

**THE LEGISLATIVE REFORM (MINOR VARIATIONS TO PREMISES
LICENCES AND CLUB PREMISES CERTIFICATES) ORDER 2009:
REVISED DRAFT**

ACCOMPANYING STATEMENT

1. The above draft Order was laid before both Houses of Parliament on 8 December 2008 for consideration in accordance with Part 1 of the Legislative and Regulatory Reform Act 2006 (“the 2006 Act”). The Secretary of State for Culture, Media and Sport recommended that it should follow the negative resolution procedure.
2. The **House of Lords Delegated Powers and Regulatory Reform Committee** reported on the draft Order in its Second Report of Session 2008-9, published 22 January 2009.
3. The Committee expressed doubts about whether the LRO fully satisfied the tests in section 3(2) (d) and (e) of the Act (necessary protection and continuing exercise of rights). It was particularly concerned that there was no requirement for applicants under the new process to advertise the proposed variation and no right for local residents and businesses to make representations about the likely effect of the application. The Committee concluded that:

‘local residents and businesses should be able to express their views to the licensing authority and should receive sufficient notice to enable them to do so’.
4. The Committee recommended that the Order should follow the super-affirmative procedure under section 18 of the 2006 Act to allow the Department to consider how these recommendations might be incorporated into the proposal.
5. The Committee also recommended the following legal/technical amendments which the Department had already agreed to incorporate into the Order:
 - removal of the words ‘sale by retail or’ in section 41A(3)(d) and (e)(i) and ‘sold by retail or’ in section 41A(3)(e)(ii). The Committee considered these phrases redundant on the grounds that they are covered already by the definition of ‘supply of alcohol’ in section 14 of the 2003 Act.
 - insertion of the words ‘to members and guests’ after ‘supply of alcohol’ in section 86A(3)(b) and (c)(i) and after ‘supplied’ in section 86A(3)(c)(ii).
6. The Department has one minor technical reservation concerning the Committee’s recommended change to the new section 41A(3)(e)(ii). As this provision does not include the specific phrase “supply of alcohol” as defined in section 14, it does not appear appropriate to delete the reference to sale by retail in this instance. The revised draft Order therefore retains this reference,

to ensure it is clear that both the sale by retail and supply of alcohol are included. The same issue does not arise in the club provisions because the concluding words of section 70 ensure that the expression “supplied to members or guests” in the new section 86A(3)(c)(ii) includes the sale by retail of alcohol to the guest of a member of a club.

7. The **House of Commons Regulatory Reform Committee** reported on the draft Order in its Second Report of Session 2008-9 published on 29 January. It was satisfied that the Department had addressed the main point of concern raised during consultation by excluding the majority of alcohol-related variations from the new process. However, it recommended that:

‘when a minor variation is being considered, it should be a requirement that a notice describing the proposed variations be attached to the outside of the premises concerned for a minimum of two weeks. This would provide an appropriate safeguard for local communities whose members might then contact licensing authorities if the matter raised any concerns’.

8. The Committee further recommended that:
 - the guidance to the Act should be ‘regularly reviewed to ensure that licensing officers receive the appropriate steer, in order to provide more protection against misuse of the new procedure’;
 - the DCMS regularly review ‘the ease of use and degree of public awareness of the section 51 (review) procedure’ to ensure that this procedure remains accessible to residents if there are concerns about a premises that has been granted a minor variation;
 - the licensing objectives should be set out in the application form ‘so that applicants are clear about what they are’.
9. In view of these recommendations, the Committee recommended that the Order should be dealt with under the super-affirmative resolution procedure to allow the suggested amendments to be incorporated into the final text and to allow the House to vote on this sensitive issue.
10. No further representations were received from stakeholders on the draft Order during the 60 day period.

Department’s response to the Committees’ recommendations

11. The Secretary of State for Culture, Media and Sport is grateful for the recommendations made by the Committees. In relation to the main concern expressed by both Committees about interested parties, the Secretary of State has considered the matter further and accepts that an enhancement of the level of protection for local residents and businesses can be introduced into the proposal without fundamentally impairing its effectiveness in reducing burdens on business.

12. As noted in the original explanatory document laid under section 14 of the Act, the Secretary of State was previously of the view that the proposed statutory definition of a “minor” variation, together with the list of exclusions from the process and the role of responsible authorities were sufficient to safeguard the concerns of residents raised in the consultation process. The Secretary of State remains of the view that these safeguards should normally ensure that local residents’ and businesses’ rights are protected. However, in light of the common concerns expressed by both Committees, and consideration of how a requirement to advertise applications could be worked in to the proposals (including the additional burdens to applicants and to licensing authorities), the Secretary of State has concluded that the Order should be revised to:

- create an obligation for the Secretary of State to make Regulations requiring the advertisement of applications for minor variations. The provisions on advertising should, in the Secretary of State’s view, be contained in secondary legislation, in line with similar requirements under the full variation process (sections 17(5)(a) and 71(6)(a)). The Secretary of State proposes that these Regulations will require applicants to advertise applications on a white notice outside the premises in a similar manner as they would for a full variation application, but for a period of ten working days, as opposed to 28 days, in order to preserve the shorter timescale for minor variations as compared with full variations;
- give local residents and businesses (‘interested parties’ under sections 13(3) and 69(3) of the 2003 Act) the right to make representations in writing to the local authority about the likely effect of the variation on the promotion of the licensing objectives;
- require the local authority to consider any such representations received within the ten day period in arriving at its decision. There would be no right to a hearing, but local authorities would be required to take any representations into account in reaching a decision.

