



Department
for Culture
Media & Sport

The Legislative Reform (Entertainment Licensing) Order 2014

Explanatory Document

July 2014

Presented to Parliament pursuant to Section 14(1) of the Legislative and Regulatory Reform Act
2006

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Chapter 1: Introduction

- 1.1 This explanatory document is laid before Parliament in accordance with section 14 of the Legislative and Regulatory Reform Act 2006 (“LRRRA”) together with the proposed Legislative Reform (Entertainment Licensing) Order 2014 (“the draft Order”) which we seek to make under section 1 of that Act.
- 1.2 The LRO will amend Schedule 1 and section 177A of the Licensing Act 2003 (“the 2003 Act”) to deregulate certain types of regulated entertainment in defined circumstances, as summarised below.

Cross-activity exemption

The provision of regulated entertainment by or on behalf of local authorities, health care providers, or schools on their own defined premises will be exempt from entertainment licensing between 08.00-23.00 on the same day, with no audience limit. See Chapter 4.

Live music in relevant alcohol licensed premises and workplaces

The audience limit for a performance of live amplified music in relevant alcohol licensed premises or in a workplace between 08.00-23.00 on the same day will be raised from 200 to 500. See Chapter 5.

Recorded music in relevant alcohol licensed premises

Any playing of recorded music in relevant alcohol licensed premises will be deregulated (on a conditional basis) when it takes place between 08:00-23:00 on the same day for audiences of up to 500. See Chapter 6.

Live and recorded music exemptions

- Local authorities, health care providers and schools will be exempt from entertainment licensing when making their own defined premises available to third parties for live and recorded music activities between 08:00-23:00 on the same day for audiences of up to 500.
- Community premises not licensed to supply alcohol will be exempt from entertainment licensing requirements for live and recorded music between 08:00-23:00 on the same day for audiences of up to 500. See Chapter 7.

Travelling circuses

Travelling circuses will be exempt from entertainment licensing in respect of all descriptions of entertainment, except an exhibition of a film or a boxing or wrestling entertainment, where the entertainment or sport takes place between 08:00-23:00 on the same day, with no audience limit. See Chapter 8.

Greco-Roman and freestyle wrestling

Greco-Roman and freestyle wrestling will be deregulated between 08:00-23:00 for audiences of up to 1000 people. See Chapter 9.

Incidental film

An exhibition of film that is incidental to another activity (where that other activity is not itself a description of entertainment set out in paragraph 2 of Schedule 1 to the 2003 Act) is exempt from licensing. See Chapter 10.

Chapter 2: Background to the LRO

Licensing regime

- 2.1 The Licensing Act 2003 ('2003 Act') established a unified system of regulation for the sale and supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment. Licensing authorities are primarily responsible for the implementation of this statutory regime; for example, by considering applications for an authorisation (i.e. a premises licence, club premises certificate or a submitted temporary event notice (TEN¹)).
- 2.2 The way in which licensing authorities regulate the licensable activities must promote the following licensing objectives:
- the prevention of crime and disorder;
 - public safety;
 - the prevention of public nuisance; and
 - the protection of children from harm.
- 2.3 Licensing authorities may attach conditions to authorisations. These conditions can be included on a licence at time of grant (e.g. volunteered by the applicant), imposed by the licensing authority as part of an application to vary a licence, or imposed by the licensing authority as part of a licence review. Conditions play an important part in ensuring a 'contract' between a licensing authority and licensee, and help to establish the context in which licensed premises can operate, and the standards to which those premises will be held.²

¹ Temporary event notices are explained in Chapter 7 of the Guidance to Licensing Authorities <https://www.gov.uk/government/publications/revised-guidance-issued-under-section-182-of-the-licensing-act-2003>

² Licence reviews are explained in Chapter 11 of the Guidance to Licensing Authorities <https://www.gov.uk/government/publications/revised-guidance-issued-under-section-182-of-the-licensing-act-2003>

2.4 Licence reviews play an important role in the controls process. Reviews give licensing authorities (and others) powers to address problems, and can be triggered by complaints from local residents or businesses – ensuring appropriate local representation in the decision making processes – or by representations from relevant authorities, such as the police or the licensing authority itself. For a licensee, a licence review is a very serious issue, and failure to comply with the law could lead to closure of premises, as well as a fine and/or a prison sentence³.

Entertainment licensing

2.5 Descriptions of various entertainment activities licensable under the 2003 Act are set out in Schedule 1 to that Act, namely:

- a performance of a play means a performance of any dramatic piece, whether involving improvisation or not, (a) which is given wholly or in part by one or more persons actually present and performing, and (b) in which the whole or a major proportion of what is done by the person or persons performing, whether by way of speech, singing or action, involves the playing of a role;
- an exhibition of a film means any exhibition of moving pictures;
- an indoor sporting event means a sporting event (a) which takes place wholly inside a building, and (b) at which the spectators present at the event are accommodated wholly inside that building. The terms “building”, “sporting event” and “sport” are separately defined;
- a boxing or wrestling entertainment (both indoors and outdoors) means any contest, exhibition or display of boxing or wrestling, or which combines boxing or wrestling with one or more martial arts;
- a performance of live music;
- any playing of recorded music;
- a performance of dance; and
- entertainment of a similar description to a performance of live music, any playing of recorded music or a performance of dance.

³ Licensing authorities are responsible for administering the Licensing Act 2003. This includes issuing licences and enforcing the conditions of the licence, often working with the police.

- 2.6 More generally, to be licensable, one or more of these activities needs to be provided for the purpose (at least partly) of entertaining an audience; has to be held on premises made available for the purpose of enabling that activity; and must also either:
- take place in the presence of a public audience, or
 - where that activity takes place in private, be the subject of a charge made with a view to profit.

2011 consultation

- 2.7 In “The Plan for Growth”⁴ published alongside the Budget in 2011, the Government announced that it intended to reduce the licensing burden for live music performance and bring forward proposals to reduce licensing burdens imposed on other forms of entertainment regulated by the 2003 Act.
- 2.8 In September 2011, the Department issued a policy consultation that sought views on a proposal to remove licensing requirements in England and Wales for “regulated entertainment”⁵. In launching the consultation, the Government took the view that the 2003 Act had been a missed opportunity to reform the regime for “regulated entertainment”. Rather than enabling entertainment activities, the regime brought in with the 2003 Act had either aped previous licensing regimes or brought events into the regime regardless of the actual threat posed by an individual event to the licensing objectives. The Department was also responding to representations about the negative impact which the 2003 Act had had on the cultural and voluntary sectors and on commercial organisations, in terms of bringing in costly and bureaucratic processes for lower risk events (e.g. school productions, music performances to hospital patients, circuses and brass bands playing in the local park).
- 2.9 The 2011 consultation was predicated on the view that where entertainment activities occur in conjunction with alcohol sale or supply, it is the presence of alcohol that is generally responsible for any increased threat to the licensing objectives. The Department was seeking views as to whether the requirement for entertainment to be licensed where alcohol is neither sold nor supplied – a significant proportion of activities – was likely to be disproportionate to the risk of harm under the licensing objectives.

4

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/221514/2011budget_growth.pdf

5

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/72904/consultation_deregulation-scheduleone_2011_vs2.pdf

2.10 The 2011 consultation set out a broad canvas, with a central proposal to remove from the definition of “regulated entertainment” events for audiences of fewer than 5,000 people, where the entertainment was a performance of live music, a play, or dance, an exhibition of a film (provided age classification safeguards could be retained), an indoor sporting event, or any playing of recorded music. The consultation asked detailed questions as to risks around four main variables:

- audience size;
- performance end time limitations;
- venue; and
- other controls for individual activities.

2.11 The Department received around 1350 responses. The responses provided the Department with evidence that there was support for a proportionate reform of the licensing regime, but only one that scaled back the central deregulation proposal in the consultation, substituting lower audience limits and performance cut-off times.

Proportionate deregulation

2.12 After due consideration of the consultation responses, the Department announced a set of deregulatory measures to Parliament on 7 January 2013, and published a consultation response document⁶.

2.13 In responding to the consultation, local government, police and the emergency services had generally felt that a limit of 5,000 people was not tenable as a means of promoting public safety and the prevention of public nuisance as licensing objectives. The Government listened and agreed that, especially on public safety grounds, an audience number of 500 was a more suitable general upper limit for deregulation of premises providing entertainment. Some respondents would have wanted this audience figure to be lower and others would have wanted it to be higher, but the Department considers that it has struck the right balance between the management of risk (accepting that an event cannot involve zero risk) and appreciating the burden that a regulatory regime imposes on businesses and community groups who wish to provide lower risk entertainment.

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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/105725/Con_entertainment_dereg_response.pdf

2.14 By setting the limit at 500 people, there was also a read-across to the 499 audience upper limit for an event authorised by a TEN, which has generally been regarded by local authorities and the emergency services as an appropriate audience ceiling figure for the light touch process of authorising temporary activities. By deciding to deregulate for audiences of not more than 500 people, the Department was also conscious that it could be removing many ‘one-off’ temporary activities from the TENs regime and its fees⁷. The Department also took the view that, in line with other night-time environmental protection regimes, 23:00 was a suitable end-time, after which deregulation should not generally apply.

Implementation

- 2.15 The Department is implementing the set of deregulatory measures, under Red Tape Challenge, through changes to legislation in four phases.
1. The Live Music Act (“LMA”) 2012 conditionally deregulated live music in certain venues and circumstances (see Chapter 5)⁸.
 2. The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013 (“2013 Order”) partially deregulated plays, dance and indoor sporting events, and came into force on 27 June 2013⁹.
 3. Clause 58 in the Deregulation Bill as introduced to the House of Lords (see Chapter 10)¹⁰ seeks to deregulate the exhibition of film in community premises.
 4. This LRO will amend the 2003 Act using the powers in the LRA as described in this Explanatory Document.

⁷ In 2012/13, 122,195 valid TENs were given to licensing authorities by a variety of businesses and not-for-profit groups to authorise the carrying on of licensable activities on an occasional basis, with 775 counter notices given following objection (0.63%).

⁸ The Live Music Act can be found here: <http://www.legislation.gov.uk/ukpga/2012/2/contents/enacted>

⁹ The 2013 Order and related explanatory material can be found here:
<http://www.legislation.gov.uk/uksi/2013/1578/contents/made>

¹⁰ <http://services.parliament.uk/bills/2013-14/deregulation.html>

2.16 As a result of amendments to the 2003 Act by the LMA and the 2013 Order, no licence is required for the following activities to the extent that they take place between 08:00-23:00 on any day:

- a performance of a play in the presence of any audience of no more than 500 people;
- an indoor sporting event in the presence of any audience of no more than 1,000 people;
- a performance of dance in the presence of any audience of no more than 500 people; and
- live music, where the live music comprises:
 - a performance of unamplified live music;
 - a performance of live amplified music in a workplace¹¹ with an audience of no more than 200 people; or
 - a performance of live music on relevant alcohol licensed premises¹² which takes place in the presence of an audience of no more than 200 people, at a time when the premises are open for the purpose of being used for the supply of alcohol for consumption¹³.

This LRO

2.17 The LRO addresses concerns that the licensing framework established by the 2003 imposed unnecessary burdens on some providers of lower risk entertainment. The introduction of a range of targeted exemptions to the licensing regime, contingent on the satisfaction of clear and important conditions, will result in the reduction of these burdens. The burdens include financial cost (including the possible cost of an authorisation under the 2003 Act) and administrative inconvenience.

2.18 Chapters 4-10 provide a detailed explanation of the policy and operational context of the provisions of the LRO.

¹¹ Other than a workplace which is already licensed under the 2003 Act, or is licensed only for the provision of late night refreshment.

¹² 'relevant alcohol licensed premises' refers to premises which are authorised to sell or supply alcohol for consumption on the premises by a premises licence or club premises certificate. See Chapters 5 and 6.

¹³ A detailed explanation of the implications for a performance of live music is in Chapter 15 of the Guidance to licensing authorities that can be found here: <https://www.gov.uk/government/publications/revised-guidance-issued-under-section-182-of-the-licensing-act-2003>

Licensing fee implications

- 2.19 A consultation on fees under the 2003 Act ran until 10 April 2014¹⁴. The Government said in the consultation that it intended to align the introduction of locally-set fee levels at the local level with the coming into force of the deregulatory changes in this LRO, so that operators whose activities are set to be de-regulated (subject to Parliamentary approval) will not be subject to locally-set fees in the interim. The consultation also proposed a single national payment date for annual fees, as opposed to the anniversary of the date on which the licence or certificate was granted. Post-consultation, the Government will set out any transitional measures that apply for holders of premises licences in relation to fees and deregulation.

¹⁴ <https://www.gov.uk/government/consultations/locally-set-licensing-fees>

Chapter 3: Duties of the Minister

Consultation

- 3.1 The Minister for Sport, Tourism and Equalities, and her predecessors considered, approved and published two public consultation documents relating to this proposal. Launched in September 2011, the first concerned the broad policy:

*'Regulated Entertainment: A Consultation proposal to examine the deregulation of Schedule One of the Licensing Act 2003'*¹⁵

The second consultation was more focused on what specific deregulatory proposals could be taken forward by way of a legislative reform order:

'Consultation on a proposal to use a Legislative Reform Order to make changes to entertainment licensing'

- 3.2 This second consultation document was issued in the name of the Parliamentary Under Secretary of State for Sport & Equalities on 22 October 2013. The consultation ran for 8 weeks and closed on 17 December 2013 and did not contain a draft LRO.¹⁶ An 8-week consultation period was sufficient as it built on the 2011 consultation, which ran for 12 weeks. Copies of the consultation were distributed to stakeholders in England and Wales (see Annex A) and the Parliamentary Committees. The Minister considered the consultation responses and concluded that the proposals should be implemented, subject to the revisions described in this document.

Consultation responses

- 3.3 The draft LRO has been prepared taking into account eighty-nine consultation responses that were received up to 21 January (see Chapter 11). A list of respondents is at Annex B.

¹⁵ <https://www.gov.uk/government/consultations/consultation-on-proposal-to-examine-the-deregulation-of-schedule-one-of-the-licensing-act-2003>

¹⁶ <https://www.gov.uk/government/consultations/legislative-reform-order-changes-to-entertainment-licensing>

Removal of burdens

- 3.4 The LRO will reduce the regulatory burden of the 2003 Act so that certain entertainment activities in defined circumstances no longer require a licensing authority to have granted an authorisation before they can take place. The Minister considers it appropriate to use the order making powers in section 1 of the LRRRA, for the purpose of “*removing or reducing any burden, or the overall burdens, resulting directly or indirectly for any person from any legislation*”.

Parliamentary procedure

- 3.5 The Minister recommends that the affirmative resolution procedure apply to this LRO, as its purpose is to implement a deregulatory policy for entertainment licensing that has been carefully considered and revised as a result of full and open public consultations. When conducted on appropriate premises by responsible persons and bodies in defined and limited circumstances, the entertainment activities set out in this LRO are appropriate for deregulation because of the lower risk they pose.
- 3.6 The Minister is laying before Parliament the documents required by section 14(1) of the LRRRA¹⁷. The Minister is satisfied that the draft LRO serves the purpose set out in section 1(2) of that Act, and that the conditions in section 3(2) are satisfied in relation to that provision. A Pre-consolidated Text for the Licensing Act 2003, as amended by the draft Legislative Reform (Entertainment Licensing) Order 2014 (the Keeling schedule) is at Annex E.

Preconditions

(i) The policy objective intended to be secured by the provision could not be satisfactorily secured by non-legislative means

- 3.7 The Minister considers that a non-legislative solution could not achieve the policy objectives described in Chapters 4-10. Existing powers in the 2003 Act permit Ministers to add, delete or modify the descriptions of activities listed in paragraph 2 of Schedule 1 to the 2003 Act by means of secondary legislation. The Government has already used these powers to the fullest extent possible to pursue entertainment licensing deregulation¹⁸. The powers are not broad enough to allow Ministers to introduce new exemptions or amend existing exemptions by means of an order. Consequently, the changes that were consulted on would require primary legislation if they could not be implemented by way of a LRO¹⁹.

¹⁷ The draft order, together with an explanatory document.

¹⁸ The 2013 Order (see paragraph 2.15), which made amendments to the 2003 Act so as to deregulate plays, dance and indoor sport in certain circumstances.

¹⁹ The Deregulation Bill before Parliament includes a clause to deregulate an exhibition of film in community premises in certain circumstances.

(ii) The effect of the provision is proportionate to the policy objective

- 3.8 The Minister considers that this LRO balances freedoms and risk in a precise and targeted manner that will bring proportionality back to entertainment licensing. The LRO will remove unnecessary burdens arising from the 2003 Act for the **lower risk entertainment activities** set out in Chapters 4-10, but retain existing licensing controls for alcohol and for activities and events that pose a greater threat to the licensing objectives. Unnecessary licensing burdens hamper cultural and community creativity and prevent businesses (especially small businesses) from diversifying due to the time and trouble involved in cost-consuming licensing administration. Deregulation through the LRO is expected over time to lead to an increase in attendance at live entertainment, providing a further boost to the cultural and creative industries, as well as significant enjoyment and social benefit for the general population.
- 3.9 The expected costs and benefits are set out in the accompanying Impact Assessment (Annex C). The main monetised benefits of deregulation are produced from reduced business and third sector organisation cost burdens relating to licences and TENs, amounting to £5.9m and £3.8m respectively over the appraisal period. There are additional benefits to local authorities that would otherwise have to process some licence applications without a fee being due from some applicants. This amounts to at least £7.0m over the appraisal period.
- 3.10 In the Impact Assessment, an illustrative increase in costs has been assumed to “stress test” the benefit side of the deregulation using a “worst case” scenario. This is modelled in two potential cost areas. First, a 5% increase in existing noise complaints recorded by the Chartered Institute of Environmental Health, with impacts on households and local authorities estimated on the basis of DEFRA guidance at a cost of £0.4m and £0.8m respectively over the appraisal period. Second, a 10% increase in existing licence reviews recorded by licensing statistics, with local authority information on impact showing a cost of £0.5m over the appraisal period. It is important to note that the monetised benefits of deregulation more than offset the “worst case” cost estimate to local authorities, meaning that there is no increase in new burdens.

(iii) The provision, taken as a whole, strikes a fair balance between the public interest and the interests of any person adversely affected by it

- 3.11 The Minister considers that this LRO strikes a fair balance between the wider public interest and potential impacts on individual citizens. It became clear during both the 2011 and 2013 consultations that concerns about fair balance are concentrated on the provisions for live and recorded music. The LRO seeks to strike the right balance on music entertainment between those who welcome it, and those who have concerns about noise nuisance.

Live Music

- 3.12 The Government wishes to use a LRO to fulfil pledges in the Coalition Agreement²⁰ and Plan For Growth²¹ to cut red tape to encourage the performance of more live music. The LRO will do this by raising the permitted audience limit for a performance of live music from 200 to 500 to bring it more into line with the deregulated audience limits for most other entertainment activities and the audience cut-off point for temporary events. The Government considers that this higher audience limit will achieve a fair balance between promoting creativity and the sustainability of live music entertainment and protecting local communities from unwanted noise nuisance. To assist with scrutiny of this higher audience limit, an early Post-Implementation Review (PIR) of the Live Music Act 2012 (“LMA”) has been undertaken. As might be expected, the findings are inconclusive because insufficient time has elapsed since implementation²². But the limited evidence to date suggests that attendance at live music performances has remained constant, although anecdotal evidence from music stakeholders indicates an overall beneficial effect, without any negative impact on the licensing objectives.

Recorded music

- 3.13 The Government will mirror the conditional deregulation that applies to live music in relevant alcohol licensed premises, but will not deregulate recorded music in workplaces because the Government agrees with stakeholders that the risks to the licensing objectives are higher. The equipment needed for a recorded music event is usually more portable and easier to set up than for a live music event, and recorded music events have in the past been more prone to noise and public order problems from unscrupulous operators (e.g. pop-up parties/raves in unoccupied property). The policy is therefore to deregulate the playing of recorded music only in relevant premises already subject to the licensing regime by virtue of an alcohol licence, or where the recorded music is on local authority, school, hospital or community premises. The Minister considers that the playing of recorded music in all such circumstances is of a much lower order of risk. The qualitative risk assessment for noise issues forms part of the overall Impact Assessment set out in Annex C.

²⁰

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/78977/coalition_programme_for_government.pdf

²¹

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/221514/2011budget_growth.pdf

²² The Post Implementation Review was published on 9 July 2014 and is available here

<https://www.gov.uk/entertainment-licensing-changes-under-the-live-music-act> It has been validated by the Regulatory Policy Committee.

3.14 Even if the playing of recorded music is no longer licensable entertainment in certain circumstances, any substantive problems with entertainment noise nuisance can still be dealt with by local authorities under the statutory nuisance regime. However, as recorded music was a key area of concern raised in the 2011 consultation, the Government has ensured that (as set out in Chapter 6 and commented on by those responding to the 2013 consultation) the sanction of a licence review will apply to pubs and clubs to ensure that instances of public nuisance can be tackled. This means that the deregulation brought in by the LMA (and now to be extended to recorded music) is conditional. Following a licence review, recorded music in pubs and clubs can be made subject to licence conditions to ensure that the promotion of the licensing objectives is addressed. One additional effect of imposing licence conditions in this way is that the venue can no longer benefit from the exemption for recorded music in alcohol licensed premises.

(iv) The provision does not remove any necessary protection

3.15 The Minister takes the view that the LRO does not remove any necessary protections. This is because:

- **Key safeguards will continue to remain in place.** This LRO makes no changes to protections already in place in respect of alcohol licensing and night-time regulated entertainment (23:00-08:00hrs). The measures in the LRO are only concerned with lower risk activities as borne out by consultation. The LRO does not amend primary legislation in relation to a performance of dance that is sexual in nature²³. Local Authorities can currently implement ‘Designated Public Place Orders’ (DPPOs – also known as Alcohol Control Areas) to give the police discretionary powers to require a person to stop drinking and to confiscate containers of alcohol in public places. DPPOs are shortly to be replaced by Public Spaces Protection Orders under Part 4, Chapter 2 of the Anti-social Behaviour, Crime and Policing Act 2014 (“the 2014 Act”). These new orders will provide an enhanced level of protection to local communities, above and beyond the current alcohol restrictions available, allowing local agencies to act quickly where the quality of life of those nearby is being adversely affected by unreasonable behaviour. In addition the 2014 Act will also give councils and the police more flexible powers to deal with anti-social behaviour including a Community Protection Notice, a new police dispersal power, an even more effective premises closure power and new court injunctions. This is in addition to the considerable powers already available to the police under the Criminal Justice and Public Order Act 1994 to remove persons attending or preparing for a rave and seize and remove sound equipment or vehicles.

²³ Defined as “relevant entertainment” within the meaning of paragraph 2A of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. Home Office Guidance is available at: <http://webarchive.nationalarchives.gov.uk/20100413151441/http://crimereduction.homeoffice.gov.uk/crimereduction057a.pdf>

- Any person who organises or is otherwise responsible for entertainment activities deregulated through this LRO will **continue to be subject to a range of legal duties** which will ensure that significant and necessary protections remain in place in respect of those activities. These include:
 - the **Health and Safety at Work etc. Act 1974 (HSWA)** and its subsidiary regulations under which, for example, an employer will have a duty to ensure, so far as is reasonably practicable, the health, safety and welfare of its employees. It will also have a duty to ensure, so far as is reasonably practicable, that volunteers, spectators and others attending an event are not exposed to risks to their health and safety arising from its work activities. The legislation places an onus on the event organiser²⁴ to manage the health and safety risks generated by its activities through the process of risk assessment and, having identified the risks, deciding how to control them and put appropriate measures in place to protect people. The Health and Safety Executive (HSE) provides web-based guidance aimed at helping event organisers who are employers to comply with the law.²⁵ The Events Industry Forum (EIF)²⁶ has a comprehensive guide to staging events, which includes topics on health and safety. The EIF publication replaces HSE's old Event Safety Guide as part of a move towards stronger health and safety leadership and ownership by industry and improved collaboration with regulators. The Cabinet Office has also produced guidance for volunteers to help them run community events.²⁷ Local Authorities or, where appropriate, the HSE Executive are responsible for the enforcement of the HSWA.
 - The **Environmental Protection Act 1990** provides protection to the general public from potential noise nuisance arising from entertainment activity. As well as a proactive inspection regime, local authorities have a duty to take reasonably practicable steps to investigate complaints of noise emitted from premises that may be prejudicial to health or a nuisance – in other words, a statutory nuisance. The decision as to whether or not the noise is a statutory nuisance is made by Environmental Health officers (EHOs) on a case by case basis. They take into account a number of factors when investigating and assessing noise complaints, including how loud the noise is, the reasonableness of the activity being carried out, the time of day of the occurrence, its duration and frequency of occurrence. It is for EHOs to decide the appropriate response where noise-related issues arise – whether this is through informal discussion with premises managers, or action under the statutory nuisance regime. If noise arising from entertainment activity is found to be a statutory nuisance, local authorities have a duty to serve an abatement notice.

²⁴ Purely voluntary run events will generally only have duties under health and safety legislation to the extent that they have control over the premises used and any equipment provided. Note that a duty of care under the common (civil) law may still apply.

