000
Theatre (bar only for patrons) purely presenting plays	£6,000 - £27,500
Theatre (bar only for patrons) presenting plays and other public entertainment	£7,000 - £250,000
Night café inside London operating between 11.00pm and 5.00am	£7,500 - £31,000
Take-away inside London operating between 11.00pm and 5.00am	£7,500 - £31,000
Late night refreshment house outside London operating between 10.00pm and 5.00am	£1,800 - £25,000
Passenger boat providing dinner-dance cruises on the Thames	£nil
Circus visiting 40 sites annually attracting audiences of more than 500 people.	£nil
Take-away outside London operating between 10.00pm and 5.00am	£nil

5.3.3 As with the whole compliance costs discussed earlier, the breadth of these ranges is not particularly helpful. As we believe protracted legal disputes are not widespread, we believe that the individual business compliance are towards to lower end of the ranges.

Over a period of ten years, we estimate that compliance costs for a major operator with 300 pubs would be about £6 – 7 million.

- 5.3.4 The 55,000 occasional permissions granted each year to 25,000 organisations (often charities, schools and societies) require the payment of a fee of £10. Applicants are normally required to attend court which adds an unquantifiable cost in personal time (as it depends on profession etc), and occasionally legal representation could be necessary costing between £50 and £150. Over ten years, assuming two applications per year by each organisation, the compliance cost would be between £1,200 and £3,200 (or £120 to £320 annually).
- 5.3.5 Public entertainment licence fees are set by local authorities and vary enormously. Some are based on the capacity of the venue and some vary according to the type of entertainment involved. Some are based on a fixed rate with an add-on based on capacity. Fees for permanent licences are between £50 and £20,000 (though a small number exceed this figure), depending on the venue and the local authority. Renewal – where the licence does not concern a one-off event – is required annually. Legal, administrative/management and advertising costs could again be between £150 (uncontested) and £5,000 (contested).
- 5.3.6 There are significant hidden costs of compliance because of the need to meet a range of public safety requirements: for example, a discotheque might be required to install sophisticated air conditioning or sound proofing systems costing over £100,000, which would not normally have been required under planning or building regulations. These indirect costs are not quantifiable, but can impact disproportionately on smaller venues and businesses where local authorities take the approach of imposing standardised conditions.
- 5.3.7 Ignoring these hidden costs of compliance, we estimate that for a nightclub style business involving only one set of premises over ten years the cost of compliance with the requirements of public entertainment licensing would be between £2,000 and £250,000 (or £200 to £25,000 annually). These costs would be additional to the costs of their licence and permissions to sell alcohol for extended hours. Fees for temporary licences again vary enormously. The range of events requiring a temporary permission is similarly wide-ranging from a major pop festival to a small local event. There are an estimated 37,000 temporary public entertainment licences issued each year.
- 5.3.8 CIPFA estimate that local authority expenditure on public entertainment licensing fees in England and Wales is around £23.5 million for 46,000 licences. This produces an average licensing cost of just over £500 or a cost of £5,000 over a period of ten years if renewal is sought annually. Charities tend to be charged at the lower end of the local authority fee scales and most fees are based on a formula including the capacity of the venue.
- 5.3.9 CIPFA estimates that the income to local authorities in England and Wales from public entertainment licensing fees is around £16 –£17 million annually. Although the CIPFA estimates must be treated with caution, the best available estimate is that public entertainment licensing costs local authorities in England and Wales about £235 million over a period of ten years, but they currently derive income of about £165 million only over an equivalent period.
- 5.3.10 For a business providing both alcohol and music and dancing, as many nightclubs do, the combined costs over ten years of the licensing regimes would therefore be potentially anything between £12,000 and £320,000 at current prices (or £1,200 to £32,000 annually).