13. The Licensing Act 2003 (Licensing authority’s register)(other information) Regulations 2005 (S.I. 2005/43) will also be amended to require the licensing authority to include details of proposed minor variations in its register maintained under section 8 of the Act. This register must be available for inspection without payment by members of the public, who may also, upon payment of a reasonable fee, obtain a copy of an entry on the register.

14. Under the revised proposal, interested parties will have a period of ten working days to make representations to the licensing authority. This is because, in contrast to the position with responsible authorities, where the licensing authority must solicit representations from relevant authorities where necessary, the licensing authority will not know in advance which interested parties may wish to make representations. The Secretary of State therefore considers it necessary to impose a general time limit for relevant representations from interested parties in order to preserve the overall timescale of 15 working days to complete the process. The Secretary of State considers that ten working days is a reasonable period to allow interested

parties to submit their views to the licensing authority. One result of this change will be the introduction of a minimum period of ten working days for the processing of applications, a feature not present in the original proposal. This will reduce the flexibility and efficiency of the process to a significant extent: the Secretary of State was of the view following consultation that it was likely that many applications could be determined in less than ten working days. However, the Secretary of State recognises that the involvement of interested parties could not realistically be achieved without a time limit of this sort.

15. The Secretary of State considers that the revisions described above will address the concerns expressed by the Committees whilst retaining most of the core, simplification and cost saving elements of this proposal. A revised draft Order incorporating these amendments has been laid before the each House under section 18(7) of the 2006 Act. A proposed draft of the Regulations referred to in paragraphs 11 and 12 above is at Annex 1. Although the Regulations are not formally within the Committees' remit, the Secretary of State considers that, together with the Guidance at Annex 2, sight of the draft will aid the Committees' understanding of the proposed new process. It is intended that these Regulations will be laid before Parliament separately in the usual way, to enable them to come into force at the same time as the draft Order and revisions to the statutory Guidance. The draft in Annex 1 may be subject to further minor and technical changes in the meantime.
16. The revised proposal will result in a slight reduction in the range of projected cost savings from £1.9m - £2.5m to £1.8m - £2.3m. The revised Impact Assessment (laid with the Order) shows how these figures have been calculated. There will also be a small increase in the application fee from £73.00 to £89.00 to ensure that licensing authorities recover the costs involved in considering representations from interested parties. This figure is included in the revised Regulations at Annex 1.
17. In response to the further recommendations made by the Commons committee, the Secretary of State also undertakes:
 - to review the additional statutory Guidance on minor variations when the new procedure has been in force for one year;
 - to revise the minor variations application form to include the four licensing objectives
 - to continue to monitor use of the section 51 (review) process through the Department's Statistical Bulletin on Alcohol, Entertainment and Late Night Refreshment Licensing. This includes statistics on the number of reviews completed by each local authority; the reason for each review; and the outcome. The Bulletin allows the Department to identify trends in data and to investigate any anomalies.

Consultation

18. The Department has carried out a limited consultation on these revised proposals with key stakeholders including:

- the licensing advisory group of stakeholders which includes representatives of local authorities, the licensed trade, members clubs, rural and voluntary organisations and residents groups. A full list of members is at Annex 3
- Westminster and Newham Councils which were strongly opposed to the new process as noted in the Explanatory Memorandum that accompanied the original proposal;
- The National Organisation of Residents Associations (NORA) which, in common with other residents groups, expressed concerns about the scope of the new process and the risk that some minor variations could impact adversely on residents. NORA has members from over forty residents associations around the country and is therefore the most representative of the residents associations that responded to the consultation.

19. The licensing advisory group met on 16 February to consider the revised proposal. All members were disappointed that the original proposal had been diluted and felt that this would render the process less attractive to applicants with a consequent reduction in take-up by licensees and therefore in cost savings. The licensed trade in particular felt that the revised proposal would have less value as residents and local businesses would not distinguish between minor and full variations and would automatically submit representations. Other members of the group including local authorities, rural organisations and live music organisations believed the revised process would still be useful, particularly to small businesses and voluntary organisations. However they were concerned about managing the raised expectations of interested parties if, for example an application was approved despite their representations. The group agreed that these concerns could be partially addressed by requiring applicants to use a white notice to advertise minor variations rather than the blue notice currently used for full variations and new applications. This would help residents to distinguish between the minor and full variations process and the different procedures and timescales involved.

20. Officials wrote separately to Westminster and Newham Councils and NORA. Westminster asking for their views on the revised proposal. Copies of their responses are at Annexes 4, 5 and 6 of this document. In summary, all respondents welcomed the involvement of residents in the new process, but felt that the revised proposal did not go far enough: residents should be given 28 days to make representations and have the right to a hearing, as for the full variation process. They also disagreed with the use of white notices on the grounds that residents would confuse them with notices used for planning applications, etc and ignore them.