²⁵ <http://www.hse.gov.uk/event-safety/index.htm> and <http://www.hse.gov.uk/voluntary/manage-low-risk.htm>

²⁶ <http://www.eventsindustryforum.co.uk/>

²⁷ <https://www.gov.uk/government/publications/can-do-guide-for-organisers-of-voluntary-events/the-can-do-guide-to-organising-and-running-voluntary-and-community-events>

- The **Regulatory Reform (Fire Safety) Order 2005** mirrors the licensing objective of public safety in 2003 Act by making, for example, employers and premises owners responsible for fire safety which is enforced, in most cases, by the local fire and rescue authority. Depending on circumstances, event organisers may have responsibility for the safety of particular premises and need to work with employers and premises owners to ensure public safety in the event of a fire. Guidance²⁸ is available about fire safety law and completing a fire safety risk assessment for people responsible for: (a) open-air events and venues including music concerts and sporting events; (b) theatres, cinemas and concert halls; (c) owners of small (accommodating up to 60 people) and medium (accommodating up to 300 people) places of assembly including pubs, clubs, village halls and community centres); and (d) for people responsible for large places of assembly, including exhibition centres, nightclubs, shopping malls etc.
- The qualitative risk assessment in the accompanying Impact Assessment (Annex C) shows there is **no reason to expect significant deterioration in performance against the licensing objectives**. This is because the LRO has already taken into account comments made by local authorities and the police during the 2011 consultation, paring down circumstances in which activities to be deregulated present a greater risk to the licensing objectives.
- Where all of the conditions relating to an exemption are not fulfilled, then the entertainment will be licensable and require an authorisation under the 2003 Act, unless it is exempted for any other reason. The carrying on of regulated entertainment in the absence of an authorisation is a criminal offence under the Licensing Act 2003. Any person convicted of such an offence is liable on summary conviction to a fine of up to £20,000, imprisonment for up to 6 months, or both. Deregulation will lead to a **targeted licensing regime** that will assist local authorities in determining priority risks in their area and allocating resources accordingly in line with the Regulators' Code²⁹.

(v) The provision does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise

3.16 The Minister considers that the LRO does not prevent any person from continuing to exercise any rights or freedoms which that person might reasonably expect to continue to exercise.

(vi) The provision is not of constitutional significance

3.17 The Minister considers that these proposals are not of constitutional significance. Responsibility for entertainment licensing has not been devolved to Wales, but the Welsh Government has been kept informed of these proposals.

²⁸ <https://www.gov.uk/workplace-fire-safety-your-responsibilities>

²⁹ <https://www.gov.uk/government/publications/regulators-code>

Compatibility with the European Convention on Human Rights

- 3.18 The Parliamentary Under Secretary of State for Sport, Tourism and Equalities has made the following statement regarding human rights: “In my opinion, the provisions of the Legislative Reform (Entertainment Licensing) Order 2014 are compatible with the Convention rights.”

Compatibility with the obligations arising from membership of the European Union

- 3.19 Department for Culture, Media and Sport Ministers believe that the measures in the LRO are compatible with all the requirements of membership of the European Union.

Territorial extent

- 3.20 The effect of the LRO will be limited to England and Wales, as the 2003 Act does not extend to Scotland or Northern Ireland.

Chapter 4: Cross-activity exemption: local authorities, health care providers and schools

Cross-activity exemption: local authorities, health care providers and schools

- 4.1 This measure introduces the concept of a “trusted provider” and will exempt the provision of entertainment by these “trusted providers” – local authorities, health care providers and schools – on their own defined premises. The Government believes that local authorities and certain other trusted civil society organisations should have greater freedom to manage their own affairs with regard to the provision of entertainment. The Government does not start from the position that entertainment provided by such providers always requires regulation and control through licensing.
- 4.2 A high level of deregulation should apply to local authorities, health care providers and schools, whose core activities stem from their primary and enduring responsibility for the delivery of essential social functions. In terms of the licensing objectives, in addition to their experience and continuing operation in heavily-regulated statutory regimes³⁰, they:
- are subject to legal duties, inspection, audit and other regulatory regimes (e.g. noise, fire safety and health and safety legislation);
 - are subject to local scrutiny through being part of the wider community (to whom, in the case of local authorities, they are also democratically accountable);
 - are accountable through their governance structure; and
 - have recognised persons responsible for the day-to-day running and decision-making within individual premises, with whom regulators, enforcement agencies or local residents can raise any concerns.
- 4.3 In addition, these “trusted providers” can also be expected to work closely as required with local authorities, police and their neighbours on event management.

Activities covered by the cross-activity exemption

³⁰ The Government considers that independent schools and health care providers should be included alongside public sector providers in this measure on the basis of risk to the licensing objectives. Independent providers are subject to similar inspection and performance regimes to their public sector counterparts.

- 4.4 The cross-exemption for “trusted providers” is contained in new paragraph 12ZA in Part 2 of Schedule 1 to the 2003 Act: see article 3(3) of the LRO. Entertainment organised by a local authority, health care provider or school on its own defined premises will be exempted from licensing requirements between 08:00-23:00, with no limitation on audience size and without further condition.³¹
- 4.5 All entertainment activities described in paragraph 2 of Schedule 1 to the 2003 Act would be included in this licensing exemption³². These activities are:
- a performance of a play;
 - an exhibition of a film;
 - an indoor sporting event;
 - a boxing or wrestling entertainment;
 - a performance of live music;
 - any playing of recorded music;
 - a performance of dance;
 - entertainment of a similar description to a performance of live music, any playing of recorded music or a performance of dance.
- 4.6 A licence to sell or supply alcohol would still be required, and any controls in place in relation to the alcohol licence would remain. Furthermore, the exemptions will not extend to adult entertainment. The background and policy position on adult entertainment was set out in the 2011 consultation, and there was a strong consensus in the consultation responses that existing restrictions on sexual entertainment should be maintained.

³¹ The exemption includes film (moving picture content) on the basis that ‘trusted providers’ can reasonably be expected to adhere to an age classification recommendation of the British Board of Film Classification (BBFC) or, where different, the age rating set by the Licensing Authority.

³² The likelihood of a ‘trusted provider’ organising a boxing or wrestling entertainment that would pose a threat to the licensing objectives is considered to be vanishingly small and for this reason the Government considers it unnecessary to specify the exclusion of a boxing or wrestling entertainment from Schedule 1 for this ‘trusted providers’ measure.

Local authorities

- 4.7 The draft LRO envisages that entertainment activities organised by, or on behalf of, a local authority should be exempt from entertainment licensing between 08:00-23:00, with no audience restrictions. The meaning of ‘local authority’ is set out in new paragraph 20 in Part 3 of Schedule 1 to the 2003 Act as:
- (a) a local authority within the meaning of section 270 of the Local Government Act 1972;
 - (b) the Greater London Authority;
 - (c) the Common Council of the City of London;
 - (d) the Council of the Isles of Scilly;
 - (e) a National Park authority established by an order under section 63(1) of the Environment Act 1995 for an area in England or Wales;
 - (f) the Broads Authority; and
 - (g) the Sub-Treasurer of the Inner Temple or the Under-Treasurer of the Middle Temple.
- 4.8 Section 145 of the Local Government Act 1972 states local authorities may arrange for entertainment provision. The inclusion of the phrase “*on behalf of a local authority*” in new sub paragraph 12ZA(2)(b) is to give local authorities freedom to host events that they sponsor but do not themselves deliver (e.g. an event organised on a local authority’s behalf by a cultural trust). To be organised “on behalf of” an authority, there must be a significant relationship between the local authority and the provider of the entertainment (e.g. principal and agent). A pure hire of local authority premises by a third party does not constitute the provision of an entertainment event “on behalf of” the local authority, and nor does commercial entertainment which the local authority merely facilitates through providing a public space.
- 4.9 The exemption applies only where the entertainment activities take place on premises in which the local authority responsible has a property interest, or premises which are lawfully occupied by that authority: see new sub-paragraph 12ZA(6).
- 4.10 The types of local authority premises to be covered by this exemption could include:
- Public parks and other public spaces;
 - Town halls and administrative offices;
 - Libraries;
 - Swimming pools and leisure centres;
 - Community halls; and
 - Museums and galleries

- 4.11 The Government considers that any entertainment event organised by a local authority, or under their aegis, on their own premises is lower risk in relation to the licensing objectives. The functions and experience of local authorities mean that they are very well able to take decisions on entertainment provision in the best interests of their community. This can include the setting up of a Safety Advisory Group (SAG) for events presenting a significant public safety risk (e.g. by virtue of the number of people expected to attend, or the nature of the event). However, small events where large numbers are not expected and/or the event is a routine annual occurrence do not typically require a SAG. There is also the Local Authority Event Organisers Group³³ (LAEOG) to facilitate sharing of best practice in authorising, organising and facilitating event management. Government believes that local authorities can be expected to run events safely and appropriately, taking into additional account their legal and democratic duties. For these reasons, the Government considers the licensing regime an unnecessary burden on local authorities for events they carry on, or arrange, between the hours of 08:00-23:00hrs.
- 4.12 However, In the light of consultation feedback on the direct democratic accountability of some of the bodies that were originally included in the definition of 'local authority', the Government has decided to exclude from that definition certain bodies and delivery arms of the Greater London Authority (Transport for London, London Fire and Emergency Planning Authority and the London Legacy Development Corporation) and the delivery arms of local authorities that may be constituted through joint boards (Passenger Transport Executives, Port Health Authorities and waste disposal authorities). The Government considers that these amendments provide clarity on the intended scope of the local authority exemption, and reinforce the importance of accountability for deregulated events held on local authority premises.

Health care providers on hospital premises

- 4.13 The cross-exemption also envisages that entertainment activities organised by, or on behalf of, a health care provider on their own hospital premises should be exempt from entertainment licensing between 08:00-23:00, with no audience restrictions.
- 4.14 Article 4 of the draft Order proposes a new paragraph 19 in Part 3 of Schedule 1 to the 2003 Act, defining 'health care provider' as "a person providing any form of health care services for individuals". In this context, 'health care' is defined as "all forms of health care provided for individuals, whether relating to physical or mental health, with a reference to health care services being read accordingly".

³³ <http://www.laeog.org/>

- 4.15 The inclusion of the phrase “*on behalf of a health care provider*” in new sub-paragraph 12ZA(2)(a) is to give health care organisations freedom to host events that they sponsor but do not themselves deliver (e.g. an event on a health care provider’s behalf in partnership with a hospital charity). To be “on behalf of” there must be a close relationship between the health care provider and the provider of the entertainment (e.g. principal and agent). A pure hire of hospital premises by a third party does not constitute the provision of an entertainment event “on behalf of” a health care provider.
- 4.16 New sub-paragraph 12ZA states that the exemption can apply to any premises forming part of a hospital in which the health care provider has a relevant property interest or which are lawfully occupied by that provider.
- 4.17 Article 4 of the draft Order includes a definition of ‘hospital’, which is at present the same in England and Wales:
- (a) any institution for the reception and treatment of persons suffering from illness³⁴;
 - (b) any maternity home;
 - (c) any institution for the reception and treatment of persons during convalescence or persons requiring medical rehabilitation; and
 - (d) any clinics, dispensaries and out-patient departments maintained in connection with an establishment mentioned in (a) to (c) above.
- 4.18 The Government believes that entertainment activities organised by a health care provider, or under their aegis, on their own hospital premises is lower risk in relation to the licensing objectives. Health care managers are very able to take decisions on whether entertainment is appropriate and in the best interests of hospital patients, staff and the wider community. For this reason, the Government considers the licensing regime an unnecessary burden on health care providers for hospital events they carry on, or arrange, between the hours of 08:00-23:00 hrs.

Schools

- 4.19 The cross-exemption for schools will also enable schools and Parent Teacher Association (PTAs) to provide entertainment activities on school premises without the need for a licence or TEN to authorise that entertainment. Head teachers and school proprietors are very able to take decisions and use their discretion on whether entertainment is appropriate and in the best interests of their school and the wider community of which they are a part. This includes determining what films children can watch and what plays and music they can perform and enjoy while on school premises. For these reasons, the Government considers the licensing regime an unnecessary burden on school for events they carry on, or arrange, between the hours of 08:00-23:00 hrs.

³⁴ For this purpose, “illness” includes any disorder or disability of the mind and any injury or disability requiring medical or dental treatment or nursing. A hospice would be a qualifying institution.

- 4.20 New paragraph 12ZA envisages that entertainment activities organised by, or on behalf of, the school proprietor on their school premises are exempt from entertainment licensing between 08:00-23:00, with no audience restrictions. Article 4 of the draft Order proposes a new paragraph 21 in Part 3 of Schedule 1 to the 2003 Act, defining ‘school proprietor’ as:
- (a) in relation to a school (other than a pupil referral unit or a sixth form college), the persons or body of persons responsible for the management of that school;
 - (b) in relation to a pupil referral unit, the committee which is established to act as the management committee for the unit or, if there is no such committee, the local authority which maintains that unit;
 - (c) in relation to a sixth form college, the sixth form college corporation.
- 4.21 Article 4 of the draft Order also proposes that the following institutions comprise the definition of ‘school’ for the purposes of the exemptions set out in the draft Order:
- a maintained school as defined in section 20(7) of the School Standards and Framework Act 1998;
 - an independent school as defined by section 463 of the Education Act 1996 entered on a register of independent schools kept under section 158 of the Education Act 2002;
 - an independent educational institution within the meaning of section 92(1)(b) of the Education and Skills Act 2008 entered on a register of independent educational institutions kept under section 95 of that Act;
 - a pupil referral unit as defined by section 19 of the Education Act 1996;
 - an alternative provision Academy within the meaning of section 1C(3) of the Academies Act 2010, other than an independent school as defined by section 463 of the Education Act 1996;
 - a school approved under section 342 of the Education Act 1996 (non-maintained special schools);
 - a 16 to 19 Academy within the meaning of section 1B(3) of the Academies Act 2010;
 - a sixth form college as defined by section 91(3A) of the Further and Higher Education Act 1992; and
 - a maintained nursery school as defined by section 22(9) of the School Standards and Framework Act 1998.
- 4.22 The inclusion of the phrase “on behalf of a school provider” in new sub-paragraph 12ZA(2)(c) is to give relevant educational institutions freedom to host events that they sponsor but do not themselves deliver. To be “on behalf of” there must be a close relationship between the school and the provider of the entertainment (e.g. principal and agent). This would include any event on school premises organised by the PTA to benefit the school, even though the PTA is a separate legal entity. A pure hire of school premises by a third party does not constitute the provision of an entertainment event “on behalf of” the school proprietor.

4.23 The following types of 'school' are covered by the cross-exemption:

- Community schools;
- Foundation schools;
- Voluntary-aided schools;
- Voluntary controlled schools;
- Registered independent schools;
- Pupil referral units;
- Academies and free schools;
- Non-maintained special schools;
- 16 to 19 Academies;
- Sixth form colleges;
- Maintained nursery schools; and
- Children's homes that qualify as schools.

4.24 The following types of premises are not covered by the cross-exemption:

- General Further Education Colleges (excluding sixth form colleges);
- Higher Education Institutions; and
- Language schools.

4.25 The Government takes the view that any entertainment organised by a school governing body, or under their aegis, on their own premises is lower risk in relation to the licensing objectives.

4.26 While entertainment events in General FE colleges, Higher Education Institutions and language schools are invariably well-run, they are not of the same lower order of risk as events on school and sixth form college premises. This is because the audience for the former is more likely to comprise of younger adults, with a much greater chance that music will be combined with alcohol consumption, while the audience for the latter is likely to have a wider age demographic, including children and parents. For this reason, General FE colleges, Higher Education Institutions and language schools are not included in this measure, as such premises are not necessarily of a lower order of risk to the licensing objectives.

Chapter 5: Live music in relevant alcohol licensed premises and workplaces

Live music entertainment in relevant alcohol licensed premises and workplaces

- 5.1 This measure increases the audience limit set out by the Live Music Act 2012 (LMA) from 200 to 500 for relevant alcohol licensed premises and workplaces. It will enable greater numbers of businesses (especially small businesses), premises and performers to benefit through the conditional deregulation of live music entertainment.
- 5.2 In October 2012, the LMA came into force, deregulating in part the performance of live amplified and unamplified music³⁵, as follows:
- The LMA removed the licensing requirement for **unamplified live music** taking place between 08:00-23:00 in all venues, subject to the right of a licensing authority, when that performance takes place on premises authorised to supply alcohol for consumption on those premises, to impose conditions relating to live music following a review of a premises licence or club premises certificate;
 - It also removed the licensing requirement for **amplified live music**³⁶ taking place between 08:00-23:00 before audiences of no more than 200 persons on relevant licensed **premises authorised to supply alcohol** for consumption on those premises and which are open for the purposes of that supply of alcohol, and suspended any existing conditions on the premises licence or club premises certificate³⁷ relating to live music³⁸. However, licensing authorities have power to reactivate conditions about live music following a review of that premises licence or club premises certificate, and where that power is exercised, performances of live music on those premises will become licensable once again; and

³⁵ Section 177A of, and paragraphs 12A, 12B and 12C of Schedule 1 to, the 2003 Act.

³⁶ Prior to the commencement of the 2003 Act, some premises provided live music under the 'two musicians in a bar exemption'. <http://www.parliament.uk/briefing-papers/SN05134.pdf>. At the time of transition to the 2003 Act some such premises, fearing expense or bureaucracy, or simply through oversight, did not seek to apply for a new premises licence, or add a music authorisation to the permitted activities on their existing licence. This led to concern that the loss of the 'two in a bar exemption' adversely affected live music provision and in due course led to the LMA.

³⁷ The suspension does not apply to TENs.

³⁸ Whether an existing condition is suspended will be a matter of fact in each case. A noise assessment should still be conducted to avoid the potential for any live music to cause noise nuisance.

- It also removed the licensing requirement for **amplified live music** taking place between 08:00-23:00 before audiences of no more than 200 persons in **workplaces** not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment³⁹).

A workplace⁴⁰ is any premises or part of premises which are not domestic premises and are made available to any person as a place of work. A beer garden that does not form part of the relevant licensed premises (and so is not included in plans attached to a premises licence or club premises certificate) is nevertheless very likely to be a workplace⁴¹.

- 5.3 The draft Order proposes that the audience ceiling for permitted live music performances in alcohol licensed premises and workplaces is raised from 200 to 500 through amendments to section 177A (by article 2(3)) and paragraph 12B of Schedule 1 to the 2003 Act (by article 3(5)). This is intended to enable, in the controlled circumstance of an alcohol licensed premises or a workplace, greater numbers of businesses (especially small businesses) to benefit and give performers further opportunities to perform in front of audiences in appropriate venues across the country.
- 5.4 The Government considers that extending the audience threshold to 500 will not give rise to significant additional risk to the licensing objectives. Premises that want to put on performances of live music and have the capacity to do so for audiences of up to 500 people will already be using the LMA for audiences of up to 200 people. This measure simply raises the audience limit threshold to allow more people into relevant alcohol licensed venues. Raising the audience limit to not more than 500 people is also in line with the partial deregulation of plays and dance under the 2013 Order.

³⁹ Late night refreshment covers night cafés and take away food outlets where people may gather at any time from 11.00pm and until 5.00am.

⁴⁰ A “workplace” is as defined in regulation 2(1) of the Workplace (Health, Safety and Welfare) Regulations 1992.

⁴¹ Paragraphs 15.26-15.28 of the guidance issued under Section 182 of the 2003 Act covers conditions relating to beer gardens.

Technical detail: live music in relevant premises used primarily for the supply of alcohol

- 5.5 The effect of an increase in the audience cap from 200 to 500 people would be that a performance of live music on relevant alcohol licensed premises – reflecting the amendments made to the 2003 Act by the LMA – would **not** be licensable to the extent that the requirements of section 177A of the 2003 Act (as amended) are satisfied. These require that the live music takes place:
- (a) on premises which are authorised by a premises licence or club premises certificate to be used for the supply of alcohol for consumption on the premises;
 - (b) at a time when the premises are open for the purposes of being used for the supply of alcohol for consumption on the premises;
 - (c) in the presence of an audience of no more than 500 persons; and
 - (d) between 08.00-23.00 on the same day, or where the Secretary of State makes an order relaxing opening hours for special occasions⁴², between the hours specified in that order.

Where live music takes place under these circumstances, the effect of section 177A of the 2003 Act is that all existing licence conditions that relate to the performance of live music are suspended. However, on a review of a premises licence or club premises certificate, any such conditions may be reactivated by a licensing authority, and new conditions relating to live music may also be added by a licensing authority on review as if any such performance of live music was licensable. Thereafter, an authorisation under the 2003 Act will be required for any performance of live music on those premises.

- 5.6 New sub-section (4A) to section 177A makes it clear that the suspension of licence conditions only applies to music which is exempt by virtue of paragraphs 12A and 12C of Schedule 1 to the 2003 Act – i.e. the exemptions for live and recorded music in alcohol licensed premises and for unamplified music respectively.

Live music in workplaces

- 5.7 For workplaces, the effect of an increase in the audience cap from 200 to 500 people⁴³ is that a performance of live music at a workplace would **not** be licensable as long as:
- (a) the place where the performance is provided is not licensed under the 2003 Act (or is so licensed only for the provision of late night refreshment), but is a workplace;
 - (b) it takes place in the presence of an audience of no more than 500 persons; and
 - (c) it takes place between 08:00-23:00 on the same day.

⁴² See section 172 of the 2003 Act (to date, this has been done for the Royal Wedding, the Diamond Jubilee and the 2014 Football World Cup).

⁴³ New paragraph 12ZB(4) in Schedule 1.

Chapter 6: Recorded music in relevant alcohol licensed premises

Recorded music entertainment in alcohol licensed premises

- 6.1 This measure brings in a conditional licensing relaxation for the playing of recorded music that is akin to the Live Music Act 2012 (LMA) provision in Chapter 5, but only applies to relevant alcohol-licensed premises and not workplaces. It will enable well-run businesses in relevant alcohol licensed premises to benefit through providing recorded music to their customers, but on the basis that licensing authorities can take action should the need arise.
- 6.2 The Government listened carefully to the concerns expressed by the police and local authorities in response to the 2011 consultation and decided to place greater emphasis on public order and public safety by limiting conditional deregulation to recorded music in relevant alcohol licensed premises (i.e. within the licensing framework). The draft LRO will suspend any existing conditions on a premises licence or club premises certificate that relate to recorded music⁴⁴. Conditions could then be re-imposed by the licensing authority following a review of a premises licence or club premises certificate for that relevant alcohol licensed premises.
- 6.3 This measure is restricted to relevant alcohol licensed premises because of concerns about “raves” (unregulated music events, often in conjunction with drug use and excessive and unregulated alcohol consumption) and public order and public safety concerns. There are issues around “bring your own” or “pre-loading” of alcohol in relation to “dry discos” for the under 18s, which are often far from “dry” and cause disorder problems. By restricting the measure to premises used primarily for the supply of alcohol, but not to workplaces, the residual risk to the licensing objectives is considerably reduced.

⁴⁴ Whether an existing condition is suspended will be a matter of fact in each case. A noise assessment should still be conducted to avoid the potential for any recorded music to cause a noise nuisance.

- 6.4 The draft Order proposes the removal of the licensing requirement for the playing of recorded music between 08:00-23:00, before audiences of no more than 500, on relevant premises authorised to be used for the supply of alcohol⁴⁵. There is a read-across between live music performances and recorded music events, such as discos and DJ events (where a performance of live music and the playing of recorded music often meet) and so this measure is specifically for such recorded music events on relevant alcohol licensed premises. That the premises are licensed for alcohol purposes means that they remain subject to the licensing framework and it is the alcohol licence that provides the means by which any issues (should they arise) can be addressed. There are also other recorded music events, such as tea dances and discos for under 10s, which pose very little risk to the licensing objectives and could well be covered by other measures in the LRO.
- 6.5 The potential sanction of a licence review is fundamental to ensuring that this limited deregulatory relaxation of the playing of recorded music does not pose a significant risk to the licensing objectives. This sanction of a licence review has been bolstered by recent changes to the legislation so that, as well as local residents, businesses and the police, licensing authorities themselves can instigate a review. For a licensee, a licence review can be a very serious issue, and failure to comply with the law could lead to closure of the premises, as well as a fine and/or a prison sentence.
- 6.6 The Government considers that setting the audience threshold at 500 is appropriate and will not pose a significant risk to the licensing objectives (see Chapter 3). This audience limit of not more than 500 people is in line with the partial deregulation of plays and dance under the 2013 Order.

Technical detail

- 6.7 The playing of recorded music on relevant alcohol licensed premises would **not** be licensable to the extent that the requirements of section 177A of the 2003 Act (as amended) are satisfied:
- (a) on premises which are authorised by a premises licence or club premises certificate to be used for the supply of alcohol for consumption on the premises;
 - (b) at a time when the premises are open for the purposes of being used for the supply of alcohol for consumption on the premises;
 - (c) in the presence of an audience of no more than 500 persons; and
 - (d) between 08:00-23:00 on the same day, or where the Secretary of State makes an order relaxing opening hours for special occasions, between the hours specified in that order⁴⁶.

Where recorded music takes place under these circumstances, the effect of section 177A of the 2003 Act is that all existing licence conditions that relate to the playing of recorded music are suspended. However, on a review of a premises licence or club

⁴⁵ The exemption may apply where the supply of alcohol is for consumption on those premises, at times when those premises are open for the purposes of that supply of alcohol for consumption on the premises.

⁴⁶ See section 172 of the 2003 Act.

premises certificate, any such conditions may be reactivated by a licensing authority, and new conditions relating to recorded music may also be added by a licensing authority on review as if any such playing of recorded music was licensable. Thereafter, an authorisation under the 2003 Act will be required for any playing of recorded music on those premises.

- 6.8 New Sub-section (4A) to section 177A makes it clear that the suspension of licence conditions does not apply to recorded music which is exempt by virtue of new paragraphs 12ZA and 12ZB – i.e. local authority, hospital and school premises (see Chapters 4 and 7).

Chapter 7: Live and recorded music in local authority, hospital, school and community premises

- 7.1 This measure will exempt live and recorded music held on local authority, hospital, school and community premises, before audiences of no more than 500 people. It will mean that local authorities, schools, health care providers and those in control of community premises will determine whether to allow third parties to perform live music or play recorded music on defined premises for which they are responsible. Following consultation in 2013, a condition has been added requiring those who would like to provide music entertainment in community premises to obtain permission from those responsible for the community premises (see paragraph 7.14). This measure is intended to lead to a more straightforward regulatory regime for those that run community premises and those who participate in (and enjoy) live and recorded music.