- 5.3.11 Pleasure boats, while in motion, are again exempt from public entertainment licensing as they do not fall within the definition of "premises" or "place" used in the current legislation. As such, although some may provide extensive clubbing and dancing facilities for the paying public, they incur no licensing costs. Similarly, circuses and travelling fairs are not treated as falling within either public entertainment or theatre licensing law. Although, there is no obvious reason why they pose any reduced risk to the four licensing objectives established in the Licensing Act 2003, they incur no costs resulting from licensing processes.
- 5.3.12 There are about 600 cinemas in England and Wales which pay a fee annually which may not under the terms of the relevant legislation exceed £600. Licences are issued by the local authority. Most fees are set at this level, though renewal fees are sometimes lower at around £450. For a cinema without a bar selling alcohol, the costs of licensing are around £500 annually or £5,000 over a period of ten years.
- 5.3.13 For the cinema industry, however, the real costs to the industry arise from indirect costs associated with licensing conditions, many of which are laid down in secondary legislation in standard form and are archaic, and most of which focus on public safety, particularly fire safety. For a cinema with a bar, additional costs arise from the need to obtain an alcohol licence which would not be dissimilar from those falling on a traditional pub. The costs to such a cinema would be £1,500 - £7,500 annually or £15,000 - £75,000 over a period of ten years.
- 5.3.14 There are 218 permanent theatres registered with licensing justices as selling alcohol at performances. There is no reliable central data of the number of theatres operating which do not have bars. Each theatre has to be licensed by the local authority for the performance of plays (which includes, for example, ballet). However, a large number of theatres also put on productions in which music and dancing is presented which does not form part of a play. Such theatres require both a public entertainment licence and a theatre licence. Fees relating to theatre licences vary as widely as public entertainment licence fees. Fees are as low as £75.00 - £100.00 in parts of Wales, but are set more commonly between £500 and £2,500 depending on the capacity of the theatre. Some fees are considerably higher in London. Some local authorities merely charge an "add-on" fee over and above the public entertainment licence fee and some charge both independently.
- 5.3.15 An alcohol licence fee is not required by a theatre selling alcohol immediately before and during performances. If the theatre wishes its bars or restaurants to operate normally for the benefit of the public as well as theatre-goers a full justices on-licence would be required. The fee for renewal of a theatre licence is normally similar to the fee for grant.
- 5.3.16 Accordingly, it is estimated that the compliance costs of licensing to the average theatre with associated legal costs are between £600 and £2,750 annually or between £6,000 and £27,500 over a period of ten years, assuming it does not operate a bar or restaurant open to the general public and presents only plays. For a theatre presenting plays and other presentations involving music and dancing, we estimate that the annual costs including legal costs are between £700 - £25,000 annually or £7,000 and £250,000 over a period of ten years.
- 5.3.17 The costs to an average business associated with night café and late night refreshment are difficult to estimate because of the wide variations in the fees charged by local authorities.

For example, the fee for a late night refreshment house licence in one Northern local authority area is charged at the flat rate of £35, while a similar licence for a night café licence in one London borough is charged at the flat rate of £615. Legal, administrative, management and advertising costs are estimated to be between £150 (uncontested) and £2,500 (contested or when contesting a closing order).

5.3.18 Some holders of night café licences in London claim that the regime costs their businesses more than £3,500 annually. However, the costs appear to be substantially less outside London. In addition, late night takeaway premises are not licensed outside London, though they can be made subject to closing orders. Total costs of compliance for a night cafe in London over ten years are therefore estimated to be between £7,500 and £31,000 (or £750 and £3,100 annually). Outside London, the total costs of compliance for an average business within the licensing regime over ten years are estimated to be £1800 and £25,000 (or between £180 and £2,500 annually).

5.3.19 However, most late-night take-away premises outside London will incur no costs arising from the licensing regime because the use of closure orders is extremely rare.

Options 2/3

5.3.20 Table 10 sets out the estimated compliance costs for a range of businesses currently engaged in licensable activities and for those entering this business area anew following the coming into force of the new legislation and the regulations and order (Option 3).