21. The Secretary of State understands these concerns, but believes that on balance the arguments put forward by the licensing Advisory Group are more persuasive. The minor variations process is very different to the full variation process and the use of different coloured notices will clearly signal that fact to local residents and businesses. The regulations the Department proposes to

make will ensure that white notices are clearly marked with the heading “Minor variation” in a large font size. This should ensure that there is no doubt about what the notices represent. The Department will also provide central guidance on the new process to applicants and interested parties on its website and local authorities will also take steps to publicise and explain the new process.

22. The Secretary of State is also of the view that a 28 day response period for minor variations would represent no advantage over the full variations process. An extension of the time limit to 28 days would fatally undermine the key objectives of the proposal in terms of lessening regulatory burdens on business. Given the limited nature of the variations permitted under the new process, the Secretary of State considers that the period of ten working days now proposed will be sufficient to protect the rights of interested parties in the new process.
23. Westminster and Newham made other suggestions relating to the content of the notice and the level of the fee. These suggestions, together with information provided by LACORs, have been taken into account in calculating the increased fee of £89.00 and in the amendments to the accompanying Regulations.
24. The other issues raised by these stakeholders re-iterate their original concerns which were considered by the Committees during the initial scrutiny of this Order. The Secretary of State believes that the further changes suggested would severely undermine the simplification and cost benefits of the proposal. The Secretary of State’s view is that this would be a backward step at a time when the Government is trying to reduce burdens on businesses struggling to cope with the economic downturn.
25. As noted above, the Secretary of State believes that the revision of his original proposal to accommodate the Committees’ concerns will lead to some dilution of its simplification and cost benefits. However, he is of the view that the revised proposal preserves the overall balance between the need to protect the rights of interested parties and the objective of ensuring a simpler and cheaper process for variations that do not have any impact on the promotion of the licensing objectives.

Department for Culture, Media and Sport
25th March 2009

Summary: Intervention & Options

Department /Agency: Department for Culture, Media and Sport	Title: Impact assessment of the proposal to introduce a simplified process for minor variations to licences	
Stage: Revised Final Version (after Committees' Report)	Version: 1.5	Date: 26/02/2009
Related Publications: "Licensing Act 2003, Consultation paper on the proposal to introduce a simplified process for minor variations to licences under the Licensing Act 2003" "Legislative Reform Orders: Proposals To - Introduce A Simplified Process For Minor Variations To Premises Licences And Club Premises Certificates And Remove The Requirement For A Designated Premises Supervisor And Personal Licence At Community Premises Licensing Act 2003 (4 August 2008)"		
Available to view or download at: http://www.culture.gov.uk		
Contact for enquiries: Amanda Stevens		Telephone: 020 7211 6322

What is the problem under consideration? Why is government intervention necessary?

A significant number of variations to premises licences and club premises certificates (under the Licensing Act 2003) have no negative impact on the licensing objectives but still have to go through the full variation process, and incur the full fee. This causes an unnecessary administrative burden on licence holders, and may also deter them from notifying Licensing Authorities about changes to premises that should be reflected on the licence. Government intervention is necessary to amend the Act to introduce a simplified 'minor variations' procedure.

What are the policy objectives and the intended effects?

Objective: To promote the licensing objectives at the lowest administrative cost. The Intended effect is the removal of an unnecessary administrative burden on licence and certificate holders.

What policy options have been considered? Please justify any preferred option.

Following public consultation and scrutiny by Parliament, the Government has amended its original proposal to require applications for minor variations to be advertised on a notice for ten working days during which time residents will have the right to make representations to the licensing authority.

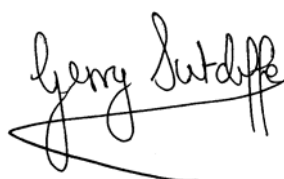
When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

Summer 2012, (or three years after implementation).

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:



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Summary: Analysis & Evidence			
Policy		Description: As above	
COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups'
	One-off (Transition)	Yrs	
	£		
	Average Annual Cost (excluding one-off)		
	£0		Total Cost (PV)
Other key non-monetised costs by 'main affected groups': Licensing authorities (LAs) will consult relevant responsible authorities as they judge necessary, depending on the individual circumstances. However, we anticipate that LAs should need to consult one or perhaps two responsible authorities at most, and in some cases they will be able to come to a decision without seeking external advice. Any costs involved would therefore be small and recoverable through the fee paid by the applicant to the LA.			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups': Potential annual savings to all licence and certificate holders of £1.8m-£2.3m per year.
	One-off	Yrs	
	£0		
	Average Annual Benefit (excluding one-off)		
	£2.1m (£1.8m-£2.3m)		Total Benefit (PV)
Other key non-monetised benefits by 'main affected groups' Responsible authorities are currently consulted on all low risk, 'minor' variations. Under these proposals they would only be consulted on a small number of borderline minor variations, freeing resource for other priorities.			

Key Assumptions/Sensitivities/Risks: Estimates for numbers of variations that would fall into a minor variations process, costs and the proportion of variations that involve layout changes are based on information provided by stakeholders.