Local authority, hospital and school premises

- 7.2 The cross exemption described in Chapter 4 will apply to a performance of live music or the playing of recorded music taking place between 08:00-23:00, where that performance is organised by, or on behalf of, a local authority, health care provider or school proprietor on defined premises.
- 7.3 The exemption set out in this Chapter will allow local authorities, health care providers and school proprietors to permit third parties to perform live music or play recorded music on their own defined premises. It is for these “trusted providers” to determine whether, or not, they wish to make their premises available for music entertainment by another party and on what terms they deem it appropriate.
- 7.4 This exemption is set out in new paragraph 12ZB in Part 2 of Schedule 1 to the 2003 Act. It envisages removing the licensing requirement for live and recorded music activities between 08:00-23:00 before audiences of no more than 500 people on local authority, hospital and school premises, where the relevant person for those premises has given their specific permission.

- 7.5 Local authorities, health care providers and schools are well-placed to decide whether or not, and in what circumstances, they are content to permit any other person to perform live music or play recorded music on their defined premises. As proposed, the draft Order states that any person concerned in the organisation or management of entertainment must have obtained prior written consent from the local authority, health care provider or school concerned. An event organiser of music entertainment is not able to self-certify this written consent, nor can they rely on a prior written consent if full disclosure is not made, or purported consent is obtained from someone who is clearly unqualified or insufficiently senior. This condition will afford those responsible for premises an opportunity to consider whether the event is suitable, and if so under what conditions. The Government considers that individuals with control over the use of local authority, hospital and school premises are responsible persons with a stake in their local community. These organisations do not require licensing regulation from Government to determine whether and what kind of music entertainment is appropriate.

Community premises

- 7.6 For community premises, the LRO will exempt live and recorded music activities at community premises between 08:00-23:00 and before audiences of no more than 500 people, but only if those premises are **not** authorised by a premises licence to be used for the supply of alcohol on the premises. The absence of alcohol makes the event lower risk in terms of the licensing objectives and hence appropriate for the music entertainment to be subject to a licensing exemption. In addition, this exemption will not apply unless the relevant person (as defined in new sub-paragraph 12ZB(7)) has given permission for that music entertainment to take place.
- 7.7 The definition of community premises is set out in section 193 of the 2003 Act. It states that “community premises” are:

‘premises that are or form part of— (a) a church hall, chapel hall or other similar building, or (b) a village hall, parish hall, community hall or other similar building’.

Where particular community premises are licensed for the supply of alcohol, then any performance of live music or the playing of recorded music on relevant alcohol licensed premises may be subject to the conditional deregulation described in Chapters 5 and 6.

- 7.8 The Government considers that the definition goes far enough in detailing the types of multi-functional premises that are ‘community premises’ without being overly rigid. The Government wishes to encourage small-scale local music performances that help promote community interaction and expression and keep community premises viable. These community premises are invariably owned and run by volunteer trustees and without a specific licensing exemption. Where such premises only provide regulated entertainment and not alcohol, they will continue to bear a disproportionately high burden under the entertainment licensing regime in comparison to the low risk.

- 7.9 The word “community” conveys that premises must be made available for the use of people in the local community – most likely on a hire basis. While community premises will be generally available for the use of one or more communities that does not mean that community premises must be available for their exclusive use. The Government would expect that such premises would generally be able to point to a history of community events, or be new premises built for community purposes.
- 7.10 However, the Government does not believe that the definition of community premises can ordinarily be stretched to include a public house, a bingo hall, or other business premises or private property. The LRO measures for music entertainment on relevant alcohol licensed premises are set out in Chapters 5 and 6.
- 7.11 Where there is any doubt as to whether a particular venue qualifies as ‘community premises’, a person responsible for those premises or the provision of music entertainment can discuss this with the relevant licensing authority.
- 7.12 Community premises are often at the heart of rural communities, and the Government is in the process of removing the requirement for a licence for most forms of regulated entertainment between 08:00-23:00; see *Figure 1* below.

Figure 1

Regulated entertainment between 8:00-23:00 hrs.	Deregulatory measure
Performance of a play	Licensing requirement removed in defined circumstances by the 2013 Order
Performance of dance	
Indoor sport	
Unamplified live music	Licensing requirement removed in defined circumstances by the LMA
Exhibition of a film	Removal of the licensing requirement in defined circumstances is a clause in the Deregulation Bill before Parliament
Live music	Removal of the licensing requirement in defined circumstances proposed by this draft Order
Recorded music	Removal of the licensing requirement in defined circumstances proposed by this draft Order
Boxing or wrestling	None

- 7.13 On 13 February 2014, the Government issued a consultation on fees under the 2003 Act⁴⁷ where it was proposed that individual licensing authorities should have the discretion to determine their own fees, rather than fees being set nationally as at present. A consequence of any move to locally-set fees would be the ending of nationally-imposed exemptions from the requirement to pay fees, including the exemption for community premises holding a premises licence only for regulated entertainment. However, as the provisions in *Figure 1* will remove the requirement for a premises licence or TEN for most forms of regulated entertainment, the loss of this fees exemption (if implemented) will not impact on the provision of entertainment in community premises where there is no supply of alcohol.
- 7.14 An event cannot involve zero risk and there is some risk of noise nuisance from events at community premises even where there is no supply of alcohol. The LRO states that any person concerned in the organisation or management of entertainment must have obtained prior written consent from the management committee of those premises, or where there is no management committee, from a person who has control of the premises. In the light of the consultation response, this condition has been included in the LRO to empower operators of community premises to make appropriate decisions on hirings. It is for those responsible for community premises to consider whether the event is suitable for their premises and the community and, if so, under what conditions (e.g. what sound amplification equipment may be brought onto the premises; whether windows can be open; whether 'Bring your Own' (BYO) alcohol is allowed), taking into account any relevant factors – including, for example, residential neighbours. These decisions are for the premises operator to make and then ensure that their hirer complies with their hire agreement and this LRO measure.

⁴⁷ <https://www.gov.uk/government/consultations/locally-set-licensing-fees>

Chapter 8: Circuses

Travelling circus exemption

- 8.1 This measure will exempt travelling circuses from entertainment licensing for: a performance of live music, the playing of recorded music, the performance of a play or a dance, or an indoor sporting event, in each case with no audience size restriction. No policy change was made following consultation in 2013. It is intended to clarify the licensing status of travelling circuses.
- 8.2 Until the 2003 Act, circuses in England and Wales were traditionally regarded as falling within historic licensing exemptions applying to fairs and travelling showmen (although this may not have been the case strictly in law). A level of uncertainty has continued with the 2003 Act, in terms of whether a travelling circus constitutes regulated entertainment under Schedule 1. Some licensing authorities treat travelling circuses as exempt, echoing the historic exemption, while others reach a contrary view, as circus acts almost always include types of entertainment regulated by the 2003 Act. For example, clown performances are usually scripted and as a result are treated as the performance of a play, while high wire/trapeze is sometimes regarded by licensing authorities as indoor sport.
- 8.3 This measure would put travelling circus entertainment on a clearer statutory footing, to assist both licensing authorities and circus operators in England and Wales. Regulation needs to be fairly applied to circuses, at a time when performances of a play, performances of live music, the playing of recorded music, indoor sporting events and performances of dance have either been deregulated or are being proposed for deregulation in this LRO. No evidence has been produced to suggest that the absence of a comprehensive licensing requirement for circuses has caused significant public protection issues that warrant circuses being brought wholesale into the licensing regime.
- 8.4 An unintended consequence of the 2003 Act was that travelling circuses face a higher regulatory burden from licensing than do fixed premises. When required by individual licensing authorities, travelling circuses obtain TENs to ensure compliance with the 2003 Act. The nature of a travelling circus is to move around the country, sometimes selecting a site at very short notice; e.g. if the anticipated pitch proves to be waterlogged on arrival. However, the number of TENs is currently limited to five per person, or fifty if a member of the circus has a personal licence (which is unlikely, as this would involve the passing of an exam which is mainly to do with the sale of alcohol, and so not applicable to a circus business). The mobile nature of travelling circuses also does not fit easily within the premises licence regime, as a separate premises licence would be required for each pitch, including any pitch being returned to after a year's absence.

- 8.5 The exemption for travelling circus is proposed as a new paragraph 12D in Part 2 of Schedule 1 to the 2003 Act. It envisages that a travelling circus should be exempt from licensing requirements for the performance of a play, an indoor sporting event, a performance of live music, the playing of recorded music and a performance of dance between 08:00-23:00hrs, with no audience restrictions. Circuses will need to have a premises licence or a TEN if they wish to put on an exhibition of film or a boxing or wrestling entertainment. As travelling circuses are rarely, if ever, licensed to sell alcohol, this measure will effectively ensure that most circuses do not require a premises licence or a TEN under the 2003 Act. This would be consistent with recent amendments to the 2003 Act⁴⁸ and other measures in the LRO, putting circuses on a par with other small venues that provide entertainment but not alcohol.
- 8.6 This measure will apply to travelling circuses where the entertainment takes place wholly within a moveable structure, the spectators are accommodated wholly within that moveable structure, and the travelling circus has not been on the same site for longer than 28 days. “Travelling circus” is defined in new sub-paragraph 12D(6), and the ordinary meaning of ‘circus’ is thought to be sufficiently clear as to not require definition in the legislation. The Government considers that the exemption, as defined, is sufficiently robust to ensure that there are not unintended consequences for the licensing objectives.
- 8.7 Circuses will continue to need to comply with other regulatory regimes, such as health and safety legislation, as well as the Welfare of Wild Animals in Travelling Circuses (England) Regulations 2012, which apply to the small minority of circuses that still use wild animals.
- 8.8 No audience ceiling is proposed for the circus exemption. There seems no reason to do so when, for example, fun-fairs operate outside a prescriptive licensing regime.
- 8.9 Non-travelling circuses are likely to be covered by a premises licence, or be exempt from the need to obtain a premises licence by virtue of the LMA and the 2013 Order.

⁴⁸ The LMA and the 2013 Order.

Chapter 9: Greco-Roman and freestyle wrestling

Exemption for Olympic wrestling disciplines

- 9.1 This measure will remove the licensing requirement for two Olympic sports overseen by British Wrestling, the national governing body, by exempting the Greco-Roman and freestyle Wrestling disciplines from licensing as a 'boxing or wrestling entertainment'. Following consultation in 2013, this exemption is subject to an audience limit of 1,000 people.
- 9.2 Greco-Roman wrestling and freestyle wrestling are ancient combat sports where a competitor seeks to gain control over his or her opponent through the use of throws, locks and clinching techniques. In the Greco-Roman discipline, competitors may not attack their opponent's legs, or use their own legs to trip, lift or execute other moves. In the freestyle discipline, the use of legs for these purposes is permitted.
- 9.3 New paragraph 12E in Part 2 of Schedule 1 to the 2003 Act introduces the exemption for these wrestling disciplines. It would allow traditional Olympic wrestling disciplines to benefit from an exemption between the hours of 08:00-23:00 where the entertainment takes place wholly inside a building. Such contests are predominantly between amateurs and held in sports halls, schools, clubs etc. as exhibitions, with only rare international tournaments (like London 2012) having a paying audience. The exemption is justified as unlike many other boxing or wrestling entertainments, these two wrestling disciplines do not pose undue risk to the licensing objectives.
- 9.4 The 2013 Order clarified that "a boxing or wrestling entertainment" is not an "indoor sporting event" for the purposes of the 2003 Act. It also clarified that any contest which combines boxing or wrestling with one or more martial arts is considered a licensable boxing or wrestling entertainment.
- 9.5 As the Government has accepted the consultation feedback that having an audience size limit would be consistent with the deregulatory measure for an 'indoor sporting event' in the 2013 Order, this measure now includes an audience cap of 1,000 people. Previously, no audience limitation had been proposed.

- 9.6 The measure applies only to the two Olympic styles of wrestling. It is considered that Cornish or Cumbrian wrestling entertainments cannot with the same certainty be considered to be lower risk entertainment with respect to the licensing objectives. This is because these wrestling entertainments often take place outdoors as part of festivals, rather than in the more controlled environment of a seated indoor arena where 'bring your own' alcohol is unlikely to be permitted. It is a judgment in terms of risk to the licensing objectives, not on the merits of differing wrestling styles or cultural traditions.
- 9.7 The Government consulted on possible definitions for Greco-Roman and freestyle Wrestling and concluded, post-consultation, that within the confines of this exemption, it was sufficient to allow 'Greco-Roman wrestling' and 'freestyle wrestling' to take their ordinary meaning. The Government considers that the exemption is sufficiently robust to ensure that deregulation does not apply to other forms of wrestling, including other amateur disciplines, professional wrestling entertainment, combined fighting sports and cage fighting. These other contests will remain licensable⁴⁹.

⁴⁹ Unless a 'trusted provider' were to put on a wrestling entertainment: see footnote 32.

Chapter 10: Incidental film

Film measures

- 10.1 The Deregulation Bill⁵⁰ that is before Parliament includes a clause on exhibition of film in community premises. If enacted, this clause will exempt from entertainment licensing “not-for-profit” film exhibition in community premises between 08:00-23:00, for audiences up to 500 people, provided that the screening abides by age classification ratings and consent has been obtained from a person responsible for the premises. A public consultation was undertaken during 2013 and the Government subsequently published a consultation response document on 19 December 2013.
- 10.2 Exhibition of film is also included in the exemption for trusted providers (local authorities, health care providers and schools – see Chapter 4).

Incidental film

- 10.3 A question on whether there should be an incidental film provision was included in the 2013 consultation on community film exhibition and the views of respondents were subsequently included in the consultation response document⁵¹. The exhibition of a film (which is defined as including any exhibition of moving pictures) is ‘incidental film’ under the draft Order and so exempt under the 2003 Act where it is ‘incidental’ to another activity which is not a description of entertainment (i.e. a play, an indoor sporting event, live or recorded music etc.) falling within paragraph 2 of Schedule 1 to the 2003 Act.
- 10.4 The exemption is being brought in because moving pictures which are incidental to another activity which is not a relevant description of entertainment are a low risk only to the licensing objectives. Examples might include:
- A ‘moving picture’ segment within a performance of dance or a performance of a play, where the play or dance is not licensable as a result of the 2013 Order
 - Screen images in a karaoke booth
 - An animated sequence during ‘clowning’ in a circus
 - A ‘home movie’ of a past celebration shown as part of a community street party
 - A download of racing images for a ‘race night’, raising money for charity

Whether or not moving pictures are ‘incidental’ to another activity will depend on the facts of each case. A relevant factor is whether, against a background of the other

⁵⁰ <http://services.parliament.uk/bills/2013-14/deregulation.html>

⁵¹ <https://www.gov.uk/government/consultations/licensing-act-2003-community-film-exhibition-consultation>

activities taking place, the addition of film/moving pictures will create the potential to undermine one or more of the licensing objectives.

- 10.5 Most respondents to the 2013 consultation agreed that an incidental showing of moving pictures as part of another activity⁵² should not require a licence. However, a minority of respondents were against an incidental exemption, on the basis that age classification and British Board of Film Classification (BBFC) age certification were paramount and should apply to any exhibition of moving pictures. In its response to the consultation, the Government committed itself to including an incidental film exemption in the draft LRO. The draft LRO adds 'film' to the established exemption for incidental live and recorded music in paragraph 7 in Part 2 of Schedule 1 to the 2003 Act.
- 10.6 In responding to the 2013 consultation, the Government also committed itself to revising the guidance for licensing authorities to include detail on relevant factors that help determine whether film is "incidental" to another activity. The statutory guidance currently includes paragraphs on 'incidental music' and spontaneous entertainment activities, and guidance on 'incidental film' will be developed and informed by discussions at a future technical working group that will examine what amendments to Chapter 15 of the guidance are likely to be required in the light of the draft Order.
- 10.7 The Government is not minded to widen the concept of 'incidental film' to include content that is viewed on large screens in pubs and clubs. The Government considers that, as a matter of fact, music videos on such screens are typically not 'incidental film' in view of the risk of unintended consequences for the licensing objectives; for example, age-inappropriate music video DVDs being viewed by children on the premises. The paragraphs⁵³ in the present guidance addressing live and recorded music will be updated and cross-refer to the forthcoming paragraphs on whether 'moving picture' content is 'incidental film'.

⁵² An activity which is not one of the descriptions of entertainment which fall within paragraph 2 of Schedule 1 of the Licensing Act 2003, regardless whether or not that entertainment is licensable under that Act.

⁵³ See paragraphs 15.41-15.44.

Chapter 11: Consultation

Details of the consultation

- 11.1 A public consultation in accordance with section 13 of the LRRRA began on 22 October 2013, ran for 8 weeks and closed on 17 December 2013. 64 replies were received by the closing date, with a further 25 replies received in the consultation mailbox, between 17 December 2013 and 21 January 2014, including from some significant stakeholders. The Department decided to analyse all responses received up to this date. The consultation sought views on whether an LRO is an appropriate mechanism for making these changes; whether the pre-conditions in section 3(2) of the LRRRA were met; and whether there was agreement with the proposed Parliamentary scrutiny procedure. The draft Order has been prepared taking into account the range of views expressed in consultation responses.
- 11.2 A list of those to whom a copy of the consultation was sent and those who responded are at Annexes A and B respectively. A summary of responses has been published on the gov.uk website alongside the original consultation document.⁵⁴

Analysis

- 11.3 A breakdown of the consultation responses received by type of respondent is at Figure 2.

Figure 2

Breakdown of responses by type of respondent						
Local authority	Entertainment/ Arts/Music organisation	Community Group	Residents' Association/ Group	Children/ Youth organisation	Individual	Other
23	13	3	6	7	27	10

- 11.4 The consultation included the twenty questions in Figure 3 below.

⁵⁴ <https://www.gov.uk/government/consultations/legislative-reform-order-changes-to-entertainment-licensing>

Figure 3

<p>Consultation Questions:</p> <p>Q1 Do you have any comments on how this LRO deregulatory measure will work for local authorities?</p> <p>Q2 Do you have any comments on how this LRO deregulatory measure will work for hospitals?</p> <p>Q3 Do you have any comments on how this LRO deregulatory measure will work for schools?</p> <p>Q4 Do you have any comments on how this LRO deregulatory measure will work for any person offering early years and day care provision?</p> <p>Q5 Do you agree that all local authorities and every hospital, school and nursery provider specified above, regardless of size, resources and capability should be included in these exemptions? If not, which bodies would you exclude from these exemptions and why?</p> <p>Q6 Are you aware of any local authority body, hospital, school, (including children's residential provision) or nursery provider that, in terms of the licensing objectives, ought to be included in these cross-activity exemptions and currently would not be?</p> <p>Q7 Do you have any comments on how this LRO deregulatory measure will work for live music, taking into account experience since the Live Music Act 2012 came into force?</p> <p>Q8 Do you have any comments on how this LRO deregulatory measure will work for recorded music in on-licensed premises?</p> <p>Q9 Do you have any views on whether or not there should be an LRO deregulatory measure for live and recorded music on nursery premises?</p> <p>Q10 Do you have any comments on how this LRO deregulatory measure will work for live and recorded music on local authority, hospital, school, or community premises?</p> <p>Q11 Do you have any comments on how this LRO deregulatory measure will work for circuses?</p> <p>Q12 Do you have any comments on how this LRO deregulatory measure will work for Greco-Roman and freestyle Wrestling?</p> <p>Q13 On non-legislative solutions, do you agree with our assessment in this regard?</p> <p>Q14 On proportionality, do you agree with our assessment in this regard?</p> <p>Q15 On fair balance, do you agree with our assessment in this regard?</p> <p>Q16 On necessary protection, do you agree with our assessment in this regard?</p> <p>Q17 On rights and freedoms, do you agree with our assessment in this regard?</p> <p>Q18 On constitutional significance, do you agree with our assessment in this regard?</p> <p>Q19 Do you agree that the affirmative Parliamentary procedure should apply to the scrutiny of these proposals?</p> <p>Q20 Do you have views on the expected benefits as set out in the accompanying Impact Assessment?</p>
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11.5 Figure 4 below shows the total number of 'substantive'⁵⁵ responses to questions 1 to 12 and question 20. These questions sought qualitative comments, rather than agree/disagree type answers. It indicates that Q7 and Q8 on music entertainment and Q1, Q3 and Q5 in relation to local authority and school premises elicited the most substantive comments. While most respondents agreed that the LRO did satisfy the tests set out in the LRRRA, there was a higher level of concern in relation to proportionality (Q14), fair balance (Q15) and necessary protection (Q16).

⁵⁵ Responses that addressed or directly referred to a question were considered substantive; these responses typically do not include 'N/A' or 'no comment'.

Figure 4

Number of substantive responses to a particular consultation question									
Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10
36	25	34	27	37	12	39	36	25	31
Q11	Q12	Q13	Q14	Q15	Q16	Q17	Q18	Q19	Q20
27	18	26 yes 8 no	18 yes 13 no	18 yes 15 no	21 yes 16 no	25 yes 10 no	25 yes 3 no	21 yes 10 no	25
% in favour	n/a	76	58	55	57	71	89	68	n/a

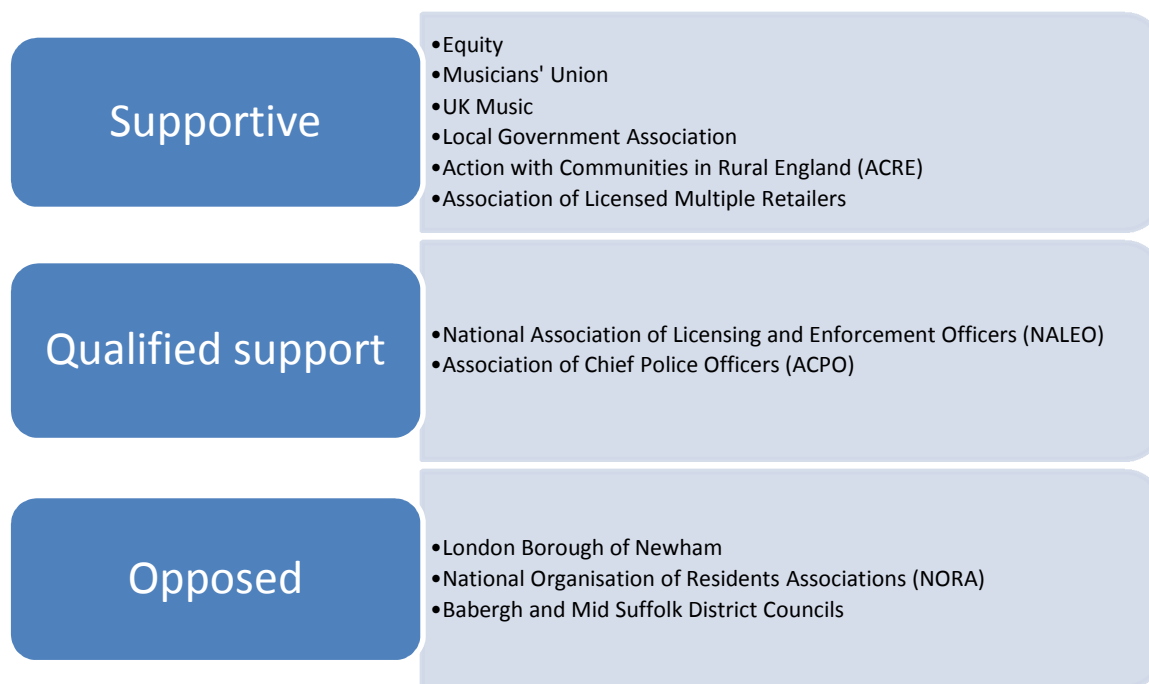
11.6 Figure 5 gives an indication of the level of support from each respondent for the proposed use of an LRO (supportive; qualified support; opposed; and undetermined).

Figure 5

Analysed breakdown of consultation responses in terms of level of overall support for an LRO			
Supportive	Qualified support	Opposed	Undetermined
47	20	17	5
53%	22%	19%	6%

11.7 Figure 6 shows certain respondents to the consultation and indicates their level of support for an LRO. This is included to indicate particular consultation responses that might merit reading as part of scrutiny.

Figure 6



Arguments in support of reform

11.8 The following points are typical of those who supported reform by a Legislative Reform Order:

- Make it easier to put on lower risk entertainment without the need for bureaucratic licence administration
- Local authorities, health care providers and schools can be expected to act responsibly without being licensed
- Make it easier for local authorities to hold events that bring communities together and are a vital part of the visitor economy
- Make it easier for 'friends' of hospitals to organise fund-raising or social entertainment activities on hospital premises
- Make it easier for schools to organise creative and cultural events that benefit pupils and the local community
- Make it easier for Parent Teacher Associations (PTAs) to organise entertainment activity in support of schools
- Licensing not required for lower risk events, taking into account that other legislation protects the public

- Will encourage talent through fostering grassroots music, with knock-on benefits for the music industry as a creative industries sector
- Will benefit hospitality and tourism businesses that wish to create new revenue streams through offering music entertainment
- Circuses, as family orientated entertainment, should not be subject to the licensing regime

Arguments against reform

11.9 The principal lines of argument made by those against reform were:

- The public will not be sufficiently protected from noise nuisance, particularly outdoors
- Residents would no longer be able to make representations to the licensing authority on licence conditions where there is no premises licence
- Environmental Health Officers are not able to control noise effectively from music events
- Deregulation will lead to a greater resource burden on local authorities due to noise complaints and having to conduct more licence reviews
- Disorder, anti-social behaviour and noise nuisance are associated with the playing of recorded music
- Community premises are not necessarily lower risk in terms of music entertainment

Pre-conditions of a Legislative Reform Order

11.10 The consultation paper asked six questions on whether the proposal satisfied the preconditions for a Legislative Reform Order. On average 37% of respondents answered these questions, and of those, 67% agreed with the Government's assessment and 33% disagreed.