Table 10

Summary table of estimated compliance costs for individual businesses under the new regime		
Type of business	Approx, annual cost of licensing first year	Costs over ten years
Existing on licensed premises (a pub, restaurant) without permissions for regulated entertainment (assuming personal licence cost incurred)	£180 - £5,560	£630 - £7,000
Pub-operating company with an existing chain of 300 premises without permissions for regulated entertainment (assuming personal licence costs incurred)	£54,000 - £1.7 million	£189,000 - £2.1 million
New on-licensed premises (a pub, restaurant) without permissions for public entertainment (assuming personal licence cost incurred)	£350 - £5,760	£800 - £7,000
New on-licensed premises (a nightclub) with extended permitted hours and providing public entertainment	£350 - £5,760	£800 - £7,000
Charity holding two events for less than 500 people at which alcohol is sold each year	£40	£400
Charity holding two events for less than 500 at which alcohol is sold and music and dancing provided	£40	£400
Pleasure boat selling alcohol and providing entertainment on permanent basis	£350 - £5,760	£800 - £7,000
Pleasure boat selling alcohol and providing entertainment for less than 500 people four times per year	£80	£800
Ordinary person or business staging a single small (less than 500 people) event involving public entertainment each year	£20	£200
New cinema without bar	£150 - £5,100	£600 - £6,350
New cinema with bar	£350 - £5,760	£800 - £7,000
New theatre (bar only for patrons) purely performing plays	£350 - £5,760	£800 - £7,000

New theatre (bar only for patrons) presenting plays or other public entertainment	£350 - £5,760	£800 - £5,760
Circus attending 40 regular sites annually with audiences exceeding 500 people (with no sites licensed directly by the local authorities themselves).	£6,000 - £230,000	£34,000 - £280,000
Night café inside London operating between 11.00pm and 5.00am	£150 - £5,100	£600 - £6,350
Take-away inside London operating between 11.00pm and 5.00am	£150 - £5,100	£600 - £6,350
Late night refreshment house outside London operating between 10.00pm and 5.00am	£150 - £5,100	£600 - £5,100
Take-away outside London operating between 10.00pm and 5.00am	£150 - £5,100	£600 - £5,100

Personal licences

- 5.3.21 The new regime involves a personal licence (for those selling alcohol) and a premises licence, which covers the sale of alcohol, provision of public entertainment (including music and dancing, indoor sports, theatre, and cinema). The cost of a personal licence for ten years (if no breaches of the law) may fall to an individual or might be met by a business. Costs falling on an applicant would need to cover the cost of the qualifying course that we estimate at between £100 and £150 and a Criminal Records Bureau certificate or similar – £10-15. Current estimates for the fee, covering the cost of administration and licence production, would be set at about £37. No renewals would be required within a period of ten years. The total cost would be between around £200 (all falling in the first year of validity, and assuming no subsequent breaches of licensing law).
- 5.3.22 Personal licences would only be required by people selling alcohol. We estimate, following the consultation that 200,000 people holding such licences currently would be likely to apply to convert their existing justices licences to personal licences. The 2003 Act and the draft transitional order would permit current holders of justices' licences to obtain a new personal licence without the need to undertake the qualifying test or Criminal Records Bureau or similar check. The compliance cost in respect of the personal licence for these people would therefore be £37 each over the first ten years of the system operating, plus a further £13 in terms of personal time. This gives a compliance cost of £50 each.
- 5.3.23 The number of other people who might want to obtain a personal licence is uncertain. Some may choose to obtain such a licence merely to include it on their curriculum vitae for career purposes. We estimate that as many as 40,000 people may choose to apply during the period of transition. However, around 8,000 new alcohol licences are granted each year and this provides a useful guide to the throughput over time. We have therefore estimated that about 10,000 people can be expected to apply for such licences in each year from the second appointed day. Each new applicant would incur the full compliance cost of £200 as a one off cost in the year of application, with no renewal costs arising for ten years.
- 5.3.24 The regulations will provide that three groups who currently enjoy exemption from obtaining a justices' licence should be able to obtain personal licences without first obtaining a licensing qualification. These are:
- Those operating under permissions to sell alcohol granted by the Board of the Green Cloth;

- those operating under permissions to sell alcohol granted by the University of Cambridge; and
- those permitted by Royal Charter as members of the Honourable Company of Vintners of the City of London to sell alcohol there and in other port and thoroughfare towns.

5.3.25 The numbers are extremely small. Although the first two ancient exemptions are ended by the 2003 Act, it would be reasonable to ensure that those currently engaged in selling alcohol should be able to do so with the minimum interference. They will therefore only have compliance costs associated with appropriate CRB checks, personal time and the licence fee. We estimate that their compliance costs would be about £65.