Price Base Year 2009	Time Period Years 10	Net Benefit Range (NPV) £15m - £19.1m	NET BENEFIT (NPV Best estimate) £17.5m
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What is the geographic coverage of the policy/option?	England and Wales
On what date will the policy be implemented?	Summer 2009
Which organisation(s) will enforce the policy?	Licensing Authorities
What is the total annual cost of enforcement for these organisations?	£ 0 (fees cover)
Does enforcement comply with Hampton principles?	Yes
Will implementation go beyond minimum EU requirements?	No

What is the value of the proposed offsetting measure per year?		£ n/a	
What is the value of changes in greenhouse gas emissions?		£ n/a	
Will the proposal have a significant impact on competition?		No	
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium
Are any of these organisations exempt?	No	No	N/A

Impact on Admin Burdens Baseline (2007 Prices)		(Increase - Decrease)
Increase of £0	Decrease of £2m	Net Impact -£2m

Key: Annual costs and benefits: Constant Prices (Net) Present Value

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

The legislative burden

Section 34 of the Licensing Act 2003 provides that the holder of a premises licence may apply to the relevant licensing authority for variation of the licence. A variation is required for any change to the licence including changes to any feature shown on the plan of the premises. The only exception is a variation to the licence to specify an individual as premises supervisor which is subject to a simplified notification process under section 37 of the Act.

We estimate that a significant proportion of small changes to licences carried out under the Licensing Act 2003 can be expected to have little or no impact on the licensing objectives (the prevention of crime and disorder, public safety, prevention of public nuisance and protection of children from harm). However, licence holders are currently required to go through the full variation process even when the risks to the licensing objectives are minimal. This means that there is an imbalance between compliance costs and the benefits in terms of risk reduction. Government intervention is needed to correct this imbalance by reducing compliance costs for small, low risk changes to licences.

The Government's proposal

The Government proposes that the 2003 Act is amended to make provision for a new 'Minor Variations' process. This would allow applicants to make small alterations to their licences for a lower fee and without having to advertise the variation in newspapers or copy it to all responsible authorities. This would result in:

- a significant reduction in the current administrative burden on licence holders
- an increase in the number of applicants submitting small changes to licences to the licensing authority. This should ensure that licensing (and other) authorities have up to date records of premises to inform their enforcement strategies.

Previous Policy Options and Consultations

The Government consulted on the following options from 31 November 2007 to 20 February 2008:

Option 1: Define a 'minor variation' as any change to a licence that will impact on the four licensing objectives. Give licensing authorities complete discretion within this broad definition, to decide what is or is not a minor variation, subject to statutory Guidance and consultation with responsible authorities (the police, etc) if necessary. Government's recommended option

Option 2: Restrict or remove licensing authority discretion by specifying what is, and/or is not, a minor variation on the face of the Act. Consult responsible authorities as necessary.

Option 3: No change

A majority of respondents to the consultation agreed with the Government's recommended option, but a minority preferred Option 2 or 3 due to concerns that applicants would use the minor variation process to make changes that would adversely impact on residents and others in the vicinity. There were particular concerns about the possibility of varying a licence to add the sale or supply of alcohol or to extend hours during which alcohol could be sold or supplied.

The Government took account of these concerns in the proposal consulted upon from 4 August to 1 September 2008:

To amend the Licensing Act 2003 to introduce a new process for 'minor variations to licences or club premises certificates. 'Minor variation' defined as any change to a licence that could not impact adversely on the four licensing objectives, with the following exclusions:

- the addition of the sale or supply of alcohol to a licence;
- the sale or supply of alcohol at any time between 11pm and 7am;
- and any increase in the amount of time on any day during which alcohol may be sold or supplied

With these exceptions, licensing authorities will have discretion within this broad definition to decide whether a variation is minor or subject to consultation with relevant responsible authorities and having regard to the statutory Guidance.

Revised Proposal in Response to Parliamentary Committee Reports:

The draft Order was laid on 8 December 2008. The House of Lords Delegated Powers and Regulatory Reform Committee and the House of Commons Regulatory Reform Committee were both concerned that it did not contain a mechanism whereby local people could make representations about the likely effect of the application. The revised draft Order addresses this issue. Applicants will be required to display a notice at the premises and interested parties will have an opportunity to make representations to the licensing authority.

Who is affected by the burden?

The DCMS Statistical Bulletin “Alcohol, Entertainment and Late Night Refreshment Licensing” (November 2007) includes figures for the numbers of applications to vary premises licences and club premises certificates in England and Wales during the period 1 April 2006 to 31 March 2007. Based on responses from 82% of licensing authorities there were 10,120 variation applications, which, if extrapolated to include the remaining 18% of authorities that did not provide responses, would give a total of approximately 12,000

These figures relate to a period soon after the Act came into force, so it follows that premises and clubs would be less likely to wish to vary the terms of their authorisations. This also explains why the statistics show a relatively high number of applications for new licences and certificates, 14,960 new applications based on responses from 82% of licensing authorities. Extrapolated to the 18% of authorities that did not respond, this gives a total of approximately 18,000 applications.

Following discussions with stakeholder groups and a focus group of ten licensing authorities, we know that many premises and clubs chose to apply for new licences and certificates instead of making applications to vary. This should not happen in future years because the revised statutory Guidance¹ issued in June 2007 now makes it clear that changes to existing licences and club certificates should be made through the variation process. Assuming around 20% of the 18,000 applications (3,600) for new licences and club certificates should have been variation applications, this gives us a revised total of 15,600 variation applications per year.