Parliamentary procedure

11.11 The consultation paper asked whether the affirmative resolution procedure should apply to Parliamentary scrutiny of the proposal. There were 31 responses to this question (35 per cent of the total number of responders) of which 21 (68% agreed) and 10 (32%) disagreed.

Consultation response document

11.12 A complete analysis is given in the consultation response document at Annex D that was published on 9 July 2014.

Impact Assessment

- 11.13 The Impact Assessment (IA) that accompanied the consultation in 2013 has been updated to reflect the latest available data and calculations and was re-validated by the Regulatory Policy Committee on 16 April 2014. It is attached at Annex C.
- 11.14 The scope of the IA considers the January 2013 announced policy position in its entirety and not only the specific measures intended for implementation through this LRO. This is due to the fact that the policy, with its accompanying IA, has been implemented in two stages – the 2013 Order and this LRO (see Chapter 2). There has not been significant change to the policy post-consultation to justify the development of a fresh IA.
- 11.15 Nevertheless, for the purposes of LRO scrutiny (as was the case at consultation), it is useful to provide an estimate of the scale of net benefits flowing from the LRO stage of implementation alone. Using the same methodology and model as in the IA, the Net Present Value (NPV) and Equivalent Annual Net Cost to Business (EANCB) are calculated by removing the benefits that may arise from deregulating plays, dance, and indoor sporting events by the 2013 Order. On this basis, the best NPV estimate for the LRO alone becomes £10.4m while the EANCB becomes an estimated £-0.7m each year.

Changes made to the LRO as a result of consultation

Nurseries

- 11.16 Chapters 4-10 detail whether changes have been made to the measures in the LRO as a result of consultation. One measure, on nurseries, has been dropped from the LRO post consultation.⁵⁶
- 11.17 In analysing the responses to the 2013 consultation, the Government considered carefully the responses to question 4 (and previous comments submitted in 2011 on the issue of showing children's DVDs to pre-school nurseries). The Government concluded that an LRO measure was no longer desirable or necessary for nurseries.

⁵⁶ Maintained nursery schools have been included within the definition of school.

- 11.18 Various aspects of the 2003 Act and other measures in the draft LRO are relevant when considering whether regulated entertainment on premises providing childcare and day care requires a licence. For example:
- Paragraph 5 of Schedule 1 to the 2003 Act includes a licensing exemption for an exhibition of a film where the sole or main purpose is to provide education.
 - Paragraph 7 of Schedule 1 includes an exemption where the performance of live music or the playing of recorded music is incidental to some other activity which is not itself a description of entertainment regulated by the 2003 Act.
 - The draft LRO will introduce an incidental licensing exemption where the exhibition of a film (moving pictures) is incidental to some other activity which is not itself a description of entertainment regulated by the 2003 Act (see Chapter 10).
 - The 2013 Order effectively removed the requirement for a licence for a performance of a play or dance for an audience of no more than 500 people, or an indoor sporting event for an audience of no more than 1,000 people.
 - The LMA removed the requirement for the authorisation of a performance of unamplified live music, and a performance of live amplified music in a workplace with an audience of no more than 200 people.
- 11.19 The Government considers that normal entertainment activities as part of childcare (or day care in Wales) are very unlikely to be licensable, as such activities tend not to be in the presence of a public audience, and are not the subject of a charge made with a 'view to profit'. In the light of this, the various aspects described in paragraph 11.18 and the consultation responses, the Government considered whether a non-legislative solution was now more appropriate to remove any remaining ambiguity as to whether regulated entertainment on premises providing childcare or day care requires authorisation under the 2003 Act.
- 11.20 The Government is of the view that screening a DVD to an audience of children as an activity organised as part of childcare provision is most likely to be covered by the licensing exemption for educational purposes set out in Part 2 of Schedule 1 to the 2003 Act. This view was endorsed by a number of licensing authorities who responded to the 2011 consultation. The Government is also of the view that performing live music, or playing recorded music to an audience of children as part of childcare provision, is covered by the incidental music exemption referred to in paragraph 11.18.
- 11.21 In the light of the consultation responses in 2011 and 2013 and the considerations above, the Government reached the view that a non-legislative solution was more appropriate to remove any remaining ambiguity in relation to whether (and when) regulated entertainment on childcare and day care premises requires authorisation under the 2003 Act. As a result, the Government has not included in the LRO a specific measure for childcare providers (other than maintained nurseries), but will instead amend the statutory guidance to be issued to licensing authorities under section 182 of the 2003 Act to clarify that entertainment activity as part of childcare and day care is not licensable.

- 11.22 The Government will work with interested parties, such as the Professional Association for Childcare and Early Years (PACEY), to develop clear guidance in relation to childcare providers and children's centres.
- 11.23 In the light of the consultation response to question 9, the Government has also decided against the inclusion of a specific measure that would exempt both live and recorded music events between 08:00-23:00 for audiences up to 500 on any childcare premises⁵⁷. The Government considers that childcare providers should, in many cases, be able to have live music performances (but not recorded music) without authorisation under the 2003 Act because their premises are a 'workplace' (see Chapter 5). Where the premises are not a 'workplace', then voluntary and community sector childcare providers may be in lawful occupation of community premises and so be able to seek permission for any music entertainment event to be covered by the LRO measure in Chapter 7.

Conclusion

- 11.24 In light of the consultation responses received, the Minister considers that the proposals should be implemented as set out in the LRO, which should be laid before Parliament under the affirmative procedure.

⁵⁷ Other than maintained nursery schools, see Chapters 4 and 7.

Annex A

LRO Consultation Consultees

ACEVO
Action with Communities in Rural England (ACRE)
Agents' Association
Alcohol Concern
Arts Council England
Arts Council of Wales
Arts Development UK
Association of British Insurers
Association of Chief Police Officers
Association of Circus Proprietors of Great Britain
Association of Festival Organisers (AFO)
Association of Independent Festivals
Association of Independent Music (AIM)
Association of Inland Navigation Authorities
Association of Licensed Multiple Retailers
Association of School and College Leaders
Association of Show and Agricultural Organisations
BII (British Institute of Innkeeping)
BPI (British Phonographic Industry)
British Association of Concert Halls
British Beer and Pub Association
British Board of Film Classification (BBFC)
British Boxing Board of Control
British Federation of Film Societies
British Film Institute (BFI)
British Holiday and Home Parks Association
British Hospitality and Restaurant Association
British Marine Federation
British Retail Consortium
British Wrestling Association
Business in Sport and Leisure
Cadw
Carnival Village
Charity Commission
Chartered Institute of Environmental Health
Chief Fire Officers' Association
Children's Society
Cinema Advertising Association
Cinema Exhibitors Association
Circus Arts Forum
Commission for Rural Communities
Committee of Registered Clubs Associations
Community Matters
Dance UK
Eden Project 'Big Lunch'
English Folk Dance and Song Society

English Heritage
Environmental Protection UK
Equity
Federation of Licensed Victuallers
Federation of Licensed Victuallers (Wales)
Federation of Private Residents' Association
Federation of Small Businesses
Film Agency for Wales
Film Distributors' Association
Fire Officers Association
Freedom and Autonomy for Schools
Guild of Master Victuallers
Health and Safety Executive (HSE)
Historic Houses Association
Independent Academies Association
Independent Cinema Office
Independent Schools Council
Independent Street Arts Network
Independent Theatre Council (ITC)
Institute of Acoustics
Institute of Licensing
International Live Music Conference
Justices Clerk Society
Lap Dancing Association
Licensing Act Active Residents Network
Local Government Association (LGA)
Local Government Regulation (LGR)
Magistrates Association
Making Music
Maritime and Coastguard Agency
Metropolitan Police
Musicians' Union
National Arenas Association
National Association for Voluntary and Community Action
National Association of Head Teachers
National Association of Independent Schools and Non-Maintained Special Schools
National Association of Licensing and Enforcement Officers
National Association of Local Councils
National Campaign for the Arts
National Confederation of Parent Teacher Associations
National Farmers' Retail & Markets Association
National Governors' Association
National Neighbourhood Watch Association
National Operatic and Dramatic Association
National Organisation for Pupil Referral Units and Alternative Providers
National Organisation of Residents Associations
National Parks England
National Rural Touring Forum
National Village Halls Forum
NCVO
NHS Confederation
Noise Abatement Society

Parliamentary Performers Alliance
Paterson's Licensing Acts
Police Federation
Police Superintendents' Association
Production Services Association
Rotary International in GB and Ireland
Society of Local Council Clerks
Society of London Theatres/ Theatrical Management Association (SLT/TMA)
Sport England
Sports and Recreation Alliance
Sport Wales
SSAT (The Schools Network) Ltd
Streets Alive
Superact
The Theatres Trust
Tourism for All
Trading Standards Institute
UK Centre for Carnival Arts
UK Live Music Group
UK Music
UK Noise Association
UK Sport
Voluntary Arts Network
Welsh Council for Voluntary Action
Welsh Local Government Association
Welsh Music Foundation

Respondents to the consultation

Local authorities

Babergh and Mid Suffolk District Councils
Bodmin Town Council
Breage Parish Council
Brighton and Hove Council
Bristol City Council
Broadland District Council
Cannock Chase District Council
Ceredigion County Council
City of London
Colchester Borough Council
Cornwall Council
Horsham District Council
Ipswich Borough Council
Liverpool City Council
London Borough of Hackney
London Borough of Newham
Medway Council
Northumberland County Council
Powys County Council
Royal Borough of Kensington and Chelsea
Shepway District Council
Stithians Parish Council
Tendring District Council

Organisations

The Agents' Association
Association of Chief Police Officers
Association of Licensed Multiple Retailers
Association of School and College Leaders
Association of Show and Agricultural Organisations
Business in Sport and Leisure
Clybiau Plant Cymru Kids' Clubs
Concert Promoters Association
Cornish Wrestling Association
Equity
Forest Children Centre
Historic Houses Association
Institute of Licensing
Jazz Services
Local Government Association
Musicians' Union
NALEO
National Day Nurseries Association
Palms Bude
Phoenix Artist Club
Play Wales

Professional Association for Childcare and Early Years
PTA-UK
Sports Grounds Safety Authority
Superact
UK Music
UnsignedFM
Variety and Light Entertainment Council
Wales Tourism Alliance
Working Men's Club and Institute Union

Residents'/community groups

Action in rural Sussex
Action with Communities in Rural England (ACRE)
Federation of Bath Residents' Association
Federation of Private Residents' Association
Finchampstead Memorial Park Committee
Frinton Residents' Association
Loughton Residents Association
National Organisation of Residents Associations (NORA)
Residents Action, Southampton

Individuals

Alastair Clark
Ben Smith
Chris Barltrop
Colin Henson
Corrie Dick
Dr Arnie Rainbow
Drew Sewell
Gay Sutton
Hilda C Littlewood (Piano Teaching)
Jake Bradford-Sharp
Jennifer Townsend
Katarina Dordevic
Luis Cano
Mark Goslett
Martin Galbraith
Michelle Saacks
Mr G Phillips
Myles Eastwood
Nicholas Tuff
Phil Rowland
Premlal Salgado
Rick Finlay
Sara and David Nixon
Sarah Jones
Stuart Street
Susan Clark
Trevor Brunwin

Annex C

Impact Assessment

Re-published on 9 July, as an Annex to this Explanatory Document.

Title: Proposal to exempt regulated entertainment from the provisions of the Licensing Act 2003. IA No: DCMS033 Lead department or agency: Department for Culture, Media and Sport Other departments or agencies: N/A	Impact Assessment (IA)			
	Date: 07/03/13 (updated 20/03/14)			
	Stage: Final			
	Source of intervention: Domestic			
	Type of measure: Secondary legislation			
Contact for enquiries: Ian Jenkins 0207 211 2288				
Summary: Intervention and Options				RPC Opinion: Fast Track Red Tape Challenge

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009	In scope of One-In, One-Out?	Measure qualifies as
£15.1m	£5.9m	£-1.0m	YES	OUT

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

The Licensing Act 2003 requires many public or “for -profit” entertainment activities to be licensed. This regulation adds unnecessary burden to many charities, civil society organisations and local clubs. It prevents or hinders many cultural and community interactions. It impacts negatively on many businesses and SMEs, preventing diversification into new markets associated with entertainment provision.

What are the policy objectives and the intended effects?

- i) To remove unnecessary bureaucracy and cost from community performance activities
- ii) To remove costs for local sporting organisations
- iii) To bolster creativity, community participation, local cultural expansion and volunteering opportunities
- iv) To grow the creative economy and remove burdens from small and medium sized business

What policy options have been considered, including any alternatives to regulation? Please justify preferred option.

The 2011 policy consultation examined the deregulation of various entertainment activities against key parameters (such as a range of audience sizes, various performance end times). It also looked in detail at the impact of deregulation on each individual activity, examining risks and opportunities. The rationale for the final policy position is set out in the evidence base below and in the Government’s response to the 2011 consultation. In summary, the main elements of the final policy position are as below – all activities subject to a closure time of **11pm**:

- **Indoor sport:** deregulated to audiences of 1000 or less.
- **Plays, dance:** deregulated to audiences of 500 or less.
- **Live and recorded music:** deregulated in the limited circumstances of alcohol licenced premises (and workplaces in the case of live music) to audiences of 500 or less.
- **Exemptions from licensing:** *No audience limit:* events held by local authorities (including to parish council level); schools; hospitals; circuses. *Audience limit of 500:* events held by community premises such as church halls, village halls, and community halls ; events held under permission at premises owned by: local authorities, schools, nurseries and hospitals. *Audience Limit of 1000:* Greco-Roman and freestyle wrestling events

The policy is expected to deliver the policy objectives, at a minimum risk to the licencing objectives. The impact assessment demonstrates that the expected benefits are likely to outweigh possible costs for society as a whole, households, businesses, and local government.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 01/2016

Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro YES	< 20 YES	Small YES	Mediu m YES	Large YES
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: N/A	Non-traded: N/A	

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister:



Date

:

18/4/13

Summary: Analysis & Evidence

Preferred Option

FULL ECONOMIC ASSESSMENT

Price Base Year 2009	PV Base Year 2013	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)			
			Low: 14.6	High: 15.6	Best Estimate: 15.1	
COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant		Total Cost (Present Value)	
Low	NA	0	NA		NA	
High	NA		NA		NA	
Best Estimate	0.0		0.2		1.6	
Description and scale of key monetised costs by 'main affected groups'						
There are no costs to business. The policy proposal is considered unlikely to generate significant social costs on the basis of qualitative risk assessment. Higher risk activities are not scheduled for general deregulation; this includes boxing and wrestling (excluding Olympic disciplines), mixed martial arts, cage fighting, adult entertainment, and film. Only lower risk activities are scheduled for deregulation and are subject to significant controls: limited audience sizes, bespoke premises controls, and a cut-off time of 23:00. In all cases, significant protections will continue to remain in place under the licensing regime, health and safety and noise nuisance legislation. Nevertheless, there is a possibility of some increased costs to society. A small illustrative increase in costs has been assumed to "stress test" the benefit side of the proposal using a "worst case" scenario. This is modelled in two potential cost areas. First, a 5% increase in existing noise complaints recorded by the Chartered Institute of Environmental Health, with impacts on households and local authorities estimated on the basis of DEFRA guidance at a cost of £0.4m and £0.8m respectively over the appraisal period. Second, a 10% increase in existing licence reviews recorded by licensing statistics, with local authority information on impact showing cost of £0.5m over the						
Other key non-monetised costs by 'main affected groups'						
No non-monetised costs have been identified.						
BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant		Total Benefit (Present Value)	
Low	0.0	0	1.9		16.2	
High	0.0		2.0		17.2	
Best Estimate	0.0		1.9		16.7	
Description and scale of key monetised benefits by 'main affected groups'						
The main monetised benefits are produced from reduced business and third sector organisation cost burdens relating to licences and temporary event notices, amounting to £5.9m and £3.8m respectively over the appraisal period. There are additional benefits to local authorities that have to process licence applications without a fee from public sector institutions. Similar benefits accrue to other regulatory authorities. This amounts to at least £7.0m over the appraisal period. It is important to note that this benefit more than offsets the "worst case" cost estimate to local authorities, meaning that there						
Other key non-monetised benefits by 'main affected groups'						
<u>Some very important benefits of the policy have been dealt with in a qualitative way only.</u>						
The main benefit of the proposal is to encourage growth in the provision of entertainment. This has three tiers of benefit:						
1) The Big Society gains more widely as barriers to small scale community events are removed;						
2) Individuals gain for increased opportunity for engagement with culture and can derive substantial wellbeing benefits, and;						
3) Businesses, including SMEs, have the opportunity to exploit markets more easily creating increased opportunities for contribution to the economy.						
Key assumptions/sensitivities/risks					Discount rate	3.50%
The potentially most significant benefits related to the growth in the provision of cultural and sporting activity have not been monetised. This is because policy outcomes are complex and there are, as yet, no reliable forecasting models. The monetised benefits calculations lack data at local level and are therefore subject to a number of assumptions. Potential downsides to the policy have been considered through a qualitative risk assessment, and combined with a worst case illustration of costs to stress test the economic case for the policy. Sensitivities have been applied to illustrate uncertainties. Crucially, the illustrative potential costs do not outweigh the benefits for society as a whole, or business, local government, and household stakeholder groups.						

BUSINESS ASSESSMENT

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs 0.0	Benefits: 1.0	Net: -1.0	YES	OUT

Evidence Base

Policy background and objective

1. Under current legislation - the Licensing Act 2003 (2003 Act) - licences are required to host entertainment activities that are attended by the public or in private with a view to profit. Entertainment regulation is one of the 2003 Act's three functions, along with alcohol sales and late night refreshment. The 2003 Act aimed to create an environment in which all activities deemed licensable could be administered under a single regime. The 2003 Act aims to deliver the following licensing objectives in each of these areas:
 - the prevention of crime and disorder
 - public safety
 - the prevention of public nuisance
 - the protection of children from harm
2. The 2003 Act details the entertainment activity types that are currently regulated in a schedule (Schedule 1) that can be amended by secondary legislation:
 - a performance of a play;
 - an exhibition of a film;
 - an indoor sporting event;
 - a boxing or wrestling entertainment;
 - a performance of live music any playing of recorded music; and
 - a performance of dance
3. Administratively, the regulation of entertainment under the 2003 Act works well *where entertainment activities occur in conjunction with alcohol sale and supply*, as the presence of alcohol can create a higher risk environment. After some years of operation it has, however, become clear that licensing small scale entertainment held without alcohol - a significant proportion of activities - is disproportionate to the risk of harm under the licensing objectives. Many charities, community organisations, culture sector, leisure industry are hampered by the licensing cost and administrative process.
4. The objective of these proposals is therefore:
 - to remove bureaucracy and cost from community performance activities
 - to bolster creativity, community participation, local cultural expansion and volunteering opportunities
 - to grow the creative economy and remove burdens from small and medium sized business
 - to remove costs for local sport regulation

Options considered

5. The 2011 DCMS consultation explored deregulation of most Schedule One activities with the exception of the higher risk activities boxing and wrestling, adult entertainment and cage fighting. The consultation set out a blank canvas, with a central proposal to deregulate these activities for audiences of up to 4,999 people, but asking detailed questions as to risks around four main variables:
 - audience size
 - performance end time limitations
 - venue
 - other controls for individual activities

6. Responses from the 2011 consultation gave a clear view that deregulation requires controls in some situations, and the information received has played a full part in shaping the final position. The rationale for the final policy positions is set out in full in the DCMS response to the 2011 consultation⁵⁸ and for sake of brevity is not repeated here.
7. At the time of consulting, the live music activity was heavily regulated by the 2003 Act. The DCMS consultation in 2011 set out that the Government intended to support the *Live Music Bill*, having previously consulted on similar measures. The Bill intended, between 08:00-23:00, to deregulate:
 - *unamplified* live music performance in any location, with no audience size restrictions
 - *amplified live* music performance in premises licenced to sell alcohol and workplaces, for audiences of up to 200 people⁵⁹.

The Bill was enacted in February 2012, and came into force on 1 October 2012. Assessment of the new policy position for live music, set out below, is built in addition to the new baseline of the 2012 Live Music Act.

Final policy position

8. The 2011 consultation flagged up views from experts that expressed a view that audience levels in general needed to be lower than the 4,999 proposed in the consultation to help ensure public safety and prevent local infrastructure overload. In general an upper audience threshold of **500** people will apply, unless, like indoor sport or in wider exemptions, there is thought to be a lower risk rating due an events wider operational makeup.
9. **Performance end times of 23:00 will apply to all deregulated activities** to minimise any risk of excess noise outside of day time hours, when the impact of noise disturbance on households is highest and local authorities are least able to deal with any issues that arise.
10. The final policy position is as follows⁶⁰:
 - *Performances of plays*: to be deregulated in all locations to audiences of up to 500 people
 - *The exhibition of dance*: to be deregulated in all locations to audiences of up to 500 people.
 - *Indoor sport*: to be deregulated in all locations to audiences of up to 1000 people
 - *Live music*: to be deregulated from the existing audience limits of 200 people in *on-licensed premises* and *workplaces* to audiences of up to 500 people.
 - *Recorded music*: as with live music, to be deregulated in *on-licensed premises* (but not workplaces) for audiences of up to 500 people.
 - *Exemptions (a-c)*:

⁵⁸ <http://www.dcms.gov.uk/consultations/9650.aspx>

⁵⁹ Subject to any conditions placed on a premises licence after a licence review, under the Licensing Act 2003.

⁶⁰ The first three bullets were implemented by the Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013 ("2013 Order") that came into force on 27 June 2013.

- a) The following would be exempt from all Schedule One activities between 08:00-23:00 with no audience limitations:
- Activities organised by, or on behalf of, Local Authorities (including parish councils) on their own premises
 - Activities organised by, or on behalf of hospitals and ⁶¹ schools (including sixth form colleges) on their own premises
- b) *The following will be exempt, with no audience limitations, from the regulation of live music, recorded music, indoor sport, the performance of a play, an exhibition of dance, between 08:00-23:00*
- Circuses
- c) *The following premises will be exempt from regulation for live and recorded music between 08:00-23:00 with audience limitations of 500 people:*
- Activities held on local authority premises (including parish councils) with the specific permission of that Authority
 - Activities held on hospital and school premises (including sixth form colleges) with the specific permission of those organisations
 - Activities held on community premises (such as church halls, village halls and community halls etc.) with the specific permission of the operator
- Other regulation
 - *Adult entertainment will not be deregulated from the exhibition of dance activity*
 - *Film exhibition deregulation is not included in these proposals save for inclusion in the narrow circumstances of exemption a) above⁶².*
 - *Cage fighting and mixed martial arts will be clarified⁶³ as regulated activities, to ensure those activities will not be deregulated as part of the deregulation of indoor sport, and to make clear the regulatory position when such activities are held outdoors.*

⁶¹ 'Nurseries' were included in the January 2013 policy announcement. The Department has considered the response to the 2013 consultation on a Legislative Reform Order (LRO) and the various aspects of the Licensing Act that are relevant to whether entertainment on premises providing childcare and day care requires a licence. The Department has reached the view that a non-legislative solution is now more appropriate to remove any remaining possible ambiguity in relation to whether such entertainment on nursery premises requires a licence. As a result, the Government will not proceed with an LRO measure for nurseries, but will instead amend the Section 182 guidance given to licensing authorities to clarify that entertainment activity as part childcare and day care is not licensable.

⁶² There is a separate IA for the deregulation of an exhibition of film in community premises that is in the Deregulation Bill before Parliament

⁶³ Implemented by the Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013 ("2013 Order") that came into force on 27 June 2013.

- *Boxing and wrestling* will not be deregulated, with the exception of the Olympic sports of Greco-Roman and Freestyle wrestling⁶⁴

Appraisal of benefits and costs

Benefits and costs: introduction

11. This section of the impact assessment sets out the impacts expected under the preferred policy option. The methodological approach taken within the impact assessment is considered first, with particular reference to the principle of proportionality. Potential benefits and costs are then considered individually, before being compared in the policy conclusion.

Proportionality and methodology

12. The level of analysis required should be proportionate to the proposed intervention. There are several dimensions to the intervention that need to be considered.
13. These proposals are not novel. Live music was deregulated in certain circumstances under the Live Music Act 2012, and this method is extended under the new proposals to other forms of entertainment, whilst some lower risk activities are deregulated altogether under certain audience limits. Because of this the scale of the impact is expected to be small, and distribution of impacts is not likely to be inequitable. These aspects of the policy suggest a relatively low evidence requirement. However, the large response to the 2011 consultation process showed that there is interest and sensitivity in certain areas, which have been the basis for the Government's revised proposal. This suggests an evidence base that is responsive to these concerns.
14. The methodological approach is therefore to set out both benefits and costs in as much detail as allowed by existing evidence and sensible analytical assumptions. More attention is paid to stress testing the robustness of the cost impact analysis, and assurance around the overall position is gained from taking a conservative position that ensures benefits are not overstated, while considering a "worst case" costs scenario. The analysis is complicated by the complex nature of the policy proposal and a corresponding lack of statistical granularity, combined with a consultation response that produced little reliable quantitative information.
15. The EANCBS figure is dependent on the number of licenses in scope of the deregulatory measures – i.e. non-public premises which are licensed for regulated entertainment but not alcohol. Given that there has been fluctuation around a mean figure of approximately 5000 licenses between 2007/08 and 2011/12, a methodology has been selected which does not include a decreasing or increasing trend line. Instead, it is assumed that the nominal net-benefit from this regulatory change will accrue at a constant annual rate.
16. Likely outcomes from the policy proposal are monetised wherever possible. Impacts are measured in 2009 prices, and the analysis makes clear whether impacts are presented in annual constant prices or present values over a ten year appraisal period.

⁶⁴ These Olympic wrestling disciplines will be deregulated when wholly taking place inside a building and before an audience of not more than 1,000 people between 08:00-23:00

Benefits

17. The proposal is deregulatory in nature. It aims to cut away unnecessary bureaucracy for both business and civil society, lightening costly regulatory enforcement regimes for government in the process.