Premises licences

5.3.26 The premises licence could cover any combination of permissions for alcohol, regulated entertainment, theatre and cinema, and late night refreshment from 11.00pm at night. No renewals would be involved and if an operating schedule was well prepared, only very rare variations should be necessary. The 2003 Act also provides that all existing licence and club certificate holders should have their existing permissions converted to new premises licences and club premises certificates by the licensing authorities during the period of transition. Such conversions can only be challenged by the police on grounds of crime and disorder and the number of such challenges should be small (probably no more than 200 out of about 182,000). It would be open to these existing licence and certificate holders to apply simultaneously to vary their existing licences and certificates, for example, to permit extended hours or allow greater access for children or to permit the performance of music. The current estimates for the relevant fees are set out in paragraphs 5.1.19 – 5.1.20 above.

5.3.27 It is expected that premises licence and club premises certificate fees would be in bands based on the non-domestic rateable value of the premises concerned. As the premises licence and club premises certificate would be valid for the life of the business or club an annual charge would be needed to maintain a revenue stream to cover continuing inspection and enforcement. Non-domestic rateable value is based in part on the turnover and location of a business. Accordingly, it enables the fee arrangements to achieve equity between smaller and larger businesses and reflect the higher overhead costs experienced by licensing authorities in some parts of the country.

5.3.28 In the year of transition, the costs for most businesses would be between £180 (if the cost of the personal licence is absorbed by the business where alcohol sales are involved) and £6,000. For those converting existing licences and not seeking variations, legal, administrative and management costs are likely to be between £50 (uncontested) and £5,000 (contested) in the first year, but all costs would be significantly smaller in subsequent years. For those converting and varying existing licences and those seeking entirely new premises licences, the range is likely to be between £250 - £5,500 because of the additional advertising costs. For the purpose of comparison with the existing arrangements, we therefore estimate that for an average business the cost of compliance with the new requirements over a ten year period would be between £650 and £7500 at current prices.

5.3.29 It should be noted however that throughout the period of transition businesses will continue their normal existing costs under the existing six licensing regimes. This figure has been included earlier in the overall compliance cost.

- 5.3.30 For businesses not involved in the sale of alcohol, and therefore not having to absorb the costs of a personal licence, these costs would be slightly lower (see Table 10 for examples).
- 5.3.31 The scheme is designed so that the vast majority of decisions in respect of licensing decisions should be made without hearings, so that only applications giving rise to legitimate representations by local residents, the police, environmental health or fire authorities would give rise to a hearing. Accordingly, we estimate that the likely compliance cost to any average business would be at the lower end of the £650 to £7,500 range because of the reduced legal, administrative and management costs.
- 5.3.32 Similarly, as it would be possible for applicants to discuss operating schedules with the key authorities (police, environmental health officers, fire authorities) before submitting proposals to the licensing authority representations should be rare; and the number of appeals should be low. This reinforces our view that the likely compliance cost for a typical business would be at the lower end of the £650 to £7,500 range over ten years.
- 5.3.33 Table 10 shows that the burden on circuses and fairs using multiple sites each year would be higher. In addition, their costs are new as they have no costs associated with licensing under the existing regimes. These costs may be mitigated by the extent to which local authorities themselves seek premises licences for public spaces in their areas that may be used for various entertainments and cultural activities including circuses. However, this cannot be guaranteed.
- 5.3.34 The 30 circuses in England and Wales claim to attract total audiences of 4.8 million annually who are charged admission prices varying in the main from £6 to £18. As with all businesses carrying on licensable activities any costs will inevitably be passed on to the consumer. In the first year, the new costs would require between less than one penny and five pence to be added to the price of each ticket; and over a period of ten years, the cost per head would fall to less than one penny. As explained earlier, the Government is satisfied that this is proportionate and fair because each premises will give rise to different issues relating to the licensing objectives, all of which are central to the public interest. For example, the issues relating to noise nuisance affecting residents in the area will vary from site to site, as will issues relating to public safety when temporary structures are erected.
- 5.3.35 With regard to the licensing of passenger vessels, the compliance costs are also entirely new and therefore are direct costs to the businesses without the benefit of savings derived from the old regime.
- 5.3.36 With regard to the licensing of temporary events, it has been noted above that there are 55,000 occasional permissions granted to about 25,000 organisations (often charities, societies or schools) each year for the sale of alcohol on normally unlicensed premises. There are also an estimated 37,000 temporary public entertainment licences granted, though the recent consultation suggests that this may be a high figure.
- 5.3.37 Many of these temporary licences will cover the same event (and licences are sought separately from both the magistrates and the local authority under present arrangements). The administration in respect of “temporary event notices” (which would affect events lasting no longer than 4 days and attracting no more than 500 people) would be minimal and the fee for each such event notice should not exceed £21. Save in very exceptional