We can also assume a further increase in variation applications as a consequence of introducing the minor variations process. For instance, we are aware, from enforcement action by licensing authorities, that some licence holders have made changes to their licences without applying for a variation, perhaps deterred by the cost of the process. These licence holders are more likely to apply to vary under the simplified and cheaper minor variations process. Similarly, licence holders who may have previously applied for Temporary Event Notices as a cheaper alternative to changing their licences, will be more likely to apply for a minor variation. We estimate that this should result in an increase of around 4,000-5,000 variation applications per year.

We therefore estimate that in future years, there will be approximately **20,000 variation applications** per year across all licensing authorities.

To calculate the current burden we would then need to establish how many variation applications might fall within the broad outline of a minor variation as defined in the Government’s proposal below:

¹ Guidance issued under section 182 of the Licensing Act 2003.

Government proposal

To amend the Licensing Act 2003 to introduce a new process for 'minor variations to licences or club premises certificates. 'Minor variation' defined as any change to a licence that could impact adversely on the four licensing objectives, with the following exclusions:

- **the addition of the sale or supply of alcohol to a licence;**
- **the sale or supply of alcohol at any time between 11pm and 7am;**
- **and any increase in the amount of time on any day during which alcohol may be sold or supplied.**

Again, reliable estimates are not available and there is the further complication that many premises are simply choosing not to make variation applications for small changes due to the disproportionate costs involved. However, from discussions with stakeholder groups and licensing authorities we estimated in the partial impact assessment that accompanied the first round of consultation that approximately **30% of variations (6,000)** would be likely to be captured by a minor variations process if licensing authorities were given full discretion. We estimate that the exclusions set out above would reduce the total number of variations likely to be captured by the new process by 10% to 5,400. The involvement of residents in the process is likely to make the process less attractive to some applicants, resulting in a further 5% reduction in likely applications. This implies **5130 applications annually**.

This figure does not translate directly into numbers of businesses or clubs affected by the burden, because some premises may submit several applications to vary (e.g. if they are carrying out a major refit of a store). Indications from stakeholders are that such multiple applications would account for around 5% of current 'minor' variations. If the total was reduced by 5% to take account of multiple applications, it would still mean that **5079 premises per year** are affected by the burden.

The range of affected groups includes:

- pubs, bars, nightclubs, hotels, guesthouses and other premises licensed for the sale of alcohol on the premises;
- supermarkets, convenience stores and other premises licensed for the sale of alcohol off the premises;
- theatres, cinemas, live music venues other providers of regulated entertainment;
- takeaways, restaurants, cafes and other premises providing late night refreshments;
- voluntary bodies, such as charities, schools, village and community halls; and
- private members' clubs, such as sports, working mens', and political clubs.

The cost burden

Applicants wishing to vary a licence or certificate (with the exception of a variation to specify a premises supervisor) must:

- complete and send an application form with a copy of the licence or certificate, the original plan (and amended plan, if appropriate) to the relevant licensing authority (£15-£80²)
- pay a fee (£100-£1905, depending on the rateable value of the premises);
- copy all documents to up to nine responsible authorities (£20-£40);
- advertise the proposed change in a local newspaper/circular (£200-£400);
- display a brief summary of the application on an A4 size notice immediately on or outside the premises (£5-£10, although this would increase for larger premises required to display multiple notices).

The average cost of a variation (including fees, which are charged on the same basis as for a full licence application and average approximately £225 per premises) is estimated to be approximately **£610**. The average cost of a variation excluding fees is approximately **£385**.

However, the following additional costs may apply to some variations:

- supplying a revised plan of the premises (where applying for changes to layout) – £25-£500 (e.g. if the plan has to be professionally drawn)
- obtaining professional legal help – £100-£500 (although in a small number of cases, legal fees may be as high as £1500).

If these costs are added, the average cost of a variation could rise to £950 (excluding fees) or £1170 (including fees).

The range of possible costs for a variation (excluding fees) is therefore **£385 - £950**.

Based on approximately 5130 variation applications a year that are likely to be captured by the minor variations process, at the lower end administrative cost of £385 per application, this would result in an approximate annual burden of **£2m**. (Please note that all annual burdens in this Impact Assessment have been rounded to the nearest £0.1m.)

Revised plans are only required for variations involving changes to layout. Stakeholders estimate that approximately 70% of the 5130 variations likely to be classed as 'minor' under the new process (3,591) fall into this category

² Based on 1-5 hours of management time at an hourly cost of £16.23 (estimated from discussions with stakeholders).

and therefore incur these additional costs. At an average cost of £263 for a revised plan, this results in an annual burden of approximately **£0.9m**.

Similarly, not all applicants will seek legal help to complete a variation application. Discussions with stakeholders lead us to estimate that approximately half (2,565) of all 'minor' variations incur legal fees at an average cost of £300 per application, resulting in an additional annual burden on these applicants of **£0.8m**.

The range of the annual cost burden for variations (excluding fees), but including the cost of revised plans and legal fees as above for some applicants, is therefore **£2m-£3.7m³**.

Cost savings of a minor variations process

Administrative costs

Under the Government's proposal for a minor variations process as set out above there would be full cost savings in relation to:

- copying all documents to up to nine responsible authorities (£20 - £40) and;
- advertising the proposed change in a local newspaper/circular (£200-£400); and

At an average of £330 per application, excluding fees, across all 5130 minor variations this would deliver an annual cost saving of **£1.7m**.