18. There are therefore several key benefits that are likely to result from the proposals:

Benefit (a): Growth in cultural and sporting entertainment activities as restrictions to performance are removed

Benefit (b): Business and civil society cost savings as unnecessary entertainment regulation is removed

Benefit (c): Local Authority cost savings as a layer of regulatory administration is removed

Each area of potential benefit is addressed separately below.

Benefit (a): Growth in cultural and sporting entertainment

19. Removal of regulatory barriers, through both cost savings in fees and administrative burdens is likely to encourage the staging of cultural and sporting activities. There are three main areas of benefits:

- i) **Individual:** consumers benefit for increased opportunity to attend cultural and sporting activities and therefore raise their individual subjective wellbeing through exposure to culture.
- ii) **Social:** not for profit performances are encouraged and support the Big Society by fostering a sense of community.
- iii) **Economic:** businesses are encouraged to stage more activities and raise revenues, increase investment, and support employment in the process.

Introduction to growth in cultural and sporting entertainment: size of impact

20. These effects are to an extent intuitive, but there is a lack of robust evidence available to quantify and monetise the size of this important effect. There is no body of research on the importance of regulatory barriers, or more generally cost factors, in the provision of live entertainment by either businesses or civil society. This means that it is difficult to forecast the increase in live entertainment supply under the policy proposal. Even if it was possible to do this in an accurate way, there is a lack of existing literature available to translate increases in live music participation with economic, social, and individual benefits. Engaging in primary research in this area is likely to be disproportionately costly to the intervention that is being proposed, and has no guarantee of delivering the kind of information that would be required to fully elucidate the impact of a policy change⁶⁵.

⁶⁵ [DCMS \(2007\) The Feasibility of a Live Music Economic Impact Study](#)

21. Given the lack of availability to the existing evidence base, an illustration of possible impact short of a full assessment has been considered. To illustrate, the Live Music Survey 2007⁶⁶ found that 3% of venues that had not put on live music in the last 12 months stated that a change in licensing arrangements would encourage them to put on live music, while 4% of venues that had put on live music in the last 12 months stated that a change in licensing arrangements would encourage them to put on more live music. The Culture and Sport Evidence (CASE) Programme⁶⁷ has developed a model of engagement that shows how participation rates would change under a range of variables. Adjusting the variable “proportion of individuals for whom supply issues are not a problem” in line with the Live Music Survey by between 1% and 3% gives an indication of additional participation that might be induced by the policy change. The estimated impact is illustrated in *Table 1* for the forms of live entertainment that are captured in the model (live music, theatre, and dance). This does not include other forms of entertainment that are proposed for deregulation, including recorded music and sport.

Table 1: Illustrative increases in engagement with live entertainment

Live entertainment	1% increase in supply	3% increase in supply
Live music	122,000	354,000
Dance	109,399	328,199
Theatre	89,530	268,590

22. The pattern of growth in entertainment is also important. Barriers to the staging of entertainment that exist under the current system apply disproportionately to small events with lower attendance rates, since the burdens associated with compliance represent a higher proportion of total costs for projects that have limited event turnover or investment capital. This is particularly applicable in two areas.
- Firstly, events that are particularly specialised sometimes attract low audience numbers, due to the niche interest in the performances. Deregulation could therefore encourage growth in innovative entertainment events, with positive spill over effects in the wider cultural scene.
 - Secondly, events in smaller communities including rural areas are sometimes underprovided, due to market failures brought about by low population density and geographical distance to market alternatives. Whilst deregulation would not solve these problems, it would remove an additional cost barrier.

There is little evidence to substantiate or forecast these impacts, although the consultation responses were clear that these are good reasons to believe that the distribution of growth opportunities will be desirable for these groups.

⁶⁶ [DCMS \(2007\) Live Music Survey](#)

⁶⁷ [DCMS \(2010\) Understanding the Drivers of Engagement in Culture and Sport: Summary Report](#); [DCMS \(2010\) Understanding the Drivers of Engagement in Culture and Sport: Technical Report](#)

Benefit (a) i) Benefits to individuals from growth in entertainment

23. Increased attendance could potentially provide significant enjoyment and social benefit for the general population, in terms of improved individual subjective wellbeing. Individuals enjoy attending performances of live entertainment, and engagement with culture in this way can have an effect on how happy a person feels. Evidence from CASE⁶⁸ programme has shown that attendance at live performances provide a positive boost to subjective wellbeing and that this generally increases the more often an individual engages.
24. As an indicative figure, using data from the British Household Panel Survey, it is estimated that the gain in subjective wellbeing from attending a concert at least once a week is about a third of that associated with being employed (compared to being unemployed). Even attending a concert just once a year can lead to an increase in subjective wellbeing equivalent to around a sixth of that associated with being employed. The subjective wellbeing estimates used in cultural appraisal are, however, at an early stage of development and the specific monetary outputs must be treated with extreme caution. Given the lack of maturity in the techniques applied to monetise individual subjective wellbeing estimates, a monetisation of the indicative change in engagement should be resisted.

Benefit (A) ii) Social benefits from growth in entertainment

25. Increased attendance could is very likely to provide social benefits above and beyond the individual wellbeing effects described above. There is little research that applies directly to the live entertainment forms affected by the proposed policy, but culture more generally is thought to have a positive impact on social groups by acting as a focal point around which communities can come together. In this way the CASE Programme identifies that 'engagement in culture is associated with a better knowledge of one's own culture and other cultures. Such outcomes provide a socialisation function, producing a common standard of citizenship and social cohesion'.
26. Provision of cultural and sporting activities can therefore be seen as an important driver of the Big Society, and any deregulation of live entertainment provision that encourages increased performance and attendance would be likely to realise social benefits. There is, however, no literature that attempts to quantify or monetise the relationship between cultural engagement and the social fabric. This means that the social benefits likely to flow from the indicative change in engagement described above cannot be valued in core economic terms at present.

⁶⁸ [DCMS \(2010\) Understanding the Value of Engagement in Culture and Sport: Summary Report;](#)
[DCMS \(2010\) Understanding the Value of Engagement in Culture and Sport: Technical Report](#)

Benefit (a) iii) Economic benefits from growth in entertainment

27. Increased attendance could potentially provide economic benefits, as businesses are encouraged to stage more entertainment and can therefore earn increased revenues. This would result in an increased contribution of live entertainment to the UK economy, in terms of gross value added (GVA) and sustainable employment, and support economic recovery. DCMS estimates the size of the creative industries, and most recently has found that in 2012 'Music, Visual and Performing Arts' was a significant market worth around £4.5bn to the UK economy in GVA terms, and employed approximately 225,000 people in the creative industries⁶⁹. The industry body UK Music has estimated that live music alone contributes £662m gross domestic product (GDP) to the UK economy on an annual basis from live music driven tourism⁷⁰.
28. Neither set of statistics is entirely appropriate to be used as a basis on which economic impact for the proposed deregulation of live entertainment can be estimated. DCMS statistics have too broad a definition of economic activity that goes beyond live entertainment to include, for instance, studio recording of music. UK Music statistics are perhaps more applicable to large scale music events that are not in scope of the deregulation, and do not include other forms of live entertainment. Nevertheless, for illustrative purposes, applying 1% and 3% increases to the lower of these two statistics gives an annual benefit of between £7m and £20m. This estimate is not considered to be sufficiently robust to be included in the economic assessment.
29. Overall, then, it seems that substantial benefits could be obtained as the market is opened up to increased numbers of performances by removal of regulatory barriers. These individual, social and economic impacts are likely to be the primary benefit of the policy intervention. It is, however, very difficult to quantify and monetise the size of this effect due to the absence of good forecasting models for participation in events, and reliable yardsticks for converting these changes into monetised values. These benefits have not, therefore, been formally included in the policy appraisal, but we do estimate a significant positive impact, and the overall assessment made is therefore likely to be extremely conservative.

Benefit (b) Business cost savings

30. Business savings are anticipated in main two areas as regulatory requirements are removed:
- savings associated with premises licensed for regulated entertainment
 - savings from activities hosted under Temporary Event Notices (TENs)

All benefits estimated in this section are based on the existing stock of business that have been approved to provide regulated entertainment – they do not make allowances for the possibility of increased benefits where removal of burdens leads to further growth in entertainment post deregulation, so total administrative benefits are likely to be underestimated.

Reduction in venue/premises licensing burden

31. The licensing system regulates the provision of alcohol, late night refreshment, and regulated entertainment. The proposed deregulation of Schedule One activities is therefore likely to reduce some cost burdens that businesses face in complying with the licensing system.
32. Within the venue licensing aspect of the regulations there are four possible benefits where licence fees are paid:

⁶⁹ [DCMS \(2014\) Creative Industries Economic Estimates](#)

⁷⁰ [UK Music \(2013\) The Economic Contribution of the Core UK Music Industry](#)

- licences that are renewed on an annual basis
- new licences
- major variations to existing licences
- minor variations to existing licences.

The approach to assessing the size of the potential saving in each case is to isolate from licensing statistics how many applications in each category of licence relate to regulated entertainment only. Adjustments also need to be made to ensure that the licensing statistics as far as possible accurately reflect the scope of the policy proposal. These adjusted statistics can then be combined with cost estimates to give a monetised assessment of the cost saving that is likely to accrue to businesses.

33. According to the most recent Licensing Statistical Bulletin⁷¹, as of 31 March 2013 there were 201,976 premises licences and 15,479 club premises licences. *Table 2* describes how these headline statistics are scaled down to reflect the scope of the proposed policy. The first step is to calculate the proportion that have some form of regulated entertainment. This proportion is then applied to licences that do not include any form of alcohol sales. From this total, licences held by public sector organisations where no fee is payable are subtracted to leave a figure of 4,656 business licences in scope.

Table 2: Annually reviewed licences

Annually renewed licences in 2012-13	Premises Licences	Club Premises Licences
Number of licences	201,976	15,479
Including regulated entertainment	117,800	11,900
Share with regulated entertainment	58%	77%
Licences with no alcohol sales	30,237	243
No alcohol sales and regulated entertainment	17,635	187
Share in scope of policy	9%	1%
Licences held by public sector organisations	12,979	
Business held licences in scope	4,656	

34. Licensing statistics show that each year there are some additional regulatory activities. New licences are issued, and both major variations and minor variations are made to existing licences. The size of this regulatory activity is estimated in *Table 3*. This takes the total number of instances and applies a scaling factor, defined as the share of in scope of policy from *Table 2* above, to ensure that out of scope licences are excluded from the calculation.

Table 3: New licences, major variations, and minor variations

Licence changes in 2012-13	Total number			Number in scope		
	Premises	Clubs	Total	Premises	Clubs	Total
New licences	8,710	129	8,839	761	2	763
Major variations	6,021	175	6,196	525	2	527
Minor variations	4,467	201	4,668	390	2	392

Table 2 and *Table 3* give an estimate of the population of licences that would be in scope under a full deregulation of live entertainment. The policy proposal retains a number of protections, with a view to protecting the licensing objectives, which mean that the preferred option falls short of a full

⁷¹ [DCMS \(2013\) National Statistics Bulletin: Alcohol, Entertainment and Late Night Refreshment Licensing](#)

deregulation. *Table 4* sets out the key adjustments, and the assumptions applied to the calculations in *Table 2* and *Table 3* to ensure that the analysis reflects the true shape of the policy proposal.
*Table 4: Tailoring analysis to the final policy proposal*⁷²

<p>Live entertainment forms deregulated exclude film, boxing and wrestling, and adult entertainment.</p>	<p>This has been assessed by taking licensing statistics on the share of designations made for particular forms of live entertainment as a proxy for the share of licences that would only include film and boxing or wrestling. This amounts to only an 8% reduction in licences. This is not a perfect measure, but it is the best approximation that can be made with available data.</p>
<p>Maximum venue size is limited to 500 people. Live Music is already deregulated to 200 people.</p>	<p>There are two separate issues here. The first is that venue size will be limited to a maximum of 500 people across all venues apart from sport where the limit will be 1,000 people. The second issue is that for entertainment designated as live music, venues that hold up to 200 people have already been released from regulatory requirements under the Live Music Act 2012. Adjustments are therefore made based on data on venue size. Live music designations are scaled to 16%, half of the 32% of venues identified as being 200 people or more in the 2007 Live Music Survey. This survey is augmented with data on theatres obtained during consultation to scale the venues for all other forms of entertainment to 81%, apart from indoor sport which was scaled to 92%, reflecting the larger venue size limit.</p>
<p>Live entertainment will continue to be regulated between 23:00 and 08:00.</p>	<p>The cut-off time may mean that some venues will continue to need to have a licence to provide live entertainment. There is no data available to analyse this clause accurately. It is considered very unlikely that a significant number of venues would want to stage live entertainment after 23:00 and before 08:00 without the provision of alcohol. An adjustment of 0% to 5% is therefore applied to create a range in the high and low benefits calculation respectively.</p>

35. These adjustments leave a population of licences that are only for regulated entertainment, and are within scope of the proposed policy. There are cost savings to business from no longer having to complete these licences, as both the licence fee and the administrative burden of applying are lifted.

⁷² The proposal is complex and contains a number of clauses that affect entertainment activities that are not large in size. These aspects of the proposal have not been explicitly dealt with in modelling adjustments, because an absence of data makes the calculations intractable without disproportionate work. Referring to the proposal listed in Paragraph 10 “exemptions” and adult entertainment, cage fighting and mixed martial arts aspects of “other regulation” have not been accounted for in the modelling. The modelling does, however, make adjustments to take account of major aspects of proposal.

36. The 2009-10 licensing data is a source of information on the fee costs. Annual licence fees, assuming an equal proportion of venues across each band that benefit from the proposal, amount to an average cost of £194 per licence. New licences and major variations to licences ranged between fees of £100 and £1,905 across Bands A to E. New applications and major variations to licences also require businesses to make the public aware of the alterations for advertising. This presents businesses with an additional cost burden that can run to hundreds of pounds. There is, however, a lack of precise information on this cost burden and it has not been included in the calculation. The average fee cost of applying for these licences has been calculated as £238 based on a weighted average of licences across bands. The minor variation to licence fee is £89 per application. The Minor Variations Impact Assessment⁷³ contained estimates that the administrative cost of a full variation is in the range of £385 to £950 per application. The administrative cost of a minor variation is estimated to be £35 per application.
37. The estimates of licences within scope are combined with the cost estimates to give a monetised assessment of the cost saving to business that would be expected under the policy proposal. This results in an annual cost saving to business of approximately **£0.7m** in constant prices, which amounts to a present value saving of **£5.9m** over the entire appraisal period. This is counted as a deregulatory “OUT” to business, with the benefit being both direct and robustly monetised.

Reduction in TEN burden

38. Temporary Event Notices (TENs) are commonly used where there is not demand for repeat performances that would be better covered through the licencing system, to provide time limited permission to provide the types of entertainment listed in Schedule One to the Act. Similar to premises licences, TENs have both a cost impact both in terms of the fee charged and the effort that needs to be expended in the course of the application process. Deregulating the requirement for TENs under the policy proposal will reduce these burdens and realise a saving to businesses and civil society organisations that use them.
39. According to the most recent Licensing Statistical Bulletin, there were 137,119 TENs in 2012-2013⁷⁴. TENs may authorise the full range of licensable activities, including regulated entertainment and the provision of alcohol. While local authorities keep historical records of all TENs issued, the statistics on the reasons for individual TEN applications are not routinely kept by Local Authorities meaning that it is difficult to ascertain the number of applications made purely for live entertainment, or the type of live entertainment specified. This lack of data makes assessment of benefits from deregulation difficult, since it is tricky to tailor the analysis to match the complexities of the policy proposal.

⁷³ [DCMS \(2008\) Consultation on Minor Variations and Community Premises](#)

⁷⁴ [DCMS \(2013\) National Statistics Bulletin: Alcohol, Entertainment and Late Night Refreshment Licensing Supplementary Tables](#)

40. To gather some more detailed data on regulated entertainment provision under TENs, a sample of 4,132 publically available TENs applications made to Local Authorities has been assessed. Applications for regulated entertainment only numbered 634, approximately 15%, from the sample population. Applying this proportion to the TENs population, gives an estimated total of 19,088 TENs that were only for regulated entertainment. The policy proposal does however not apply to all forms of regulated entertainment, at all times, and for all venue sizes. In the absence of better data, adjustments are made based on licencing data as described in *Table 3*. The approach is slightly different in the case of venue size; because TENs only apply to events that have less than 500 people an adjustment is only required in the case of live music to take account of the Live Music Act and not for other types of live entertainment.
41. The estimates of licences within scope are then combined with cost estimates to give a monetised assessment of the cost saving that would be expected under the policy proposal. TENs applications are charged a fee of £21, and involve an administrative burden of £16 per application. This results in an annual cost saving of approximately **£0.4m** in constant prices, which amounts to a present value saving of **£3.8m** over the entire appraisal period. Assessing where these benefits accrue is more difficult. TENs are often used by businesses or civil society organisations, although they are also used by public sector organisations including schools in particular (to put on plays, for instance). There is a lack of accurate information on the exact proportion of the total number of TENs allocated to public sector organisations rather than businesses, and official licensing statistics offer no basis on which to make an assumption. The examination of the TENs sample did not yield any useful information on the split between business or civil society organisations and public sector organisations either because Licensing Authorities do not record this information in their licensing registers. It is, however, anticipated that the majority of TENs are used by businesses or civil society organisations that are in scope of “One-in, One-out.” This view is supported by the consultation. For example, the PTA-UK estimates that there are around 12,000 primary schools whose civil society run Parent Teacher Association hold a disco each year. This would represent approximately 55% of the 21,039 TENs identified as in scope of the policy alone, and the overall proportion is likely to be much higher given that this is only one interest group. Given that the overwhelming majority of the cost saving associated with TENs is likely to accrue to businesses and civil society organisations but the exact proportion is unknown, a conservative assumption of only 75% of the estimated cost saving from reduced requirement to obtain TENs is counted as a deregulatory “OUT” to business.

Benefit (c): Local authority cost savings

42. Local authorities are responsible for the operation of the controls that are currently imposed on the live entertainment sector. They therefore potentially stand to gain from deregulation as administrative burdens are reduced. The fees that are charged to licence and TEN holders are, however, designed on a cost recovery basis. This means that as the regulatory requirements are removed, there will be a benefit from reduced administrative burdens which will directly be offset by a reduction in fee income. This implies that there will be no net effect on local authorities.
43. There are, however, some circumstances in which licence fees are not charged to the applicant. This applies for annual licence renewals obtained by publicly funded institutions such as schools, hospitals and village halls. In this case the local authority is likely to make an administrative saving, since there is no fee compensation for their current level of regulatory activity. There is thus likely to be a positive effect on local authorities from the policy proposal.

44. Licences held by publicly funded institutions also need to be considered, separately to the business impact described above. There are 12,979 licences held by public institutions such as schools and hospitals. This figure for licence renewals covers all forms of live entertainment, and therefore needs to be adjusted to fit the scope of the policy proposals. This scaling is done with respect to the same principles as the business licence adjustments described in *Table 4*, although no adjustment is made for venue size since the proposal is to exempt public institutions from this requirement. This reduces the number of licences in scope to 4,656.
45. There is an administrative saving for the local authority associated with each licence that is no longer required. On the basis that licence fees are charged on a cost recovery basis, the administrative saving is assumed to be the licence fee that the public sector institution would have had to pay if it had been a business. The overwhelming majority of public sector institutions would be categorised as Band A premises, which attract a licence renewal fee of £70. Combining this assumption with the number of licence renewals in scope gives the total annual cost saving to local authorities. This amounts to **£0.8m** per annum in constant prices, and a total present value cost saving of **£7.0m** over the appraisal period. This benefit is taken as a reduction in local government burdens.
45. The 2011 consultation response pointed out that there would be additional administrative cost savings to other regulatory authorities, as the current system of automatic notification of low risk activities under the 2003 Act would cease. These benefits are important to recognise, and are likely to accrue along similar lines to the cost savings from not having to process TEN applications, but insufficient data was received in the consultation response to provide a quantitative estimate of the financial impact.

Costs

46. Although the final policy position has been designed to ensure minimum likelihood of costs arising, there are some potential downside risks. The Licensing Act enshrines four key objectives for public protection: prevention from crime and disorder; public safety; prevention of public nuisance; protection of children from harm. It is important to consider the extent to which the deregulation of live entertainment in the policy proposal risks adversely affecting these aims.
47. Overall, the proposal that is being considered is moderate: it retains most existing layers of regulatory protection, and is very selective in the way in which it deregulates element of live entertainment. Crucially, the proposal does not deregulate particular forms of live entertainment that are considered to be high risk, and imposes restrictions on venue size and a cut off time where deregulation does occur. Given concerns about deterioration of public protections raised in the consultation process, a more detailed consideration of potential downside risk is nevertheless required. Potential costs are considered from two perspectives:
- (a) Individual qualitative risk assessments of each area of live entertainment to be deregulated
 - (b) Indicative cost estimates to illustrate how potential cost burdens compare to potential benefits
- Each area of potential cost is addressed separately below.

(a) Qualitative risk assessment by activity

48. The preferred policy option takes a selective approach to deregulation of cultural and sporting activities. Taking into account the consultation responses to an original proposal that was broad brush (all forms of regulated entertainment included, up to a venue size of 5,000, and no cut off time restrictions), the final proposal is tailored to ensure that protections are maintained around live entertainment forms where deregulation would risk a substantial downside. The basis for this has been a qualitative individual risk assessment against the licencing objectives, which is detailed in *Table 5*.

Table 5: Qualitative individual risk assessment for live entertainment forms

Live entertainment form and proposal	Qualitative individual risk assessment against the licensing objectives for live entertainment forms
Indoor sport	<ul style="list-style-type: none"> • This activity was thought to be particularly suited to deregulation. • It will apply mostly to premises that are designed specifically to host sporting activities, and which have a set of well-developed operational safety criteria underpinned by legislation outside of the 2003 Act. • An example that was quoted several times by respondents to the consultation were swimming galas hosted at local authority venues, where Health and Safety and Fire Safety laws already clearly apply, and where the provision of spectator seating is already covered (including under Building regulations). • Such premises (built indoor premises) will have already been subject to planning and building regulations. • Activities such as national darts championships will remain regulated as, in addition to the range of other controls available, alcohol will be sold and controls from the 2003 Act can apply. • Events taking place after 11pm will not be deregulated to remove late night disturbance concerns.
Plays and Dance	<ul style="list-style-type: none"> • The business case for the deregulation for community benefit for plays and dance has been widely accepted. Audiences risks associated with these activities have generally been regarded as low risk due to other controls available. • Limiting such activities to 500 people will mean that activities taking place outdoors will be in line with the Temporary Events Notice regime, which has been in place successfully for many years. • 500 is a limit that has become established within the events industry as being the upper limit for smaller outdoor events beyond which additional safety considerations would be applying such as tiered seating, large scale stages and lighting rigging and other temporary structures - which all pose a safety risk and would need to be considered. • As with indoor sport, Health and Safety and Fire Safety law provides considerable protection to attendees, so additional regulation is no longer necessary. • An 11pm closure time removes late night noise concerns.
Live music	<ul style="list-style-type: none"> • This new policy is a simple extension of the existing deregulation for live music under the Live Music Act 2012. • Extending audience thresholds in alcohol licensed premises from 200 to 500 should provide little in the way of additional risk. It is expected that premises that have the capacity to host audiences of 500 people will already be using the opportunity to deregulate for audiences of 200 people. The deregulation will simply allow more people into venues, using existing safeguards under the 2003 Act for alcohol sale and public safety. • As with the 2003 Act, the sanction of a licence review can be applied for irresponsible behaviour – this will be bolstered by recent changes to the legislation as licensing authorities themselves can instigate a review, as well as the local residents, business, and the police. These sanctions carry serious implications for licence holders who could see their business shut down, with heavy fines and jail sentences all possible under the 2003 Act. • Existing health and safety and fire protections from other legislation will continue to apply.

	<ul style="list-style-type: none"> • In respect of workplaces, the extended capacity threshold will allow larger venues (such as large department stores) to host flagship events to larger audiences using the existing arrangement for up to 200 people. • The existing limit of 11pm closure time will continue to apply in respect of any deregulated activity.
Recorded music	<ul style="list-style-type: none"> • The proposal for recorded music deregulation would mirror the existing suspension of live music regulation in alcohol licensed premises. This is a common sense approach to bring clarity to the whole area of modern music, which is often partially live and recorded in nature. • Licensing sanctions under the 2003 Act would continue to apply to premises hosting recorded music, so that as now licensing authorities can review premises licenses of any problematic venues. • A common limit – 500 - people would ensure appropriate read across to the other activities. • As with the 2003 Act, the sanction of a licence review can be instigated to deal with irresponsible behaviour. This process is bolstered by recent changes to the legislation as licensing authorities themselves can instigate a review, as well as the local residents, business, and the police. These sanctions carry serious implications for licence holders who could see their business shut down, with heavy fines and jail sentences all possible under the 2003 Act. • Existing health and safety and fire protections from other legislation will continue to apply. • The existing limit of 11pm closure time will continue to apply in respect of any deregulated activity.
Exemptions	<p>The principle of exemptions from all Schedule One activities has a clear precedent under the 2003 Act. Exemptions are in place for activities held in places of religious worship and in other circumstances such as garden fetes.</p> <p>The new exemptions are based on practical experience of issues since the 2003 Act came into force and the acknowledgement of the negative effect that the legislation has on either low risk local community interaction, or where appropriate controls are already in place.</p> <p><i>a) Exempt from all Schedule One activities between 08:00-23:00 with no audience limitations:</i></p> <ul style="list-style-type: none"> ▪ <i>Activities organised by, or on behalf of, a Local Authority on their own premises</i> ▪ <i>Activities organised by, or on behalf of, a hospital or school (including sixth form colleges) on their own premises</i> <p>These exemptions apply solely to activities organised under the aegis of trusted, highly competent organisations with genuine systems of local accountability. Risk assessment processes undertaken in all circumstances will largely replicate existing assessment processes and all large events are likely to take place under some form of local authority control.</p> <p><i>b) The following will be exempt, with no audience limitations, from the regulation of live music, recorded music, indoor sport, the performance of a play, an exhibition of dance, between 08:00-23:00</i></p> <ul style="list-style-type: none"> ▪ <i>Circuses</i>

	<p>Circuses are subject to ongoing monitoring under existing legislation and are tracked under a central database. Circuses were not licenced before the 2003 Act and the activities for which they are currently licensed (“performance of a play” - scripted performance of a clown’s show; “indoor sport” – trapeze acts; interpretations of incidental music) are very limiting to travelling performance moving across licensing authorities. Existing Health and Safety and Noise legislation applies more proportionately, and circuses should be removed from the need for licence for these activities.</p> <p>c) <i>The following premises will be exempt from regulation for live and recorded music between 08:00-23:00 with audience limitations of 500 people:</i></p> <ul style="list-style-type: none"> ▪ Activities held on premises owned by Local Authority premises (including parish councils) with the specific permission of that Authority ▪ Activities held on hospital and school premises (including sixth form colleges) with the specific permission of those organisations ▪ Activities held on community premises (such as church halls, village halls, and community halls etc.) with the specific permission of the operator. <p>Most other activities in Schedule One will be deregulated more widely, but this exemption permits music activity deregulation only in appropriate local circumstances, ensuring a genuine balance between civil society activity and regulation by making use of existing control structures.</p>
Exempted forms of wrestling	Greco-Roman and freestyle wrestling are specialist and unproblematic activities in relation to the Act’s four licensing objectives.