circumstances, there would be no hearing and no legal costs. Assuming that each organisation continued to make around two applications each year, compliance costs for individual organisations over ten years would be about £450.

6. **Consultation with small business: Small Firms Impact Test**

6.1 The regulations and order were subject to a public consultation between 15 September and 10 November including small businesses. There were 269 responses from 230 public bodies, organisations and individuals (the disparity is because some wrote more than once). As indicated in this RIA, the Government has made many changes to the regulations in response to the views expressed.

6.2 In preparing the Licensing Bill, the Department for Culture, Media and Sport formed an Advisory Group, including representatives of the business sectors affected and both large and small businesses, and has continued to consult this Group since then.

6.3 In addition, the Small Business Service was consulted about the terms of the 2003 Act and expressed the view that the Act would bring about a change that is most welcome to the whole of the trade sectors affected. They support the justification for the change and consider that the costs quoted are the best available for estimate. They have indicated that the benefits will be experienced by the whole of the retail, hospitality and leisure industry, as well as consumers and local residents. They agree that there ought to follow a reduction in criminal behaviour, especially alcohol-related offences, which will result in a reduced need for late night town-centre police presence.

6.4 The Government has also discussed the implementation of the 2003 Act with:

- Association of Licensed Multiple Retailers
- Association of Convenience Stores
- British Beer and Pub Association
- Bar, Entertainment and Dance Association
- British Institute of Innkeeping
- British Marine Federation
- British Retail Consortium
- Business in Sport and Leisure
- Cinema Exhibitors Association
- Circus Arts Forum
- Circus Proprietors Association of Great Britain
- Committee of Registered Clubs Associations
- Domestic Passenger Ship Steering Group
- Federation of Licensed Victuallers Association
- Guild of Master Victuallers
- Licensed Victuallers of Wales
- National Parliamentary Committee of the Licensed Victuallers Associations
- Passenger Boat Association
- Theatrical Management Association
- The Society of London Theatre

6.5 It should be noted that the pleasure boat industry was extremely disappointed to be included in the reformed licensing arrangements and are concerned about the new burden

this imposes on their industry, particularly in the case of small boats providing licensable activities for small numbers of customers. These issues were fully debated by Parliament during the passage of the Licensing Bill and it was decided that they should not be exempted.

6.6 The Arts Council and the circus industry have made strong representations about the impact of the new licensing regime on their sector. This is particularly so for travelling circuses that are too large to benefit from the use of temporary event notices. Such circuses will require multiple licences under the new regime. In March 2004, the Arts Council prepared their own impact assessment on the circus sector. It calculated that the costs would be between £4,000 and £20,000 in the first year and between £2,000 and £6,000 thereafter. However, the assessment did not include the costs of administrative/management time, legal costs and advertising and it did not anticipate the possibility of legal disputes surrounding applications. We therefore take the view that the range of potential cost in the period of transition would be between £6,000 and £230,000 with the range lying at the lower end of this range. Paragraph 5.3.39 also comments on the impact this might have when the costs are passed on to the consumer.

6.7 Some small businesses (and large) have commented that the application forms prescribed in the regulations and order are overly long. One of the reasons for the length of the forms is to ensure that it is possible to tick boxes, wherever possible, rather than request long written descriptions. The Government has adopted this approach because it is aware that the hugely diverse businesses include a significant number where English would not necessarily be a first language. For example, among the restaurant and late night refreshment sectors are a large number small businesses carried on by members of minority ethnic groups. It is therefore inevitable that there will parts of the forms that will not require completion by some applicants. On balance, the Government believes the approach it has taken is the right one.