Applicants would still have to complete an application form and send it to the relevant licensing authority, with a copy of the licence or certificate, the original plan (and amended plan, if appropriate). However, as the application form will be shorter and simpler, this is likely to be a less time consuming process than for a full variation. If we assume an average reduction in management time required to complete the process of 0-3 hours per application at an estimated cost of £16.23 per hour the average cost saving would be £24. Since this average cost saving will apply across all 5130 variations the approximate annual cost saving will be **£0.1m**.

This means that for the main administrative elements that relate to all applications, the approximate total annual cost savings would be **£1.8m**.

Legal costs

It is possible that an applicant who seeks legal help to apply for a relatively simple variation would still choose to do so for a minor variation application, even with a simpler form, thereby reducing the potential savings. If we estimate that about half of the estimated 2565 minor variations (1283) that currently involve legal fees would no longer do so, that would result in a cost saving of £300/application and a total cost saving of **£0.4m**.

³ Figures may not sum to the total due to rounding.

The remaining 1,283 minor variations would still incur legal costs. However, the scale of any legal fees will reflect the complexity of the application process and as such the more straightforward minor variation system should reduce costs. We estimate that legal costs for minor variations would be in the range £100-£300, with an average of £200, meaning an average cost saving per application involving legal help of £100, and an approximate annual cost saving of **£0.1m**.

The total annual cost savings for legal work would therefore be **£0.5m**.

This implies potential annual cost savings of £1.8m-£2.3m

Applicants may also benefit from the shorter timescale required to gain approval for a minor variation, but this would depend on the nature of the variation and is impossible to quantify.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	No	Yes
Small Firms Impact Test	No	Yes
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	Yes
Race Equality	No	Yes
Disability Equality	No	Yes
Gender Equality	No	Yes
Human Rights	No	No
Rural Proofing	No	Yes

Annexes

Department for Culture, Media and Sport: Equality Impact Assessment – Initial Screening

Section	Notes
<p>1. Name of the function/policy to be assessed:</p> <p>Proposed Legislative Reform Order to make provision for a new ‘minor’ variations process to allow applicants to make small alterations to licences and certificates under the Licensing Act 2003 through a low cost and streamlined process.</p>	
<p>1. What is the aim, objective or purpose of the policy?</p> <p>The policy objective is to amend the Licensing Act 2003 to introduce a simplified, fast track process for making small, low risk changes to licences.</p> <p>The intended effects are a significant reduction in the current administrative burden on licence holders, and an increase in the number of applicants submitting small changes to licences to the licensing authority. This should ensure that licensing (and other) authorities have up to date records of premises to inform their enforcement strategies.</p>	
<p>3. What are the intended outcomes?</p> <p>An amendment to the Licensing Act providing a simplified and lower cost mechanism for making small changes to premises licences and club premises certificates.</p> <p>A revision to the statutory Guidance to licensing authorities to reflect this new regulatory process.</p>	<p><i>Consider:</i></p> <ul style="list-style-type: none"> • <i>How will you monitor progress towards these outcomes?</i> • <i>Do the outcomes support or hinder other policies, values or objectives within the Department?</i> • <i>If they hinder other work is this justifiable?</i>
<p>4. Who are the key stakeholders?</p> <p>Those who represent premises licence holders (including pubs, nightclubs, hotels, supermarkets, convenience stores, theatres, cinemas, live music venues, takeaways, restaurants, and village halls) and club premises certificate holders (including sports, working men’s, and political clubs), the licensing authorities as administrators of the regime, those involved in enforcement activity such as the police and other responsible authorities, and others with interest in the impact of the proposals on the licensing objectives such as residents.</p>	<ul style="list-style-type: none"> • <i>Who are the groups/individuals likely to be affected by the function or policy?</i> • <i>Who else might have a significant interest in the implementation of this policy?</i> • <i>Who else might have knowledge of the impact or potential impact of the</i>

	<i>policy or function?</i>
<p>5. Is the aim of the policy or any of its intended outcomes designed specifically to meet the Public Duties, for example to:</p> <ul style="list-style-type: none"> ➤ Eliminate discrimination? ➤ Promote equality of opportunity? ➤ Promote good relations between different groups? <p>No</p> <p><i>[Most functions, policies and practices will not be designed specifically to meet the Public Duties. You need only answer 'yes' if the specific intent of the function, policy or practice is to meet the public duties. Otherwise, move on to section 6]</i></p>	<ul style="list-style-type: none"> • <i>For example, a policy that has the aim of preventing harassment and bullying</i> • <i>If the answer is YES to any of the questions, then you are required to proceed to a full impact assessment. You should turn to section 13, though please note that sections 7-12 will help you to conduct a full assessment</i>
<p>6. Does the function or policy involve or have consequences for members of the public or staff employed by the Department?</p> <p>Yes</p>	<ul style="list-style-type: none"> • <i>If the answer is YES proceed to section 7</i> • <i>If the answer is NO list the evidence or other justification opposite or on an attached sheet that identifies why the function or policy has <u>no</u> consequences for members of the public or for staff employed by the Department</i> • <i>If the evidence that you have indicates that there is <u>no</u> impact or likely impact you do not need to conduct an impact assessment <u>but</u> you do need to monitor the implementation of the policy over time to ensure that there continues to be no impact on people. At a minimum this should be every three years</i> • <i>If you are sure the answer is NO, proceed to sections 13 and 14</i>
<p>7. Is there any evidence that tells you how the function or policy is working or is intended to work for the intended stakeholders?</p> <p>Yes</p> <p>Feedback from a range of stakeholders suggests that there is currently an unnecessary burden on those wishing to make small changes to their premises licence or club premises certificate, which do not impact in any way on the licensing objectives. The proposals are designed to reduce the burdens</p>	<ul style="list-style-type: none"> • <i>If you have <u>no</u> evidence available, then you will not be able to assess if the policy is relevant to equality</i> • <i>You will need to gather evidence about the effects of the policy on</i>