49. The risk assessment analysis demonstrates that the proposal is concentrated in live entertainment areas where there is little cause for concern. Areas that would potentially have jeopardised one or more of the licensing objectives have been omitted entirely, subjected to individual restrictions on venue size and time limit. Policy making also took account of concerns from the police in response to the consultation, so that only events of the lowest possible risk category could take place without some form of prior notification to relevant authorities. With all these protections in place, the overall risk to the licensing objectives is considered to be minimal, although of course there is the possibility for some very small negative impacts to be generated by the policy proposal.

(b) Indicative estimates of potential costs

50. The qualitative individual risk assessment indicates strongly that the policy is designed in such a way as to ensure that risks from deregulation are minimised. The qualitative nature of the risk assessment means, however, that it is difficult to visualise how some very small potential negative impacts might translate into monetised costs. This is important, because it is necessary to have a sense of how any costs that do arise might balance against the benefits that have previously been identified.

51. It is extremely difficult to accurately monetise the risk that is associated with the policy proposal. The main difficulties are identifying to what extent the proposal will encourage the growth of live entertainment performances, and understanding how statistics on current performance against the licensing objectives relate specifically to the forms of live entertainment that are being deregulated. These difficulties mean that a precise approach to risk quantification and monetisation is not possible. It is nevertheless important to stress test the robustness of the policy. This is done by setting up an illustrative scenario for potential cost impacts.

52. The risk assessment makes it clear that there is no reason to expect deterioration in performance against prevention of crime and disorder, protection of children from harm, or public safety. This is because final policy has taken into account comments made by local authorities and the police, removing areas of higher risk likelihood and paring down circumstances in which even the lowest risk activities could have any kind of potential for deleterious effect (table 5). The adopted policy position takes full account of public order advice to eliminate concerns around infrastructure overload and any potential risks from issues such as “bring your own” alcohol activity at small events, so that risk from such activity is now considered highly unlikely.
53. This assumption is underpinned by licensing data from the 2012/13 financial year. In 2012/13, 137,119 Temporary Events Notices were notified to licensing authorities. Of that total, 1,119 TENs received police counter notices (0.82%). The vast majority of those 1,119 are likely to relate to the high risk potential of alcohol provision, which would remain regulated under the new policy position. As a further illustration, paragraph 39 explains that the ratio of TENs related to alcohol provision and TENs related solely to the provision of entertainment has been found to be 85% to 15%, therefore with the retention of controls around higher risk entertainment activities, these figures demonstrate that any potential for harm is very small indeed.
54. The risk assessment also shows that negative impacts on performance in the prevention of public nuisance dimension of the licensing objectives are more likely to occur, although impact is anticipated to be minimal. It is these areas that an illustration of costs impacts is useful, and can thought of as a quantitative “worst case” assessment of impact.
55. The key area of impact of public nuisance is noise pollution. Increased numbers of performances have the potential to raise local noise levels. Under the vast majority of ordinary circumstances, the increase in noise level would not be high enough to be considered deterioration in local environmental quality. Occasionally, however, noise levels might reach levels which disturb residents in the area. This has direct costs to households affected, and it also has indirect costs to local authorities that have a legal obligation to investigate and, where appropriate, deal with noise complaints.
56. Noise problems from venues occur on a relatively infrequent basis. The National Noise Survey 2008⁷⁵ states that only 3% of those interviewed specifically identified public houses, clubs, or other entertainment venues as a source of noise that was bothering them. This indicates that venues that can stage live entertainment tend not to be particularly heavy noise polluters. Indeed, this information does not distinguish between pure live entertainment events, and those that also serve alcohol where the risk of disturbance is likely to be much higher. The impact of the relatively small deregulation proposed is therefore likely to be small.
57. The Chartered Institute of Environmental Health (CIEH) provides figures on the number of noise issues in 2012-13⁷⁶. These numbers can be adjusted to provide a reasonable baseline for live entertainment related noise disturbances. This is described in *Table 6*. Column (A) presents CIEH data from a sample of 159 local authorities on the incidence of different levels of noise disturbance in England and Wales. Column (B) scales this CIEH sample up to the population of 348 local authorities on a linear basis.

⁷⁵ [Environmental Protection UK \(2008\) National Noise Survey 2008](#)

⁷⁶ [CIEH \(2011\) Noise Nuisance 2012/13](#)

58. The CIEH survey covers all venues that are designated as ‘commercial and leisure’: this includes venues that provide live entertainment but also covers licenced venues out of scope of the deregulation and indeed other businesses such as retailers. Column (C) therefore makes a double adjustment to create a suitable baseline: it arbitrarily assumes that 50% of all commercial and leisure premises fall under the licencing system; and it assumes from licensing statistics that 51% of licenced venues provide some form of live entertainment and are in scope of the policy proposal. This is assumed baseline impact of live entertainment, from which Column (D) describes an assumed 5% increase under the proposed policy change.

Table 6: Possible change in noise disturbances in live entertainment venues under policy proposal

Severity of disturbance	(A) CIEH LA statistical sample	(B) Scaling to LA population	(C) Only live entertainment	(D) 5% increase under policy
Complaints	10,763	23,398	13,956	698
Incidents	8,007	17,407	10,382	519
Statutory nuisance	2,839	6,172	3,681	184
Abatement notices	256	557	332	17
Prosecutions	0	0	0	0

Values can be attached to the increase in disturbances for both the individual and the local authority concerned. The estimated values are presented in *Table 7*.

Table 7: Estimated total cost impact per noise disturbances to local authorities and complainants

Severity of disturbance	Cost to local authority / £	Cost to complainant / £
Complaints	132	60
Incidents	178	81
Statutory nuisance	357	0
Abatement notices	1,013	0
Prosecutions	10,000	0

59. These cost estimates are based on the length of time it takes to deal with a disturbance as presented in a study undertaken by DEFRA⁷⁷. This presents a range average of time impacts for complaints and incidents across the full spectrum of economic and domestic activities that cause noise disturbances. The lower end of these estimates are around two to four hours; although the high range is much greater the low range of values have been taken as appropriate for live entertainments that overwhelmingly tend to be short in duration. No information is provided on statutory nuisances, abatement notices or prosecutions. Statutory nuisances are treated as the equivalent of a high estimate for an incident, and abatement notices and prosecutions are assumed to take ten hours to resolve. Prosecutions are ignored because the incidence data shows no occurrences.

⁷⁷ DEFRA (2012) Unpublished

60. These time assumptions are combined with hourly cost assumptions. Costs to local authorities are also taken from the DEFRA study and are estimated to be £50.63, while costs to complainants are derived from DFT⁷⁸ research on the value of work and leisure time and are estimated to be £20.00. Costs to complainants from statutory nuisances, abatement notices, and prosecutions are assumed to be zero, since they will already have been recognised in repeated complaints and incidents that have been included in the assessment. This logic does not apply to local authority costs where each escalation of a disturbance has additional administrative burdens associated with it.
61. Despite numbers being provided for complaints, incidents, statutory nuisances, abatement notices and prosecutions, when it comes to estimating the total cost of noise disturbances, only the projected increase in the number of complaints and the cost of the complaints to local authorities and complainants are used. According to DEFRA, this should be so because the complaints figures are all-encompassing and capture the corresponding figures for incidents, statutory nuisances, abatement notices and prosecutions. For instance, the £132 cost of a complaint to local authorities is an average figure taking into account the cost of all sub-categories and the probability of them occurring. Therefore, if one included the other sub-categories separately, one would be double counting.
62. The illustrative change in noise disturbances presented in *Table 6* is combined with the cost impact estimates in *Table 7* to give a cost scenario for the policy proposal. The cost to complainants is thus estimated to be **£0.1m** per annum in constant prices, or **£0.4m** in present value terms over the appraisal period. Similarly, the cost to local authorities is **£0.1m** per annum in constant prices, or **£0.8m** in present value terms over the appraisal period.
62. There might be a further administrative burden for the local authority if deregulation leads to increased numbers of licence reviews. The most recent information on the number of reviews across all licences comes from the Licensing Statistical Bulletin for 2012-13. The reason and number of reviews are presented in *Table 8*.

Table 8: Reason and number of reviews

Reason for review	Number of reviews
Crime and disorder	574
Protection of children	266
Public nuisance	268
Public safety	165

63. The qualitative risk assessment makes it clear that impacts against the licencing objectives of crime and disorder, protection of children, and public safety are extremely unlikely. There are adequate protections in place against public nuisance, but some impact is possible here particularly in term of noise as discussed previously. Having assumed a 5% increase in noise disturbances to illustrate the possible effect on complainants and local authorities, there might be a knock on impact on the number of reviews undertaken in this area.

⁷⁸ [DFT \(2012\) Values of Time and Operating Costs](#)

64. Given the difficulties in estimating the impact of the policy proposal on the growth in live entertainment, it is difficult to forecast accurately the change in reviews. The qualitative risk assessment makes it clear that impacts are expected to be minimal. Nevertheless, an assumption of the increase in reviews provides a guide to the potential costs that could arise from the policy proposal. In order to be conservative, an assumption of a 10% increase in reviews is made. This is double the assumed increase in noise disturbances, and amounts to an increase of 44 reviews of public nuisance. Local authorities have confirmed information on the cost per review through the consultation process, estimating a cost per review of £1,200. Combining the number of reviews and cost per review given an annual constant prices cost of less than **£0.1m**. This translates to a cost of **£0.5m** in present value terms over the appraisal period.
65. Aside from the issue of noise, other impacts were examined in the process of policy making, such as the potential for increased draw upon service from various regulatory authorities. However, as the final policy position has been considerably altered to minimise any potential public order risk, as outlined in the risk assessment table any cost impact is thought nugatory.
66. Any costs for transitional training for licensing authorities are taken account of within the wider Fees regime that underpins the Licensing Act 2003. No wider business familiarisation costs are expected. The policy cuts out bureaucracy for business, and with strong public announcements it is not anticipated that any significant business time will be taken up by the new guidance.

Net benefits

67. Having examined the potential benefits and costs of the preferred policy option, it is necessary to consider the overall position of these impacts supports the policy recommendation. It is important to take account of the concerns of particular stakeholder groups in drawing these conclusions, and the perspectives are particularly important for this policy:

- (a) Societal net benefits
- (b) Business net benefits
- (c) Local government net benefits

Each perspective from which net benefits needs to be considered is addressed separately below.

(a) Societal net benefits

68. The analysis demonstrates that the proposal represents a net benefit to society. There are substantial benefits identified in terms of opportunity for growth in live entertainment markets, leading to positive effects on the individual and community wellbeing, as well as increased business opportunities. As explained above, this impact, which we estimate to be considerable, has not been quantified due to a lack of maturity in existing modelling. There is also an administrative saving to businesses and local authorities as administrative burdens are reduced. This impact has been quantified and amounts to **£1.9m** per annum in constant prices, or **£16.7m** in present value terms over the appraisal period.
69. Potential downsides to deregulation have been considered and subjected to a rigorous qualitative risk assessment, as well as an illustrative scenario for the impact of increased levels of noise disturbances on individuals and local authorities amounting to **£0.2m** per annum in constant prices, or **£1.6m** in present value terms over the appraisal period.

70. Taking the monetised benefit and cost estimates together gives a monetised net benefit of **£1.8m** per annum in constant prices, amounting to a net benefit of **£15.1m** over the appraisal period in present value terms. This is likely to be a significant underestimate of the overall net benefit to society because opportunities for growth in the live entertainment market, associated with both wellbeing and economic benefits, have not been monetised in the calculation.

(b) Business net benefits

71. The analysis demonstrates that the proposal represents a net benefit to business as measured by the One-in, One-out (OIOO) methodology. Direct cost burdens are removed from businesses as they are alleviated from the requirement to obtain licences and TENs in order to stage live entertainment. There are no direct costs imposed on businesses under the proposal. There is therefore a net direct benefit to business, and the proposal is recognised as a deregulatory “OUT” under the OIOO methodology.
72. This is estimated to be **£-1.0m** in equivalent annual net cost to business terms. In addition there are likely to be further indirect benefits to businesses from any growth in the live entertainment market, but this has not been quantified and is out of scope under OIOO methodology. There is likely to be a positive effect on small businesses, and therefore competition, since removal of regulatory burden lifts a larger proportion of the cost base for a smaller business than a larger business.

(c) Local government net benefits

73. The analysis demonstrates that the proposal represents a net benefit to local authorities. Local authorities enjoy a cost saving from reduced administrative burdens from the processing of licence applications from public sector organisations. This amounts to **£0.8m** per annum. The possibility of downsides has been considered thoroughly through a comprehensive qualitative risk assessment. This demonstrates that there is unlikely to be any significant detrimental impact on performance against the licencing objectives. Nevertheless there is a possibility that the policy would have some impact on noise pollution, and therefore increase costs to local authorities under their obligation to deal with noise disturbances and conduct reviews. Possible costs associated with this have been illustrated as a “worst case” scenario and amount to **£0.2m** per annum. There is thus a net benefit to local government of **£0.7m** per annum, or **£5.8m** in net present value terms.

Overall policy position

74. The evidence base supports the policy: the analysis demonstrates that the proposal yields net benefits to society, businesses, and local authorities. There are no perverse distributional outcomes across any of these stakeholder groups. The analysis has been conducted on an extremely conservative basis that only takes into account the administrative savings of the deregulation, and a pessimistic view of potential costs. The proposal is, in addition to those benefits monetised, likely to deliver real benefits in terms of growth in entertainment.

Specific impact tests

Economic

75. The proposal offers several economic impacts, all of which have been analysed. Opportunities for growth have been discussed qualitatively, while specific impacts on individuals, businesses, and local authorities have each been considered both separately and as a package. Distributional issues within stakeholder groups, such as impact on businesses of different size, have been considered and no significant impacts have been identified.

Social

76. The proposal increases opportunities for positive social impacts from improved individual and community wellbeing, and these outcomes have been analysed qualitatively. Rural impacts have not been considered in the main assessment. There is potential for proportionately greater benefits to accrue in rural areas, where lower audience numbers and incidence of market supply mean that the costs of the licensing system are more likely to create a hindrance to individual and community participation. The proposal has been considered against the licensing objectives and subjected to a risk assessment that finds negligible impacts on crime and disorder, public safety, and protection of children. No perverse impact is anticipated on equalities, or human rights.

Environmental

77. The potential for the proposal to increase levels of noise pollution has been thoroughly discussed, and subjected to both a risk assessment and an illustrative assessment of costs. There are likely to be at worst negligible impacts on other key environmental outcomes, such as climate change, air quality, biodiversity, water use, built environment and natural environment.

Post Implementation Review Plan

78 A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences.

<p>Basis of the review: There is a political commitment to review the impact of deregulating regulated entertainment.</p>
<p>Review objective: The purpose of the PIR will be to assess the impact of the deregulation, particularly to assess if there has been any unexpected cost, or negative impact on the licensing objectives (public nuisance, crime and disorder, public safety, and protection of children from harm), and to assess whether it has increased the provision of regulated entertainment.</p>
<p>Review approach and rationale: The review will monitor local authority data on licensing, police statistics, regulated entertainment event statistics, and consult with stakeholders in order to adequately assess the validity of concerns about costs, resources and crime and disorder.</p>
<p>Baseline: The baseline for licensing statistics will be the Home Office and DCMS Licensing Statistical Bulletins.. The baseline for looking at attendance at live music events will be taken from the annual DCMS Taking Part Survey.</p>
<p>Success criteria: The overall objective is to increase the number of regulated entertainment events, without impacting negatively on the licensing objectives.</p>
<p>Monitoring information arrangements: The DCMS annual Taking Part Survey will be used to monitor the prevalence of attendance at live music events. Local authority data on reviews and licensing statistics collated in the future by the Home Office will be used to monitor data on licence numbers, number of TENs, etc.</p>
<p>Reasons for not planning a review: Not applicable.</p>

Annex D

Consultation on a proposal to use a Legislative Reform Order to make changes to Entertainment Licensing: Summary of responses

Published on 9 July 2014 and included as an Annex to this Explanatory Document.



Department
for Culture
Media & Sport

Consultation on a proposal to use a Legislative Reform Order to make changes to Entertainment Licensing

Summary of responses

July 2014

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Chapter 1: Background to the consultation

Background

- 1.1 In October 2013, DCMS published a consultation about changes to entertainment licensing that were to be implemented via a Legislative Reform Order (LRO). The consultation set out in detail how the Government intended to use an LRO to remove unnecessary regulation from certain smaller scale and neighbourhood events, thereby freeing up organisers to put on eligible entertainment without having to fill in licensing paperwork and go through a costly process. It covered plans to:
- amend the licensing requirements in respect of live music and recorded music;
 - bring in cross-activity licensing exemptions for local authorities, schools, hospitals, nurseries and circuses; and
 - remove the licensing requirement for Greco-Roman and Freestyle wrestling.
- 1.2 By bringing forward these proposals the Government wished to:
- remove bureaucracy and cost from community entertainment activities and bolster creativity and community participation;
 - make it easier for schools, community groups and civil society organisations to put on cultural and sporting events by removing them from the entertainment licensing regime; and
 - grow the creative economy and remove burdens from small and medium sized businesses. In particular, the measures in relation to live and recorded music were focussed on helping pubs, hotels and other hospitality businesses diversify their offer and access new markets.
- 1.3 A previous policy consultation in 2011 had sought views on removing licensing requirements in England and Wales for most entertainment activities. As a result of that 2011 consultation, the Government announced a set of deregulatory measures in January 2013. The October 2013 consultation set out the detail of the announced policy and invited views on whether the proposal to implement through an LRO satisfied the preconditions set out in the Legislative and Regulatory Reform Act 2006 (LRA).

Consultation Proposal

<p><u>Policy position as consulted on:</u></p>
<p>Deregulation will only apply to activities below which are conducted between 08:00-23:00 to minimise any risk of excess noise when the impact of noise disturbance on households is highest.</p>
<p>Cross-activity exemptions The following will be exempt from entertainment licensing between 08:00-23:00 with no audience limitations:</p> <ul style="list-style-type: none"> • Entertainment activities held by, or on behalf of, local authorities on their own premises. • Entertainment activities held by, or on behalf of, hospitals and schools on their own premises. • Entertainment activities that are part of nursery provision on non-domestic premises.
<p>Live music A performance of live amplified music in alcohol licensed premises or in a workplace will not require specific permission where the entertainment takes place between 08:00-23:00 and the audience consists of up to 500 people. The present audience ceiling is 200 people.</p>
<p>Recorded music Any playing of recorded music in alcohol licensed premises will not require specific permission where the entertainment takes place between 08:00-23:00 and the audience consists of up to 500 people.</p>
<p>Live and recorded music exemptions The following events will be exempt from entertainment licensing for live and recorded music between 08:00-23:00, where the audience consists of up to 500 people:</p> <ul style="list-style-type: none"> • Activities held on local authority premises. • Activities held on hospital and school premises. • Activities held in community premises.
<p>Circuses Tented circuses will be exempt from entertainment licensing in respect of performances of live music, the playing of recorded music, indoor sporting events and any performance of a play or dance that takes place between 08:00-23:00, with no audience limitation.</p>
<p>Greco-Roman and freestyle wrestling Above wrestling disciplines to be exempt from licensing, with no audience limitations, if these contests take place between 08:00-23:00.</p>

Chapter 2: Consultation summary

Details of the consultation

- 2.1 A public consultation in accordance with section 13 of the LRRRA began on 22 October 2013, ran for 8 weeks and closed on 17 December 2013. 64 replies were received by the closing date, with a further 25 replies received thereafter in the consultation mailbox. The Department decided to analyse all responses, including those received beyond the stated closing date. The consultation sought views on: whether an LRO is appropriate for making reforms to entertainment licensing; whether the pre-conditions in section 3(2) of the LRRRA were met; and whether there was agreement with the recommended Parliamentary scrutiny procedure.
- 2.2 A list of those who responded is in the **Appendix**. This summary of responses document has been published on the gov.uk website, with the original consultation document.¹

Summary of the views of respondents

- 2.3 A breakdown of the consultation responses by type of respondent is below:

Breakdown of responses by type of respondent						
Local authority	Entertainment/ Arts/Music organisation	Community Group	Residents' Association/ Group	Children/ Youth organisation	Individual	Other
23	13	3	6	7	27	10

- 2.4 Although the majority of questions sought qualitative comments rather than asking whether respondents agreed or disagreed, a breakdown has been produced from analysing consultation responses.

¹ <https://www.gov.uk/government/consultations/legislative-reform-order-changes-to-entertainment-licensing>

Analysed breakdown of consultation responses in terms of level of overall support for an LRO			
Supportive	Qualified support	Opposed	Undetermined
47	20	17	5
53%	22%	19%	6%

Summary of comments submitted

2.5 The following points were typical of those who supported the reforms:

- Make it easier to put on lower risk entertainment without the need for bureaucratic licence administration
- Local authorities, health care providers and schools can be expected to act responsibly without being licensed
- Make it easier for local authorities to hold events that bring communities together and are a vital part of the visitor economy
- Make it easier for ‘friends’ of hospitals to organise fund-raising or social entertainment activities on hospital premises
- Make it easier for schools to organise creative and cultural events that benefit pupils and the local community
- Make it easier for Parent Teacher Associations (PTAs) to organise entertainment activity in support of schools
- Licensing not required for lower risk events, taking into account that other legislation protects the public
- Will encourage talent through fostering grassroots music, with knock-on benefits for the music industry as a creative industries sector
- Will benefit hospitality and tourism businesses that wish to create new revenue streams through offering music entertainment
- Circuses, as family orientated entertainment, should not be subject to the licensing regime

2.6 The following points were typical of those who were against the reforms:

- The public will not be sufficiently protected from noise nuisance, particularly outdoors
- Residents would no longer be able to make representations to the licensing authority on licence conditions where there is no premises licence
- Environmental Health Officers are not able to effectively control noise from music events
- Deregulation will lead to a greater resource burden on local authorities due to noise complaints and having to conduct more licence reviews
- Disorder, anti-social behaviour and noise nuisance are associated with providing recorded music
- Community premises are not necessarily lower risk in terms of music entertainment

Pre-conditions of a Legislative Reform Order

- 2.7 The consultation paper asked six questions on whether the proposal satisfied the preconditions for a Legislative Reform Order. On average 37% of respondents answered these questions, and of those, 67% agreed with the Government's assessment and 33% disagreed.

Parliamentary procedure

- 2.8 The consultation paper asked whether the affirmative resolution procedure should apply to Parliamentary scrutiny of the proposal. There were 31 responses to this question (35 per cent of the total numbers of responders) of which 21 (68% agreed) and 10 (32%) disagreed.

Chapter 3: Consultation response

Details of responses received

3.1 Questions 1-12 sought views on the individual component parts of the LRO proposal.

Q1. Do you have any comments on how this LRO deregulatory measure will work for local authorities?

3.2 Most respondents offered supportive comments or indicated that they were content that the LRO should include a measure to remove the requirement for a licence for any entertainment activity organised by, or on behalf of, a local authority body. This was on the basis that such activities were unlikely to cause issues and such events were lower risk in terms of the licensing objectives.

3.3 Local authority respondents noted that it would remove from the licensing regime those council premises which only carry out regulated entertainment between 08:00-23:00. It was felt that an exemption would make it easier for local authorities to make their premises available at lower cost to the communities they serve, and without the need for bureaucratic licence administration that was costly and time consuming. They considered that events organised by, or on behalf, of a local authority would still be responsibly and safely organised without the requirement for a premises licence. It was argued that authorities would be able to exercise control over events organised “on their behalf” that would minimise any potential issues for low risk events. It was noted that some local authorities were licensing authorities and so would be well aware of their legal responsibilities under relevant legislation, as well as being directly and democratically accountable to the local community.

3.4 The Local Government Association (LGA) considered that the proposal offered a sensible way forward and should be introduced. They commented that proportionate steps for low-risk forms of entertainment made it easier for local authorities to organise and hold events that brought communities together. They noted that such events formed a fundamental part of the visitor economy.

3.5 A number of other respondents noted that deregulation was on the presumption that local authorities would be expected to act responsibly in not allowing the use of their premises (including outdoor spaces) for music activities that could lead to public nuisance. It was noted that many authorities had licensed outdoor spaces to facilitate events.