7. Competition Assessment

7.1 The Licensing Act should increase competition in the night economy. In combination with the Licensing Guidance and the regulations, the 2003 Act should provide a level playing field for all styles of venue within the retail, hospitality, entertainment and leisure sectors of industry. For example, public houses, bars and restaurants will be free to compete in the post-midnight market. It would be possible to open later to provide a venue where people of any age can drink alcohol or eat without the need (as now) for recorded music and dancing. The Government estimates that around 65 per cent of the sector will seek permission to extend its hours of opening, though less than 2 per cent are likely to seek 24 hour opening.

7.2 The hospitality and leisure market, and the broader domestic tourism market, are also inhibited by the current licensing laws. Businesses are unable to compete for family trade (which goes to businesses not selling alcohol) because of the restrictive nature of the alcohol laws with regard to children. The Act should largely remove these inhibitions.

7.3 Finally, the archaic restrictions within the licensing laws are confusing and unattractive to visitors to this country and undermine efforts by the tourism industry to market towns and cities in England and Wales which are in direct competition with European cities as tourist destinations.

8. Enforcement and Sanctions

The regulations and order are primarily concerned with process and procedure and do not directly impact on the enforcement arrangements and sanctions set out in the Licensing Act 2003.

9. Monitoring and review

9.1 It would not be possible to review the impact of the reformed licensing laws in isolation from other wider Government strategies. Similarly, the success of the draft regulations cannot be measured in isolation from the impact of the 2003 Act itself and the Guidance issued by the Secretary of State under section 182 of the Act following the approval of Parliament.

9.2 As well as monitoring cross-Department interests, the DCMS regularly consults an Advisory Group comprising a broad cross-section of trade associations and professional and public bodies representing the business sectors affected, performers and the arts, the club movement, the local authorities, the courts, the police, licensing law practitioners and groups with a general interest in the impact of alcohol on our society, like Alcohol Concern. This group will continue to advise the DCMS on the impact of the implementation of the Act. It will therefore assist the Government in monitoring, tracking developments and measuring impacts.

9.3 If Option 3 is pursued, it should produce the measurable outputs and outcomes described and listed in paragraph 4.1 above. The 2003 Act will not be fully implemented until the end of the transitional period towards the end of 2005 and would need to operate for at least twelve months before its impact could be properly reviewed. However, in the intervening period, data on the existing arrangements is being and will be acquired to provide a baseline against which the success of the new arrangements can be measured.

9.4 These outputs and outcomes will be not only be monitored by the Department for Culture, Media for Sport but also in conjunction with other Government Departments with a significant interest. For example, the Home Office are the lead Department in measuring and monitoring crime and anti-social behaviour and the Department of Health lead on monitoring the consumption of alcohol by minors, publishing figures annually. Both these Departments are also charged with the delivery of the Alcohol Harm Reduction Strategy.

9.5 The Government will retain two key means of influencing change should the 2003 Act prove less effective than envisaged in delivering the outputs and outcomes described above. The first is through revisions to the Licensing Guidance to the licensing authorities, which those authorities would be required to have regard when carrying out any of their licensing functions or when making any licensing decision. The second would be revisions of the secondary legislation.

10. Consultation

10.1 Within Government Departments

We have consulted the following Government Departments and Agencies about the policies reflected in the 2003 Act, the Licensing Guidance and the regulations in draft form:

- the Cabinet Office
- the Ministry of Defence

- Office of the Deputy Prime Minister;
- the Department for Environment, Food and Rural Affairs
- the Department for Education and Skills
- the Department of Health
- the Home Office
- the Department of Transport
- the Department for Constitutional Affairs
- the DTI
- the Treasury
- the Wales Office
- the Department for Work and Pensions
- The Scottish Executive
- the Maritime and Coastguard Agency
- the Highways Agency
- the Criminal Records Bureau
- Health and Safety Executive

We have also consulted the Welsh Assembly.