<p>involved in making such application whilst still retaining the licensing objectives as the key protection built into the system.</p>	<p><i>stakeholders. (Please refer to section 2 of the guidance notes on gathering evidence)</i></p> <ul style="list-style-type: none"> <i>You should also consider consulting with stakeholder groups and involving disabled people at this stage (Please refer to section 5 on consulting and involving)</i> <i>When you have gathered evidence of the effects of the policy on the intended stakeholders, you can then proceed with the initial screening</i> <i>You should ensure that the actions necessary to collect the evidence are identified in an action plan</i>
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<p>1. From the available evidence, is there any reason to believe that people are affected differently or are likely to be affected differently according to any of the listed equality strands, for example, because they have different needs or priorities?</p> <table border="1" data-bbox="240 1153 1120 1579"> <thead> <tr> <th></th> <th>Yes</th> <th>No</th> <th>Not Known</th> </tr> </thead> <tbody> <tr> <td>Age</td> <td></td> <td>X</td> <td></td> </tr> <tr> <td>Disability</td> <td></td> <td>X</td> <td></td> </tr> <tr> <td>Gender</td> <td></td> <td>X</td> <td></td> </tr> <tr> <td>Race</td> <td></td> <td>X</td> <td></td> </tr> <tr> <td>Religion or Belief</td> <td></td> <td>X</td> <td></td> </tr> <tr> <td>Sexual Orientation</td> <td></td> <td>X</td> <td></td> </tr> </tbody> </table> <p>Please summarise what the evidence shows and attach the evidence more fully to this screening document or reference where the evidence is available</p> <p>None of the feedback received from stakeholders indicates that the proposed regulatory change is likely to affect any of the above equality strands any differently.</p>		Yes	No	Not Known	Age		X		Disability		X		Gender		X		Race		X		Religion or Belief		X		Sexual Orientation		X		<ul style="list-style-type: none"> <i>If the answer to any of these questions is Yes for any of the strands, you will need to proceed to a full impact assessment. In which case, proceed to section 13, though please note that sections 9-12 will help you to conduct a full assessment</i> <i>If the answer is No and the evidence supports this, proceed to section 9</i> <i>If your evidence is not enabling you to identify the impact on different groups, you will need to gather more evidence that allows you to do this. Refer back to section 7 above</i>
	Yes	No	Not Known																										
Age		X																											
Disability		X																											
Gender		X																											
Race		X																											
Religion or Belief		X																											
Sexual Orientation		X																											

<p>2. Is there any evidence that the function or policy in any way discriminates or might discriminate unlawfully, directly or indirectly against people from any of the listed strands, for example, in terms of access to a service, or the ability to</p>	<ul style="list-style-type: none"> <i>If the answer to any of these questions is Yes for any of the strands, you will need to proceed to a full impact</i>
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take advantage of an opportunity?			
	Yes	No	Not Known
Age		X	
Disability		X	
Gender		X	
Race		X	
Religion or Belief		X	
Sexual Orientation		X	

Please summarise what the evidence shows and attach the evidence more fully to this screening document or reference where the evidence is available

None of the feedback received from stakeholders indicates that the proposed regulatory change will discriminate against people in the listed strands.

assessment. In which case, proceed to section 13, though please note that sections 10-12 will help you to conduct a full assessment

- *If the answer is **No** and the evidence supports this, proceed to section 10*
- *If your evidence is not enabling you to identify the impact on different groups, you will need to gather more evidence that allows you to do this. Refer back to section 7 above*

3. Is there any evidence that people from the groups covered by the listed strands have or may have different expectations of the function or policy in questions?

	Yes	No	Not Known
Age		X	
Disability		X	
Gender		X	
Race		X	
Religion or Belief		X	
Sexual Orientation		X	

Please summarise what the evidence shows and attach the evidence more fully to this screening document or reference where the evidence is available

None of the feedback received from stakeholders indicates that any of the above groups will have different expectations of the proposed regulatory change.

- *If the answer to any of these questions is **Yes** for any of the strands, you will need to proceed to a full impact assessment. In which case, proceed to section 13, though please note that sections 11-12 will help you to conduct a full assessment*
- *If the answer is **No** and the evidence supports this, proceed to section 11*
- *If your evidence is not enabling you to identify the impact on different groups, you will need to gather more evidence that allows you to do this. Refer back to section 7 above*

4. Is there any evidence that the function or policy affects or might affect relations between groups covered by the listed strands, for example is it, or might it, be seen as favouring a particular group or denying opportunities to another?