3.6 Some respondents were not in favour of the measure. They argued that premises licences remained appropriate for local authority events on local authority premises. They made reference to the ‘Register of Licensed Public Spaces’² that event organisers could use to find out if a space was already covered by a licence. Such respondents argued that the removal of the licensing requirement meant that there

² <https://www.gov.uk/government/publications/licensed-spaces-register>

would be no licence conditions in relation to controlling noise and that this undermined the public nuisance licensing objective. They considered that it could lead to conflict between residents and local authorities in respect of noise from amplified music events, particularly from public open spaces. Those in favour of the measure commented that a local authority was highly likely to want to ensure that any event organised on their behalf conformed to statutory limits on noise output.

- 3.7 One respondent argued that entertainment events conducted by local authorities should not require a licence, but that local residents should have the ability to request a review of the situation with a view to licensing being re-imposed should it be determined that controls were required. Other respondents went further, suggesting that the measure would extinguish the rights of residents and businesses to object to local authority premises providing entertainment.
- 3.8 Some respondents considered that it would be important to define “on behalf of a local authority” to ensure there was consistency of approach and that an exemption without an audience cap was not abused for revenue generating purposes. It was noted that local authorities might own, or have interests in, what were essentially commercial venues that were in competition with private sector businesses.
- 3.9 There were concerns that higher risk events, such as pop concerts and music festivals with considerable audience capacities in large open spaces, might be construed as being held under the aegis of a local authority and so not require a licence. It was suggested that having no audience capacity restriction was anomalous in comparison to (a) the audience limit of 500 for entertainments included in The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013 ('2013 Order³) and (b) what was proposed in the LRO for live and recorded music in alcohol licensed and community premises. It was said that the Impact Assessment that accompanied the consultation made reference only to small low risk entertainment events being deregulated.
- 3.10 One respondent drew attention to the importance of each authority having a Safety Advisory Group (SAG) to advise persons ‘acting on behalf of’ the authority to safely organise an event. They considered that without a SAG in place, responsible authorities such as the Police and the Fire Service might have no opportunity to scrutinise proposed local authority events.

³ <http://www.legislation.gov.uk/ukdsi/2013/9780111538609/contents>

- 3.11 One respondent drew attention to the list of bodies in paragraph 5.6.1 of the consultation and noted that some of the public bodies included were not directly and democratically accountable to the local community to a comparable degree to councils. They suggested that the London Legacy Development Corporation should not be included in the exemption.
- Q2. Do you have any comments on how this LRO deregulatory measure will work for hospitals?**
- 3.12 Most respondents offered supportive comments or indicated that they were content for the LRO to include a measure that removed the requirement for a licence for any entertainment activity organised by, or on behalf of, a health care organisation on their own hospital premises. This was on the basis that entertainment on such premises did not cause issues and any such events were lower risk in terms of the licensing objectives.
- 3.13 A number of respondents considered that removing the requirement for Temporary Event Notices (TENs) would ease the administrative burden on health care providers. It was felt that an exemption could make it easier for 'friends' of a particular hospital to organise fund-raising or social entertainment activities on hospital premises in support of the work of that hospital. Other respondents commented that they had no evidence that present regulation was burdensome for the health care sector.
- 3.14 Some respondents noted that health care providers have hierarchical management structures and are subject to regulatory regimes that ensure care of people. Those that supported the exemption considered that health care providers would use the licensing exemption responsibly and in a similar fashion to local authorities, without detriment to the licensing objectives.
- 3.15 Two respondents commented on the role that music can play in the rehabilitation of health and how licensing deregulation could reinforce the use of music interaction as a therapeutic practice.
- 3.16 As with local authorities, a number of respondents noted that deregulation was on the presumption that health care providers could be expected to act responsibly in not allowing the use of hospital premises (including outdoor spaces) for music activities that could lead to public nuisance. However, there was some concern that responsible persons within health care providers might not be sufficiently aware of public nuisance issues.
- 3.17 Some respondents were not in favour of the measure and considered it to be unnecessary as few hospital premises had the capacity for larger entertainment events. They were concerned that music events could be a noise nuisance for nearby residents and argued that it was unclear how patients would be protected from amplified noise.
- 3.18 One respondent commented that health care providers were unlikely to want to put on all the entertainment activities that were being deregulated (e.g. indoor sporting events).

Q3. Do you have any comments on how this LRO deregulatory measure will work for schools?

- 3.19 Most respondents offered supportive comments or indicated that they were content for the LRO to include a measure to remove the requirement for a licence for any entertainment activity organised by, or on behalf of, the governing body of a school on school premises. This was on the basis that such entertainment did not cause issues and such events were lower risk in terms of the licensing objectives.
- 3.20 Those that supported the measure noted that it would remove from licensing those school premises that only carried out entertainment events and were not licensed for alcohol purposes. The reduced bureaucracy would give schools more opportunities to showcase pupils' work and undertake creative and cultural events that would benefit pupils and the local community. Schools would also be able to organise events to raise funds, but without the need for costly and time-consuming licence administration. There was also a view that it would encourage more schools to perform live music and this was welcome as part of improving music education.
- 3.21 PTA-UK estimated that the exemption could provide an annual administrative saving of £500k across volunteer run Parent Teacher Associations (PTAs). It would also remove the risk of PTAs falling foul of current legislation and had the potential to increase the level of PTA entertainment activity in support of schools. PTA-UK considered that it would be important to define "on behalf of" to ensure that it included PTA-organised entertainment events where the school was less directly involved. They considered that linking the exemption to the consent of the school to the event would demonstrate that PTAs, as separate legal entities, were acting on behalf of the school.
- 3.22 Some respondents made reference to the 'protection of children' licensing objective and one respondent considered that schools would need to ensure that they had a policy in place regarding screening age-restricted films.
- 3.23 One respondent argued that colleges of further education should be included in the exemption where they were partially funded and supervised by the Skills Funding Agency. Another respondent had concerns about the inclusion of 16-19 Academies in relation to use of alcohol, given the age dynamic of the academies (e.g. pre-loading, or alcohol being brought by individuals to an event).
- 3.24 A number of respondents were not in favour of the measure. They argued that premises licences remained appropriate and that without a licence requirement, there would be no licence conditions in relation to controlling noise. As schools were often located in residential areas, there was the potential for conflict with local residents regarding unwanted noise from amplified music. There was concern about events at independent schools that were not subject to local authority control, and particularly school grounds being used for larger concerts. Other respondents argued that a school head teacher and its governing body were highly likely to want to ensure that any event organised on their behalf conformed to statutory limitations on noise output.

Q4. Do you have any comments on how this LRO deregulatory measure will work for any person offering early years and day care provision?

- 3.25 A number of respondents commented favourably, or indicated that they were content for the LRO to include a measure to remove the requirement for a licence for any entertainment activity organised as part of nursery provision. This was on the basis that such activities did not cause wider issues and such events were lower risk in terms of the licensing objectives.
- 3.26 Those that supported the measure noted that it would categorically remove from the licensing regime: private and voluntary nurseries; pre-schools; and children's centres that provided entertainment to children and sometimes parents. It was suggested that it might give nursery providers greater opportunity to undertake creative and cultural events to benefit children and to fund-raise without the need for costly and time-consuming licence administration.
- 3.27 However, a number of respondents, while supporting the policy intention, had concerns about the clarity and workability of such a measure. While welcoming the measure, the Professional Association for Childcare & Early Years (PACEY) was concerned about a lack of clarity on whether entertainment provided as part of childcare provision on domestic premises (child minders, and home child carers such as nannies) could still technically require a licence if it was not solely educational and/or non-residents were also present in the home. They suggested that the Government needed to clarify unequivocally the policy in respect of all childcare settings where entertainment may be provided as part of childcare. Other respondents were concerned about the exclusion from the exemption of non-registered providers, such as school holiday provision, play groups, 'cylchoedd meithrin' (Welsh medium play groups) and out of school childcare clubs that in some cases were excluded from registration because of the duration of the care they provided.
- 3.28 Some respondents considered applying the exemption to 11pm was inappropriate, given that childcare was carried out during the day, and suggestions were made as to a more appropriate terminal hour. There were also views that specific types of entertainment could not, in any circumstances, be appropriate for an early years/day care setting.
- Q5. Do you agree that all local authorities and every hospital, school and nursery provider specified above, regardless of size, resources and capability should be included in these exemptions? If not, which bodies would you exclude from these exemptions and why?**
- 3.29 Of those respondents that directly answered the question, more agreed with the statement made than disagreed. Those in favour of the exemptions felt that the requirements of other legislation, such as the Environmental Protection Act 1990 and the Licensing Act 2003 in relation to alcohol, offered sufficient protections for the public. One respondent commented that a licensing exemption must not be viewed as removing the need to undertake health and safety risk assessments.

- 3.30 Some respondents were not in favour of any of the exemptions on the basis that an entertainment licence should always be required to help prevent public nuisance. It was suggested that the proposals would remove the rights of residents and businesses introduced by the 2003 Act and other legislation such as the Localism Act 2011 and the right to respect for private and family life pursuant to the Human Rights Act 1998. There was concern that public sector premises were being treated differently from commercial entertainment premises in terms of licensing, and it was queried whether this was appropriate.
- 3.31 One local authority was of the view that, as the licensing authority, it had to set an example in the responsible operation and management of events and that as a consequence it would wish to see larger events on local authority land continue to require a licence. Another local authority was concerned about the inclusion of parish council premises in highly residential areas leading to noise nuisance complaints. There were also comments that only the licensing system could proactively ensure that a premises/event was safe for the public to attend, as other legislation often assumed compliance, and was reactive with sanctions applying retrospectively when things had gone wrong. It was argued that licensing provided a level of early warning that premises were to be used for entertainment (and how regularly), and there could then be intervention to check that fire safety and health and safety risk assessments were in place.

Q6. Are you aware of any local authority body, hospital, school, (including children's residential provision) or nursery provider that, in terms of the licensing objectives, ought to be included in these cross-activity exemptions and currently would not be?

- 3.32 Most respondents offered no comments in response to this question.
- 3.33 Some suggested that all childcare providers and childcare groups, including those that were unable to register with the childcare regulatory body because they operate for less than 2 hours daily (e.g. a breakfast club), should be included in the nursery exemption (see question 4) as they posed little risk to the licensing objectives. It was argued that they should be included as they were not necessarily covered by any other measure in the LRO or an existing licensing exemption.
- 3.34 There was also some support for including colleges of further education under the exemption for schools and sixth form colleges (see question 3) on the basis that, as organisations, they were very much 'trusted civil society organisations'.
- 3.35 One respondent, while noting that 5% of village halls were owned and managed by Parish Councils, expressed disappointment that 'village halls' as a category were not covered by an explicit exemption. They argued that they were similarly publicly accountable under charity law.

Government Response to Questions 1-6

- 3.36. The Government agrees with most respondents that an LRO is suitable and workable for a deregulatory measure for local authorities, health care providers and schools. The Government believes that local authorities, health care providers and school proprietors can be trusted to be responsible for entertainment that takes place on their own premises. The Government does not agree with a minority of respondees that the risk to the licensing objectives from any noise associated with music entertainment is such that licensing should not be reformed. The Environmental Protection Act 1990 provides for redress for noise nuisance should incidents occur.
- 3.37. Details of changes made to the measure, post-consultation, are set out in the Explanatory Document that accompanies the LRO (chapters 3 and 11). These include: a fuller explanation of “on behalf of”; the removal of some bodies from the original definition of ‘local government ’; and a decision not to proceed with an LRO measure for nurseries (early years and day care provision) on the basis that, post-consultation, it is deemed no longer desirable or necessary.
- 3.38 The Government considers that an audience limit is not required for this exemption in terms of the risk to the licensing objectives. The Government considers that local authorities, health care providers and school proprietors should have greater freedom to manage their own affairs with regard to the provision of entertainment. The Government does not start from the position that entertainment provided by such providers always requires regulation and control through licensing.
- 3.39. The Government considers that the exemption will strike the right balance between removing unnecessary licensing burdens that hamper community creativity and protecting the rights of individual citizens.
- Q7. Do you have any comments on how this LRO deregulatory measure will work for live music, taking into account experience since the Live Music Act 2012 came into force?**
- 3.40 Most respondents offered supportive comments or indicated that they were content for the LRO to raise the audience ceiling to 500 for permitted live music performance, from the current level of 200. This was on the basis of musicians having more opportunities to perform in front of larger audiences.

- 3.41 Those that supported the measure thought that it would have both cultural and economic benefits. It was suggested that it would improve the quality of night-time entertainment by broadening the number of venues that musicians could work in. It was noted that the pub and bar circuit remained the breeding ground for musicians to hone their craft and that the music success stories of tomorrow – who would help maintain the UK's global position as an exporter of music content – needed all the opportunities they could get. Some respondents made reference to established UK acts that had begun their careers playing in back rooms of pubs. It was suggested that the LRO would help this grass-roots tradition flourish once again. It was argued that the greater the number of venues available and the larger the audiences, the better the opportunities for aspiring musicians. It was noted that a 500 audience threshold was in line with that applying to other forms of entertainment following the 2013 Order.
- 3.42 It was suggested that the measure could encourage more tourism and hospitality businesses, such as hotels, to offer live music, creating important new revenue streams. It was noted that the pub sector was an industry made up of small businesses, many of them independently owned/managed with low net profit margins of around 4%. Business representatives commented that pubs faced higher than average compliance costs and increasing levels of red tape. They suggested that any legislation that made it easier for live music to take place would benefit the economy and small businesses that relied on leisure and tourism spend.
- 3.43 The 'Rocktober Report'⁴ was cited as evidence that the implementation of the Live Music Act 2012 (LMA)⁵ was working as intended and that live music provision was starting to benefit, albeit that the 200 audience limit was preventing greater impact. While it was difficult to quantify precisely the impact of the LMA, it was suggested that the 29% loss in music venues reported by the Live Music Forum in 2010/11 was now being recovered. The ALMR Annual Benchmarking Report 2013 was also cited as showing increased expenditure by pub operators of all sizes and trading styles on music entertainment. As a percentage of turnover, expenditure on music entertainment had increased by 42% since the introduction of the LMA, from 3.8% of turnover to 5.4%. It was noted that while PRS and PPL music fees had increased over the same period, these had been broadly in line with inflation and the upturn in music entertainment expenditure was likely to have been significantly influenced by the increased ease of hosting live music events. It was also reported that PRS for Music had found that, on average, music venues took £306 more in drink sales on a day when they staged live music.

⁴ [http://www.ukmusic.org/assets/general/UKMUSIC - The Rocktober Report.pdf](http://www.ukmusic.org/assets/general/UKMUSIC_-_The_Rocktober_Report.pdf)

⁵ <http://www.legislation.gov.uk/ukpga/2012/2/contents/enacted>

- 3.44 One respondent suggested that it was too soon after implementation to accurately assess the impact of the LMA and that the LRO measure should be deferred to allow evidence of the impact to be gathered. They noted that the IA made reference to a Post Implementation Review (PIR) taking place 3 to 5 years after implementation and yet experience of the Live Music Act was being considered as evidence within months of implementation.⁶
- 3.45 The issue of perceived, potential or actual noise nuisance was commented on by many respondents. There was a reasonably broad consensus that unamplified live music, without the use of backing tracks, was not problematic in terms of noise. A number of respondents considered that the audience limit should remain at 200 as the proposed increase to 500 was not compatible with the third licensing objective – the prevention of public nuisance. It was suggested that residents would be affected by noise nuisance at times when they were entitled to expect peace and quiet in their homes. It was argued that residents would be denied the right (as was currently the case following the LMA) to object to larger live music events in workplaces that were not licensed for alcohol. One respondent commented that ‘workplace’ had a very broad definition that was open to interpretation and hence abuse. Another said that, unlike alcohol on-licensed premises, a licensing authority was unable to put in place a licensing remedy for a workplace.
- 3.46 It was uncertain from some responses whether they had appreciated that for premises authorised to sell alcohol (excluding local authority, hospital and school premises), the licensing authority would have the power to impose conditions about live music after calling in the licence for review; and where that power was exercised, performances of live music would become licensable once again. One local authority said that, on balance, they were not against the proposal because of this opportunity to review premises licences or club premises certificates and add conditions, where necessary, in relation to noise and restricting provision of live music. Another broadly concurred, but was concerned about the potential increase in the number of licence reviews and the increased costs that might arise.
- 3.47 Those in favour of the measure considered that existing legislation was more than sufficient to ensure that the licensing objectives were not adversely affected. They cited the Environmental Protection Act 1990, the Anti-social Behaviour Act 2003, the Noise Act 1996 and the Criminal Justice and Public Order Act 1994 as offering protections for the public. It was suggested that recent statistics on licence reviews and enforcement gave no cause for concern, and that the perceived risks that had been highlighted prior to the LMA being passed by Parliament had not materialised. The Live Music Forum’s investigations into actual noise complaints had showed that an estimated 90% of complaints related to music from domestic premises, rather than performances of live music. It was suggested that this meant there was unlikely to be a significant rise in the number of noise complaints as a result of a higher audience limit of 500.

⁶ A PIR for the Live Music Act 2012 has been published alongside this summary of responses and the Explanatory Document to the LRO.

- 3.48 Those who voiced views against the measure suggested that Environmental Health Officers (EHOs) were not able to control noise nuisance from music events effectively, compared with noise emanating from domestic property. This was because the sanction, where a statutory noise nuisance was witnessed, was to serve a time-limited formal order to prevent the noise happening again. They argued that this time-limiting factor meant that compared to music emanating from domestic property, a music event was less likely upon further checks to be found to have breached an Order, because music events were of a lesser frequency. By contrast, the licensing regime provided for an approach, built on compromise, that could bring about a less bureaucratic and ultimately more effective approach to conflict between parties on noise. There were also concerns around resources available to EHOs to assess noise nuisance outside of normal business hours.
- 3.49 Some respondents were particularly concerned that the noise impact of outdoor events on alcohol licensed premises could not so easily be managed. It was noted that there was potential for noise nuisance from beer gardens that did not come under the premises licence, but which would benefit from the exemption for unlicensed 'workplaces' with an audience limit of 500. One respondent suggested that increasing the audience limit to 500 was too large an increase and that it should instead be incremental; 300 was suggested as the next step. A concern was also expressed about premises having adequate arrangements for crowd management.
- 3.50 A number of respondents were uncertain what impact the measure would have in the longer term. They argued that premises that caused problems before the LMA was enacted still did, and that for the majority of venues that held a premises licence to sell alcohol, there would be little deregulatory gain. However, others commented that there would be deregulatory gain because premises licences did not always authorise music entertainment and there was only a finite number of TENs that could be used each year for music events. But there was also a view that applying for a TEN was not particularly onerous, and that it performed the important public function of notifying relevant persons that an event was going to take place.
- 3.51 There was also an argument that the increase to 500 was unlikely to benefit as many premises as might be expected, as capacity limits were derived from fire and health and safety requirements. Capacity limits was also cited as a reason for introducing the measure, as the audience ceiling could be considerably less than the venue capacity. There was also a view that many music events were unlikely to finish before 11pm and so would still require a licence or a TEN. One local authority commented that it had not seen a dramatic increase in noise complaints since the introduction of the LMA. However, anecdotal evidence suggested that the provisions of the LMA were largely unknown by licence holders and therefore take up appeared to be relatively low. It was also suggested that residents could be tolerating noise and disturbance because of the 200 audience ceiling and the 23:00 cut off time; but that 500 would raise the risk of an increase in noise complaints. One respondent commented that the present economic conditions made assessing the likely longer term impact of the measure difficult and another wanted to reserve judgement until there had been a long hot summer.

Q8 Do you have any comments on how this LRO deregulatory measure will work for recorded music in on-licensed premises?

- 3.52 There was a very mixed set of responses to this question on whether the LRO should include an exemption for the playing of recorded music between 08:00-23:00 before audiences of no more than 500 on premises used for the supply of alcohol. The proposed exemption is conditional, with the playing of recorded music requiring a licence once again when a licensing authority exercises its power to impose conditions regarding recorded music following a review of a premises licence or a club premises certificate.
- 3.53 Those that supported the measure agreed that there was a read-across from the LMA to having a deregulatory measure for recorded music that would include discos and DJ events (where a performance of live music and the playing of recorded music often met). They considered that it would benefit pubs, clubs and bars that provide a vibrant network of small venues for upcoming musicians – not just traditional live music acts, but also more modern DJ and other performers that switch between performing live music and playing recorded music. It would also deliver benefits for community events (e.g. record clubs). It was suggested that treating recorded music similarly to live music would benefit activities such as karaoke, which has been subject to different interpretations as to whether it was a live or recorded music activity. It was also noted that a 500 audience threshold was in line with the treatment for other forms of regulated entertainment that had been subject to deregulation by the 2013 Order.
- 3.54 A number of respondents supported the measure on the basis that it applied just to alcohol on-licensed premises, with a licence review mechanism in place whereby licence conditions could be re-instated were noise nuisance issues to arise. It was suggested that the licence review procedure would (as was the case with live music) act as a powerful incentive for premises to comply with good practice in relation to putting on recorded music entertainment. Some respondents noted the risk to the licensing objectives of unlicensed or unregulated events outside of alcohol licensed premises due to the relatively low cost and portability of equipment to produce recorded music. One respondent commented favourably that the exclusion of ‘workplaces’ dealt with their concern that unoccupied commercial buildings might be used legitimately for parties (or ‘raves’).
- 3.55 The Association of Chief Police Officers (ACPO) considered that the number of events involving the playing of recorded music was likely to increase and that many licensed premises were already financially reliant on the playing of recorded music and associated dancing facilities. They were of the view that the majority of problems occurred in premises providing recorded music. In comparison, UK Music believed that as a general principle, music, whether recorded or live, should not be a regulated activity. They argued that there were likely to be more incidents of anti-social behaviour in pubs in connection to the showing of a football match than from what was playing on the jukebox.

- 3.56 The issue of perceived, potential or actual noise nuisance and anti-social behaviour was commented on by a number of respondents. There were concerns that the measure was likely to increase the number of noise complaints to local authority environmental health departments as compared to live music, it was relatively inexpensive to put on and that take up by premises was likely to increase. One respondent said that low bass note 'noise' was more penetrating, disturbing and of longer duration and so more likely to generate a noise complaint. Another commented that any licence review process could add to service delivery costs for local authorities in view of the requirement to serve papers, hold hearings, and deal with possible subsequent litigation. Another thought the review process was bureaucratic and would effectively undermine the deregulatory intent of the measure. While another respondent commented that the beneficial impact for businesses could be overridden by the introduction of compensatory licence conditions stipulating that security staff were employed.
- 3.57 A couple of respondents, while not opposing the measure in principle, felt that the audience ceiling should be set at 200 at this time, as 500 for recorded music posed a greater risk of licence reviews due to noise escape than would be the case for live music venues of a similar scale. Another had concerns that the relaxation might lead to more dance environments and a greater potential for incidents to arise.
- 3.58 Those who voiced views against the measure tended to reiterate the points they had made in response to question 7 regarding the increased risk of noise nuisance. It was suggested that residents were already experiencing recurrent problems with amplified recorded music from alcohol licensed premises, both indoors and outdoors, and that the measure would lead to a greater conflict of interests between bar/pub/club owners and residents in their vicinity. There was concern that the 11pm cut-off time took no account of the day of the week. It was suggested that the playing of recorded music outdoors at 'conversation level' could still be a noise irritant for neighbouring properties, as customers then had to talk louder. It was suggested that, as a minimum, the measure should not be introduced for recorded music played outdoors because of the noise nuisance that would result.
- 3.59 One local authority noted that they sought to bring the Notting Hill Carnival to an end between 7 and 8pm on both days in order to reduce crowd numbers and the risk of harm and crime. They suggested that the measure could result in recorded music being provided in licensed premises within the Carnival footprint, which might hinder efforts to reduce those crowd numbers. There was comment that this could lead to 'carnival specific' conditions being placed on licences for problematic premises.
- 3.60 Some respondents commented on the importance of ensuring that, in communicating the deregulation for on-licensed premises, those benefiting from the exemption were reminded of the need to have a PPL (Phonographic Performance Ltd) licence to play copyright protected recorded music. Some others commented that music copyright licensing administered by PRS and PPL arguably had a bigger impact on the ability of small and micro businesses to provide music to develop their business than the regulatory burden of entertainment licensing. One respondent suggested that both entertainment and copyright licensing restrictions should be removed for all venues with a capacity of less than 100.

Q9 Do you have any views on whether or not there should be an LRO deregulatory measure for live and recorded music on nursery premises?

- 3.61 Of those respondents that commented on this question, most were not in favour of nursery premises being hired out for music entertainment by any party without a licence authorisation being required.
- 3.62 Those that were against the inclusion of such a measure in the LRO argued that nursery premises were for the primary benefit of young children, and deregulation should not be extended to their 'hiring out' by third parties for music entertainment events. It was suggested that this would be a deregulatory step too far and that nursery premises should be treated in the same manner as any other premises when not in use for their primary function. One respondent commented that nursery management with no experience of third party events could be faced with alcohol being brought on site with risk to the licensing objectives. Another commented that nursery premises could be totally unsuitable for more commercialised events and that the safety of infants and children could be impaired. It was also noted that nurseries were often in residential areas and that the buildings may not have sufficient sound proofing to protect residents from noise nuisance.
- 3.63 Some respondents commented that under measures elsewhere in the LRO, local authority and community premises that were used as nursery premises could be hired out for fund-raising purposes between 08:00-23:00 before audiences of no more than 500 people, where the relevant operator of those premises gave its permission.
- 3.64 Those that were in favour of the inclusion of such a measure argued that early years and day care providers in purpose-built or renovated premises should be allowed to hire out their premises for music entertainment without a licence authorisation. It was argued that this would put such providers on an equal footing, in terms of being able to fund raise and generate income, with those that operated school or community premises. It was suggested that financial sustainability was an issue for all types of childcare provider – e.g. charities, private sector providers and volunteer-led committees. One respondent suggested that private sector providers that operate multiple larger nursery premises should be excluded from any such measure.
- 3.65 One respondent suggested that deregulation should instead focus on nurseries being exempt from copyright licensing costs for the use of music (and film) for education purposes in the curriculum, as was the case for schools under the Copyright, Designs and Patents Act 1988.