10.2 With public bodies and organisations

There are also certain public bodies and organisations that have been particularly important in our consultations on these matters:

- Action with Communities in Rural England
- Alcohol Concern
- Arts Council
- Association of Chief Police Officers
- Association of London Government
- British Board of Film Classification
- Chartered Institute of Environmental Health
- Disabilities Rights Commission
- Justices' Clerks Society
- Local Authorities Co-ordinators of Regulatory Services
- Local Government Association
- Magistrates' Association
- The Musicians' Union

10.3 Public Consultation

10.3.1 The regulations were subject to a public consultation including small businesses. In particular, the views of the following were sought directly:

- All licensing authorities in England and Wales, including the Sub-Treasurer of the Inner Temple, the Under-Treasurer of the Middle Temple and the Council of the Isles of Scilly
- All police forces in England and Wales
- All fire authorities in England and Wales
- The Association of Licensed Multiple Retailers
- The Association of Convenience Stores
- The Bar, Entertainment and Dance Association

- The Board of the Green Cloth
- The British Beer and Pub Association
- The British Institute of Innkeeping
- The British Marine Federation
- The British Retail Consortium
- Business in Sport and Leisure
- The Cinema Exhibitors Association
- The Circus Arts Forum
- The Circus Proprietors Association of Great Britain
- The Civic Society
- The Committee of Registered Clubs Associations
- The Confederation of British Industry
- Crime and Disorder Reduction Partnerships and Community Safety Partnerships
- The Domestic Passenger Ship Steering Group
- Equity
- The Federation of Licensed Victuallers Association
- The Guild of Master Victuallers
- The Institute for Alcohol Studies
- Licensed Victuallers of Wales
- The National Association of Licensed House Managers
- The National Parliamentary Committee of the Licensed Victuallers Associations
- National Pubwatch
- The Passenger Boat Association
- The Police Superintendents Association
- The Police Federation
- A range of residents' associations that have previously expressed concern or interest in licensing reform
- The Scotch Whiskey Association
- The Society of London Theatre
- The Theatrical Management Association
- The University of Cambridge
- The Union of Shop, Distributive and Allied Workers
- The Vintners of the City of London
- Wine and Spirits Society

10.3.2 The consultation was announced by press notice so as to draw its attention to the wider general public. The consultation document was placed on the DCMS website. The DCMS will also made hard copies available to any callers who are unable to access the website. It was possible for responses to be sent in writing or by e-mail. A draft of this Regulatory Impact Assessment was included in the consultation document.

10.3.3 Responses were invited for a period of eight weeks between 4 September and 11 November. The Code of Practice on Consultation recommends that consultations should normally take place for a period of 12 weeks. However, the first appointed day (the start of the period of transition when the regulations and order would govern the processes and procedures) is set at 7 February 2005. The industry and the licensing authorities have both asked the Government to accelerate the process as much as is reasonably possible. Both parties are required to plan extensively for the first appointed day and the final form of the regulations is crucial to their ability to handle the period of

transition smoothly and with minimum disruption. The Secretary of State is satisfied that the period of eight weeks permitted a full consideration of the issues to which the regulations and order gave rise.

10.3.4 There were 269 responses to the consultation from 230 public bodies, organisations and individuals, some of which wrote more than once. These included:

- 115 local authorities and local authority representative bodies
- 18 solicitors
- 1 magistrates' court
- 5 Members of Parliament
- 4 fire authorities
- 49 industry
- 9 police and their representative bodies
- 8 Crime and Disorder Reduction Partnerships
- 21 others

10.3.5 The most important changes made to the regulations order as a result of the views expressed include:

- accepting reasonable changes to application forms which would make them easier to use;
- changes to plans of premises that must accompany applications to make them less confusing;
- clarifying the position of delivering applications electronically; and
- various technical changes designed to improve the use of the regulations in actual practice.

10.3.6 In addition, the Government accepted the arguments presented that it would not be cost effective to prescribe Crime and Disorder Reduction Partnerships (and Community Safety Partnerships) and the Mayor of Greater London (and other similar Mayors) as responsible authorities. It also agreed to prescribe weights and measures authorities (trading standards officers) as responsible authorities.

10.3.7 Strong representations were made that applications for the grant and variation of premises licences and club premises certificates should not require advertising in local newspapers. For the public interest reasons explained earlier in this RIA, the Government decided not to make this change.