- *If the answer to any of these questions is **Yes** for any of the strands, you will need to proceed to a full impact assessment. In which case, proceed to section 13,*

	Yes	No	Not Known	<p><i>though please note that sections 12 will help you to conduct a full assessment</i></p> <ul style="list-style-type: none"> <i>If the answer is No and the evidence supports this, proceed to section 12</i> <i>If your evidence is not enabling you to identify the impact on different groups, you will need to gather more evidence that allows you to do this. Refer back to section 7 above</i> 																												
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<p>5. Have previous consultations with relevant stakeholder groups or individuals indicated that policies <u>of this type</u> create exclusion or hold specific challenges for any of the listed groups?</p> <table border="1"> <tr> <td></td> <td>Yes</td> <td>No</td> <td>Not Known</td> </tr> <tr> <td>Age</td> <td></td> <td>X</td> <td></td> </tr> <tr> <td>Disability</td> <td></td> <td>X</td> <td></td> </tr> <tr> <td>Gender</td> <td></td> <td>X</td> <td></td> </tr> <tr> <td>Race</td> <td></td> <td>X</td> <td></td> </tr> <tr> <td>Religion or Belief</td> <td></td> <td>X</td> <td></td> </tr> <tr> <td>Sexual Orientation</td> <td></td> <td>X</td> <td></td> </tr> </table> <p>Please summarise what the evidence shows and attach the evidence more fully to this screening document or reference where the evidence is available</p> <p>None of the feedback received from stakeholders indicates that this policy will create exclusions or hold specific challenges for any of the listed groups.</p>					Yes	No	Not Known	Age		X		Disability		X		Gender		X		Race		X		Religion or Belief		X		Sexual Orientation		X		<ul style="list-style-type: none"> <i>If the answer to any of these questions is Yes for any of the strands, you will need to proceed to a full impact assessment. In which case, proceed to section 13</i> <i>If the answer is No and the evidence supports this, proceed to section 13</i> <i>If your evidence is not enabling you to identify the impact on different groups, you will need to gather more evidence that allows you to do this. Refer back to section 7 above</i>
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Religion or Belief		X																														
Sexual Orientation		X																														

<p>13. Is a full impact assessment required?</p> <p>No</p> <p>We do not believe that the proposed regulatory change will affect any of the groups under the listed strands in a different way.</p>	<ul style="list-style-type: none"> <i>If the answer is NO please use the space opposite to summarise why and attach any further supporting evidence</i> <i>If the answer is YES you will need to arrange to carry out a full impact assessment</i>
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	<ul style="list-style-type: none"> <i>Please note that the information that you have already identified in this initial screening will be valuable to you in carrying out the full impact assessment</i>
<p>14. If a full impact assessment is not required, please indicate the plans to monitor the implementation of this policy over the next three years.</p> <p>We will check with key stakeholders whether the statement in section 13 is still correct 12 months after the regulatory change (subject to Parliament) is enacted.</p>	
15. Please return a copy of this form to:	
Name: Amanda Stevens	
Unit/Directorate: Licensing Team/Industry Directorate	
Date: 04/08/2009	

Competition Assessment

We do not believe that the proposed policy is likely to raise any competition concerns. It will be for a premises or club to decide whether to apply for a minor variation and there would be no restriction to a particular type of premises or club, so to that extent the proposals apply equally to all premises. Therefore, it will not directly or indirectly limit the number or range of suppliers, limit the ability of suppliers to compete or reduce suppliers' incentives to compete vigorously.

Small firms impact test

Since these proposals will impact equally on all premises, merely altering the mechanism by which a minor variation is made, we do not believe there is likely to be a significant impact on small businesses. Where these proposals affect small businesses, the impact will be to reduce burden and allowing greater flexibility in business operation. The stakeholder group set up to advise us on these proposals includes a wide range of bodies representing small businesses, including the Federation of Small Businesses, Association of Convenience Stores, Cinema Exhibitors Association, British Retail Consortium, Business in Sport and Leisure, British Beer and Pub Association, Musicians Union, Bar Entertainment and Dance Association, and Committee of Registered Clubs Associations. None of these groups have advised us of any adverse impact of the proposals on small businesses.

Rural Proofing

Action with Communities in Rural England (ACRE) is a member of our stakeholder group and has not raised any concerns about the impact of these proposals on rural communities.

Health Impact Assessment Screening

We have undertaken a screening process to determine whether this policy needs a full health impact assessment. The proposal only potentially changes the process through which a variation may be made for certain low risk variations which will not impact on the licensing objectives (which include the prevention of crime and disorder and public nuisance) which would otherwise be granted without any difficulty. Since it does not otherwise change any other element of licensing policy, we do not believe that a health impact assessment is required.

We have considered that the policy will not have:

- **a significant impact on human health by virtue of its effects on the following wider determinants of health:** Income, Crime, Environment, Transport, Housing, Education, Employment, Agriculture or Social cohesion.
- **a significant impact on any of the following lifestyle related variables:** Physical activity, Diet, Smoking, drugs, or alcohol use, Sexual behaviour, Accidents and stress at home or work.
- **a significant demand on any of the following health and social care services:** Primary care, Community services, Hospital care, Need for medicines, Accident or emergency attendances, Social services, Health protection and preparedness response