11. Summary and recommendation

11.1 The Options are as shown in Table 11 below:

Table 11

Option	Total cost over ten years	Total benefit over ten years
1. Do not implement the Licensing Act 2003, and allow the	£4 billion to industry. Administrative costs of £160.7 million to police.	None for most of the 180,000 businesses affected. None for the general public.

<p>six existing licensing regimes to govern the licensable activities</p>	<p>16.6 million licensing processes. 2.4 million hearings before licensing authorities.</p>	<p>None for the general economy. None for the prevention of crime and disorder; public nuisance; public safety or the protection of children from harm. Circuses, pleasure boats, late night take-aways outside London and travelling fairs would avoid new costs arising from the integrated licensing regime.</p>
<p>2. Make the regulations and Order, allowing the implementation of the 2003 Act as set out in the consultation document published in September 2004.</p>	<p>Similar to Option 3 below</p>	<p>Similar to Option 3 below.</p>
<p>3. Make the regulations as proposed, allowing the implementation of the Licensing Act 2003 but subject to variations arising from the consultative process.</p>	<p>£2.0 - £2.2 billion to industry. Administrative costs of £9.7 million to police. 1.6 million licensing processes. 85,000 hearings.</p>	<p>Savings of £1.9 - £2 billion to industry. Administrative savings of £151 million to the police. 15 million fewer licensing processes. 2.3 million fewer hearings. Greater democratic accountability for the general public and easier access to dispute applications. A more competitive and diverse night economy. Decreased alcohol-related crime and disorder and public nuisance. Better public safety. Better arrangements for protecting children and reducing their access to alcohol.</p>

11.2 The Government has adopted Option 3 as the appropriate way forward because of the deregulatory benefits it brings to the vast majority of the businesses affected, the increased democratic accountability and involvement it provides for local people, and the potential benefits to crime and disorder and children. While new burdens and costs are created for a small number of businesses, the Government believes these are proportionate and justified in the interests of the four licensing objectives and society generally. The Government also believes that the approach it has taken reflects the views of Parliament as expressed during the stages of the Licensing Bill.

ANNEX A

Consultation on Draft Regulations and Order to be made under The Licensing Act 2003

The consultation period ended on 10 November 2004. For information, the consultation paper is available on the DCMS website www.culture.gov.uk. The consultation paper covered proposed regulations provide much of the procedural detail of how the new licensing regime will operate, including proposed details for forms, plans and operating schedules. Without them, licensing authorities will not be able to begin processing applications on 7 February 2005. The consultation covered personal licences, hearings, premises licences, club premises certificates, transitional arrangements and licensing registers.

Specific views which the consultation paper asked for included:

Any classes of persons (other than those set out in the document) who consider that they should be prescribed as not being required to hold particular qualifications in order to qualify for a personal licence.

Views on the proposed form of personal licence

Views from licensing authorities, potential applicants and the police about the application form for grant or renewal of a personal licence and any suggestions as to how it may be improved.

Views on proposed periods of time within which hearings are to be held and proposed regulations on the giving of notices of hearing and other matters relating to hearings.

The views of licensing authorities on any difficulties in complying with time limits for determining applications.

Views from all persons on the proposal to prescribe the Mayor of London (and similar Mayors) and the Crime and Disorder Reduction Partnerships (and equivalents) as responsible authorities; and to hear from other bodies who believe that they should be prescribed as a responsible authority.

Views from licensing authorities, all potential applicants and responsible authorities about the application forms and required information contained in draft Schedules

Views from licensing authorities, responsible authorities and potential applicants on the requirements in respect of plans.

Views on the proposed form of the premises licence and club premises certificate.

Views, particularly from licensing authorities, on the proposed arrangements for advertising applications for reviews.

Views on the application form to be used for applying to convert an existing club certificates to club premises certificate and on whether any additional information should be specified that would have to be included with an application.

Views on the form of the photograph to accompany personal licence applications.

Information to be contained in the register to be kept by licensing authorities.

12. Declaration

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

Signed.....

Date.....

Richard Caborn, Minister for Sport and Tourism, DCMS

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