Q10 Do you have any comments on how this LRO deregulatory measure will work for live and recorded music on local authority, hospital, school, or community premises?

Local authority, hospital and school premises

- 3.66 Most respondents offered supportive comments or indicated that they were content for the LRO to include a measure in respect of performances of live music and the playing of recorded music on local authority, hospital or school premises. This measure related to the 'hiring out' of premises for music entertainment between 08:00-23:00 before audiences of no more than 500 people and with the permission of those in control of the premises.
- 3.67 Those that supported other measures for live and recorded music (Q7 & Q8) or the cross-exemptions (Q1-Q3) tended also to favour the inclusion of this measure. Those who were against the measure suggested that music events on hospital premises were particularly inappropriate, as hospital residents had an expectation of peace and quiet that was consistent with the licensing objectives.
- 3.68 Those in favour commented that music entertainment did not pose a significant risk to the licensing objectives, as any event would always have to be agreed to by the local authority, health care provider or school concerned. They argued that the benefits of freeing up entertainment from regulation outweighed any risks. It was suggested that such premises were operated by responsible persons who could be trusted to ensure that any events provided on their grounds were well organised and did not cause problems for the Police or for neighbours. One respondent commented that these organisations would need to take due diligence steps to ensure that the hirer had the necessary knowledge, experience and qualifications to put on music events for up to 500 people.
- 3.69 One respondent queried whether there was evidence of under-provision of premises for music entertainment, or whether the measure was justified in terms of better enabling income generation from events up to the audience capacity limit.

Community premises

- 3.70 A higher proportion of respondents to this question focussed their comments on music entertainment in community premises. The comments received were very mixed. Those that supported the measure considered that it would encourage a greater number of live and recorded music activities with cultural benefits and opportunities for fundraising. It was argued that it would assist multi-functional community buildings in rural areas to be financially sustainable.

- 3.71 Some respondents, while appreciating that the measure could benefit rural communities, remained concerned about potential nuisance for residents linked to amplified music events. There was an acceptance that many music events were low-risk and the proposal was inherently reasonable. However, based on experience, there was a level of concern that not all third party events were lower risk. It was considered that there was potential for serious noise and disorder problems where the nature of the music (and the audience attracted) led to conflict with people living nearby. It was suggested that there was a risk of a hirer running a 'rave' type event, via a social networking 'bring your own alcohol' invitation. One respondent suggested that the measure should be restricted to instances where the owner/operator of the premises was responsible for the provision of the music. Another commented that the measure would need to be monitored and reviewed, while a third thought that more guidance was needed on safe capacities. One respondent went further, suggesting that operators of community premises did not exercise sufficient control over, or vetting of, who they rented their premises out to, and this lack of management control led to public disorder and anti-social behaviour. They concluded that this particular measure should not be in the LRO.
- 3.72 Some respondents were concerned that unlike alcohol licensed premises, licensing authorities would not have the ability to restrict provision of music were it to prove necessary. One respondent suggested that the TENs regime should remain in place as it gave the police and environment health some notice of an upcoming event. They saw no reason to remove the light touch TENs process.
- 3.73 Those respondents that were fundamentally against the inclusion of this measure in the LRO suggested that a greater number of music events was not necessarily desirable and that the case for removing community premises from the licensing regime had not been sufficiently made.

Government Response to Questions 7-10

- 3.74 The Government agrees with most respondents that an LRO is suitable and workable for the deregulation of music entertainment that is of lower risk to the licensing objectives. Where it takes place in pubs and clubs or other relevant alcohol licensed premises, the Government has ensured that the sanction of a licence review will apply to ensure that any instances of public nuisance or disorder can be tackled. The coming into force of the Live Music Act 2012 has not negatively impacted the licensing objectives and the Government considers that having an audience limit of not more than 500 people for music entertainment in relevant premises strikes the right balance between those who welcome it, and those who have concerns about noise nuisance. The Government wishes to encourage small-scale local music performances in community premises that are not licensed for the supply of alcohol – to help promote community interaction and expression and keep community premises viable. The Government considers that such premises that only provide regulated entertainment are low risk in relation to the licensing objectives.

- 3.75 The Government does not agree with respondees that the risk to the licensing objectives from any noise associated with music entertainment is such that licensing of music should not be further reformed. The Environmental Protection Act 1990 provides for redress for noise nuisance should incidents occur at workplaces or community premises that are not licensed for the supply of alcohol. Where the premises are licensed for the supply of alcohol, then licensing conditions can be re-imposed by the licensing authority following a review of a premises licence or club premises certificate for that relevant alcohol licensed premises. The Impact Assessment sets out that that the monetised benefits of deregulation will more than offset the “worst case” cost estimate to local authorities in relation to potential noise complaints and service delivery costs, meaning that local authorities will not be subject to new burdens.
- 3.76. Details of changes made to the measures for music entertainment, post-consultation, are set out in the Explanatory Document that accompanies the LRO (chapters 4-7 and 11). These include: adding a condition that those who would like to provide music entertainment in community premises need to obtain permission from those responsible for the community premises; and a decision not to include a specific LRO measure to exempt both live and recorded music events on any childcare premises.
- 3.77 The Government agrees that is important that performers are aware that entertainment licensing does not relate to copyright and a separate licence may be required to ensure that any performance of live music or playing of recorded music is compliant with the Copyright, Designs and Patents Act 1988.
- Q11 Do you have any comments on how this LRO deregulatory measure will work for circuses?**
- 3.78 Most respondents who answered this question supported the inclusion of a measure for tented circuses that would remove the licensing requirement for the performance of a play, an indoor sporting event, a performance of live music, the playing of recorded music, and a performance of dance between 08:00-23:00hrs, with no audience restriction.
- 3.79 Those that supported the measure considered that travelling circuses, as family orientated entertainment, had been unreasonably caught by the licensing regime as a result of the 2003 Act. They noted that circuses were subject to other legislation and that the siting of circus tents at a distance from residential housing meant that entertainment did not create noise nuisance. Some respondents commented that it would ease the administrative burden for both local authorities and circuses by clarifying treatment under the 2003 Act and in so doing would introduce greater consistency across the country.
- 3.80 A minority of respondents did not support the measure, arguing that many circuses could already benefit from the 2013 Order. There were concerns that a lack of an audience limit had the potential to cause noise nuisance. It was suggested that circuses should continue to be required to submit TENs so that relevant authorities knew about events in advance. It was also argued that TENs were not an unreasonable burden, as there tended to be more than one person concerned in the management of a circus and so each such person could submit five TENs a year.

- 3.81 A number of respondents commented that the measure should apply only to traditional travelling circus shows and not simply to any tented performance. One respondent said that the measure would need to make clear whether modern avant-garde circuses that tended to include more music content were, or were not, included in the measure.

Government response to Question 11

- 3.82 The Government agrees with most respondents that an LRO is suitable and workable for the deregulation of certain entertainment activities as part of circus. Post – consultation, we have clarified in the Explanatory Document to the LRO that deregulation will only apply to travelling circuses where relevant entertainment takes place within a moveable structure.

Q12 Do you have any comments on how this LRO deregulatory measure will work for Greco-Roman and freestyle Wrestling?

- 3.83 Most respondents were supportive or had no issues with the inclusion of this measure to exempt from licensing the traditional Olympic sports of Greco-Roman and freestyle wrestling between the hours of 08:00-23:00. They commented that the measure was unlikely to lead to impacts that were detrimental to the licensing objectives. One respondent said that the definition of the sports should leave no room for ambiguity to avoid issues with regulation of other forms of wrestling.
- 3.84 Some respondents queried why the measure did not include Cornish wrestling or ‘north country’ wrestling disciplines recognised by British Wrestling. One respondent commented that having no audience limit for indoor wrestling was not consistent with the deregulatory treatment of ‘indoor sports’ by the 2013 Order, where the audience size limit was 1000.

Government response to Question 12

- 3.85 The Government agrees that an LRO is suitable and workable for the deregulation of Greco-Roman and freestyle Wrestling. Post-consultation, the measure has been amended to include an audience size limit of 1,000 people. The Government considers that Cornish or Cumbrian wrestling entertainments cannot with the same certainty be considered to be lower risk entertainment with respect to the licensing objectives.

The mechanism of the Legislative Reform Order

- 3.86 Questions 13-16 sought views on the suitability of a LRO in relation to the pre-conditions of Section 3 of the LRA.

Q13 On non-legislative solutions, do you agree with our assessment in this regard?

- 3.87 The majority of respondents agreed with the Government’s assessment on non-legislative solutions and that the powers of the 2003 Act were not broad enough to allow deregulation by non-legislative means. One respondent commented that an LRO was necessary to address the definitional constraints of the 2003 Act.

- 3.88 Several respondents provided partial support for the Government's assessment. One suggested that an LRO was suitable as a short term measure, but that in view of the number of amendments and Statutory Instruments since implementation of the 2003 Act, there should in time be a new Act of Parliament, as changes led to confusion regarding the legislation in force. Another suggested that primary legislation was required, due to the direct impact on people's lives and the implications for the operation of schools, hospitals and local authorities. A third emphasised the need for greater clarity in statutory guidance, due to inconsistencies in how local authorities interpret licensing.
- 3.89 Some respondents argued that the licensing regime was not a significant burden for the entertainment industry, highlighting the number of venues that held a premises licence, and that the needs of residents and the community needed to be taken into account. They argued that the 2003 Act needed to provide residents with protection from amplified live or recorded music and that the claimed deregulatory saving of £16.8m over 10 years was very small within a wider context.

Q14 On proportionality, do you agree with our assessment in this regard?

- 3.90 Of those respondents that directly answered the question, more than half agreed with the Government's assessment on proportionality. It was argued that it would allow smaller businesses to provide a more diverse entertainment offering within a lighter touch regulatory framework, contributing to a vibrant and varied hospitality and arts sector. It was suggested that small events, festivals and cultural activities were worth up to £2 billion each year to the UK economy, making them desirable for local areas looking to support growth. However, some respondents queried whether small businesses and cultural organisations were truly being hindered by licensing regulation.
- 3.91 Some respondents considered that the LRO was going further than was necessary or was supported by evidence. It was argued that it was a substantial change to the 2003 Act and the financial, cultural and community benefits claimed had not been appropriately weighed against the potential for residents to be adversely impacted by music entertainment events right across the country. There was the suggestion that noise legislation did not provide an adequate solution for dealing with noise complaints from music entertainment events, and that reductions in local authority budgets were reducing the service and protection offered by EHOs outside of daytime hours. Furthermore, it was said that any licensing administration saving would potentially be offset by an increased workload for EHOs.
- 3.92 There was also a view that it was impossible to ignore the potential of alcohol misuse from events involving live or recorded music, as the combination of music and alcohol caused problems for communities. It was argued that timings and audience limits may be reasonable for one premises but not for another. One respondent emphasised the value of authorities being given notice of events to prepare resources and prevent issues arising.
- 3.93 One respondent was concerned that once the LRO was implemented, alcohol licensed premises might suffer 'unfair competition' from premises that no longer needed a licence.

Q15 On fair balance, do you agree with our assessment in this regard?

- 3.94 Of those respondents that directly answered the question, more than half agreed with the Government's assessment on fair balance. Those who agreed with the assessment made reference to the LMA as evidence that a partial deregulation or suspension of controls could be delivered without a corresponding increase in noise, nuisance or public order complaints. It was suggested that the licence review mechanism and the statutory regime to manage noise complaints were appropriate and available to local authorities, police and residents to deal with any music-related problems that occurred.
- 3.95 A minority of respondents argued that for amplified music, the LRO measures would be detrimental to a wider community of people and that current noise legislation was insufficient to address nuisance concerns. It was argued that without an effective enforcement regime against noise nuisance, the LRO could not be regarded as striking a fair balance.

Q16 On necessary protection, do you agree with our assessment in this regard?

- 3.96 Of those respondents that directly answered the question, more than half agreed with the Government's assessment on necessary protection. Those who did suggested that the proposals would have little or no adverse effect on the licensing objectives, particularly as licensing controls were merely suspended for music entertainment on alcohol licensed premises. In addition, enforcement and penalty safeguards still applied to licensable events, including those events which fail to comply with all of the conditions necessary for a particular exemption.
- 3.97 Many respondents accepted that other legislation provided necessary protection, although some suggested that only the licensing regime was fully focussed on prevention of public nuisance through maintaining necessary safeguards via licence conditions and a licensing regime. The LGA cautioned against a continuing emphasis on crowd size in pursuing deregulatory measures. They argued that it was important that public protection was not compromised and that councils and other bodies retained the ability to intervene where events posed a real risk or, for whatever reason, went wrong on the day. The LGA agreed that the activities proposed for inclusion in the LRO were covered by other safety protocols, but Government should be clear that the majority of such powers were retrospective and that serious issues might occur before they could be used. It was considered that for higher risk events, irrespective of the number of people involved, the licensing regime provided councils with the opportunity to work with event organisers, identify potential problems and minimise the risk of these occurring. Another respondent suggested that the 'beyond reasonable doubt' burden of proof in other legislation made enforcement more difficult than taking proactive protective action via the 2003 Act.
- 3.98 Those respondents that were not in favour of the LRO highlighted the threat of public nuisance from live and recorded music, particularly for premises in residential areas that were likely to lack sound attenuation measures and adequate sound proofing. It was suggested that excessively loud music before 11pm from commercially driven businesses was still likely to cause disturbance to residents.

Q17 On rights and freedoms, do you agree with our assessment in this regard?

3.99 There was strong agreement with the Government's assessment on rights and freedoms. The minority that disagreed highlighted concerns over promotion of the licensing objectives.

Q18 On constitutional significance, do you agree with our assessment in this regard?

3.100 89% of respondents agreed with the assessment on constitutional significance.

Parliamentary procedure**Q19 Do you agree that the Affirmative Parliamentary procedure should apply to the scrutiny of these proposals?**

3.101 Question 19 sought views on the parliamentary procedure that the Minister should recommend.

3.102 Of those respondents that directly answered the question, more than half agreed that the Affirmative Parliamentary procedure should apply. Those that agreed cited the successful passage through Parliament of the LMA, albeit accepting that the LRO was more comprehensive in coverage than the LMA. A minority of respondents argued that the measures required careful consideration and a longer period of scrutiny. One considered that super-affirmative was appropriate because the Minister was obliged to have regard to any representations. Another commented that the measures were fundamental changes that were being slipped through on a short consultation and that an LRO abrogated the right of Parliament to rule on such fundamental changes.

Government response to Questions 13-19

3.103 The Government considers that the consultation response demonstrates that there is wide support for deregulation of certain entertainment activities in defined circumstances via a LRO, albeit with a significant minority of stakeholders opposed. As set out in the Explanatory Document, the Government considers that the LRO balances freedoms and risk in a precise and targeted manner that will bring proportionality back to entertainment licensing. The Government also considers that it strikes a fair balance between the wider public interest and potential impacts on individual citizens, particularly in relation to the provisions for live and recorded music. The Government is also convinced that key safeguards will continue to remain in place, as the LRO is only concerned with deregulating lower risk activities as borne out by consultation.

Financial estimates**Q20 Do you have views on the expected impact as set out in the accompanying Impact Assessment?**

3.104 Question 20 on sought views on the impact of the LRO, as set out in the consultation-stage Impact Assessment.

- 3.105 A range of views were expressed in relation to the LRO and the supporting Impact Assessment (IA). Several respondents highlighted the opportunities that would be created for performers, communities, entertainment venues and pubs. It was suggested that the LRO measures would give smaller businesses and organisations more freedom and flexibility concerning entertainment provision, but without undue risk.
- 3.106 Other respondents claimed that any benefits were outweighed by risks and disadvantages. It was suggested that the IA did not take into account the additional financial burdens, notably the loss of licence fees to local authorities, costs of ensuring public safety and investigating noise complaints, and increased demands on Police and EHOs. It was argued that the financial savings claimed were not sufficient to justify the LRO.
- 3.107 It was also argued that the effects of the 2003 Act and the LMA were unknown, as there was no published data on the number of entertainment events taking place in the UK. Comments were also made about a lack of evidence to demonstrate that entertainment activities were not taking place due to the licensing regime.

Government response to Question 20

- 3.108 The Government has updated the Impact Assessment, post-consultation, in accordance with the Better Regulation Framework Manual.

Chapter 4: Next steps

- 4.1 Having held a detailed consultation and taken into account all views, the Government has decided to implement further reforms through an LRO.
- 4.2 This summary of responses has been included as an Annex to the Explanatory Document to the LRO that has been laid in Parliament. The Explanatory Document explains why the Minister considers it appropriate to use the order making powers in section 1 of the LRRRA, and where revisions to the LRO have been made following this consultation.
- 4.3 All the responses to the consultation will be taken into account by Parliament in considering the LRO. The Parliamentary process for LROs was set out in Annex C of the consultation document, which explained how further views can be put to the Parliamentary Scrutiny Committees now that the LRO has been laid.

Appendix

Respondents to the consultation

Local authorities

Babergh and Mid Suffolk District Councils
Bodmin Town Council
Breage Parish Council
Brighton and Hove Council
Bristol City Council
Broadland District Council
Cannock Chase District Council
Ceredigion County Council
City of London
Colchester Borough Council
Cornwall Council
Horsham District Council
Ipswich Borough Council
Liverpool City Council
London Borough of Hackney
London Borough of Newham
Medway Council
Northumberland County Council
Powys County Council
Royal Borough of Kensington and Chelsea
Shepway District Council
Stithians Parish Council
Tendring District Council

Organisations

Association of Chief Police Officers
Association of Licensed Multiple Retailers
Association of School and College Leaders
Association of Show and Agricultural Organisations
Business in Sport and Leisure
Clybiau Plant Cymru Kids' Clubs
Concert Promoters Association
Cornish Wrestling Association
Equity
Forest Children Centre
Historic Houses Association
Institute of Licensing
Jazz Services
Local Government Association
Musicians' Union
NALEO
National Day Nurseries Association
Palms Bude
Phoenix Artist Club
Play Wales

Professional Association for Childcare and Early Years
PTA-UK
Sports Grounds Safety Authority
Superact
The Agents' Association
UK Music
UnsignedFM
Variety and Light Entertainment Council
Wales Tourism Alliance
Working Men's Club and Institute Union

Residents'/community groups

Action with Communities in Rural England (ACRE)
Action in rural Sussex
Federation of Bath Residents' Association
Federation of Private Residents' Association
Finchampstead Memorial Park Committee
Frinton Residents' Association
Loughton Residents Association
National Organisation of Residents Associations (NORA)
Residents Action, Southampton

Individuals

Alastair Clark
Ben Smith
Chris Barltrop
Colin Henson
Corrie Dick
Dr Arnie Rainbow
Drew Sewell
Gay Sutton
Hilda C Littlewood (Piano Teaching)
Jake Bradford-Sharp
Jennifer Townsend
Katarina Dordevic
Luis Cano
Mark Goslett
Martin Galbraith
Michelle Saacks
Mr G Phillips
Myles Eastwood
Nicholas Tuff
Phil Rowland
Premlal Salgado
Rick Finlay
Sara and David Nixon
Sarah Jones
Stuart Street
Susan Clark
Trevor Brunwin

Annex E

Pre-consolidated Text

Licensing Act 2003, as amended by the draft Legislative Reform (Entertainment Licensing) Order 2014

Section 177A:

177A Licence review for live and recorded music

(1) Subsection (2) applies where—

- (a) music takes place on premises which are authorised by a premises licence or club premises certificate to be used for the supply of alcohol for consumption on the premises,
- (b) at the time of the music, the premises are open for the purposes of being used for the supply of alcohol for consumption on the premises,
- (c) if the music is amplified, it takes place in the presence of an audience of no more than 500 persons, and
- (d) the music takes place between 8am and 11pm on the same day (or, where an order under section 172 has effect, between the hours specified under that order).

(2) Any condition of the premises licence or club premises certificate which relates to live music, recorded music or both does not have effect in relation to the music unless it falls within subsection (3) or is added to the licence in accordance with subsection (4).

(3) A condition falls within this subsection if, on a review of the premises licence or club premises certificate it is altered so as to include a statement that this section does not apply to it.

(4) On a review of a premises licence or club premises certificate a licensing authority may (without prejudice to any other steps available to it under this Act) add a condition relating to music as if—

- (a) the music were regulated entertainment, and
- (b) the licence or certificate licensed the music.

(4A) This section does not apply to music which, by virtue of a provision other than paragraph 12A or 12C of Schedule 1, is not regarded as the provision of regulated entertainment for the purposes of this Act.

(5) In this section—

“condition” means a condition—

- (a) included in a premises licence by virtue of section 18(2)(a) or (3)(b), 35(3)(b), 52(3) or 167(5)(b),
- (b) included in a club premises certificate by virtue of section 72(2)(a) or (3)(b), 85(3)(b) or 88(3),

- (c) added to a premises licence by virtue of its inclusion in an application to vary the licence in accordance with section 34 or 41A which is granted under section 35(2) or 41B(3) (as the case may be), or
- (d) added to a club premises certificate by virtue of its inclusion in an application to vary the certificate in accordance with section 84 or 86A which is granted under section 85(2) or 86B(3) (as the case may be);

“live music” means entertainment of a description falling within, or of a similar description to that falling within, paragraph 2(1)(e) of Schedule 1;

“music” means live music or recorded music or both;

“recorded music” means entertainment of a description falling within, or of a similar description to that falling within, paragraph 2(1)(f) of Schedule 1; and

“supply of alcohol” means—

- (a) the sale by retail of alcohol, or
- (b) the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club.

Schedule 1:

Music and film incidental to certain other activities

7 The provision of entertainment consisting of the performance of live music, the playing of recorded music or the exhibition of a film is not to be regarded as the provision of regulated entertainment for the purposes of this Act to the extent that it is incidental to some other activity which is not itself a description of entertainment falling within paragraph 2.

Chapter 5: Entertainment provided by health care providers, local authorities and school proprietors

122A.—(1) The provision of any entertainment by or on behalf of a health care provider, local authority or school proprietor is not to be regarded as the provision of regulated entertainment for the purposes of this Act if the conditions in sub-paragraphs (2) to (5) are satisfied.

(2) The first condition is that the entertainment takes place—

- (a) if it is provided by or on behalf of a health care provider, on any premises forming part of a hospital—
 - (i) in which that provider has a relevant property interest, or
 - (ii) which are lawfully occupied by that provider,
- (b) if it is provided by or on behalf of a local authority, on any premises in which that authority has a relevant property interest or which are lawfully occupied by that authority, and
- (c) if it is provided by or on behalf of a school proprietor, on the premises of the school.

(3) The second condition is that the premises are not domestic premises.

(4) The third condition is that the entertainment takes place between 8am and 11pm on the same day (or, where an order under section 172 has effect in relation to that entertainment, during any times specified under that order).

(5) The fourth condition is that the entertainment is not relevant entertainment within the meaning of paragraph 2A(2) of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (meaning of “sexual entertainment venue”).

(6) For the purposes of this paragraph, a person has a relevant property interest in premises if that person—

- (a) is for the time being entitled to dispose of the fee simple in the premises, whether in possession or in reversion, or
- (b) holds or is entitled to the rents and profits of the premises under a lease which (when granted) was for a term of not less than 3 years.

(7) In sub-paragraph (3), “domestic premises” means premises occupied as a private dwelling, including any garden, yard, garage, outhouse or other appurtenance of such premises whether or not used in common by the occupants of more than one such dwelling.

Chapter 6:

Chapter 7: Music at community premises etc.

122B.—(1) The provision of entertainment consisting of one or both of the following is not to be regarded as the provision of regulated entertainment for the purposes of this Act if the conditions in sub-paragraphs (2) to (6) are satisfied—

- (a) a performance of live music;
- (b) the playing of recorded music.

(2) The first condition is that the entertainment takes place at—

- (a) community premises that are not authorised, by a premises licence or club premises certificate, to be used for the supply of alcohol for consumption on the premises,
- (b) the premises of a hospital,
- (c) premises in which a local authority has a relevant property interest or which are lawfully occupied by a local authority, or
- (d) the premises of a school.

(3) The second condition is that the premises are not domestic premises (within the meaning of paragraph 12ZA(7)).

(4) The third condition is that the entertainment takes place in the presence of an audience of no more than 500 persons.

(5) The fourth condition is that the entertainment takes place between 8am and 11pm on the same day (or, where an order under section 172 has effect, between the hours specified under that order).

(6) The fifth condition is that a person concerned in the organisation or management of the entertainment has obtained the prior written consent of a relevant person for the entertainment to take place.

(7) In sub-paragraph (6), “relevant person” means—

- (a) where the entertainment takes place at community premises—

Chapter 8: (i) the management committee of the premises, or

- Chapter 9: (ii) if there is no management committee, a person who has control of the premises (as occupier or otherwise) in connection with the carrying on by that person of a trade, business or other undertaking (for profit or not) or (in the absence of such a person) a person with a relevant property interest in the premises;
- (b) where the entertainment takes place at the premises of a hospital, a health care provider which has a relevant property interest in or lawfully occupies those premises;
- (c) where the entertainment takes place at premises in which a local authority has a relevant property interest or which are lawfully occupied by a local authority, that authority;
- (d) where the entertainment takes place at the premises of a school, the school proprietor.
- (8) Paragraph 12ZA(6) (meaning of “relevant property interest”) applies for the purposes of this paragraph as it applies for the purposes of paragraph 12ZA.

12A

Music in licensed venues

- (1) The provision of entertainment consisting of one or both of the following is not to be regarded as the provision of regulated entertainment for the purposes of this Act if the conditions in sub-paragraph (2) are satisfied—
- (a) a performance of live music;
- (b) the playing of recorded music.
- (2) The conditions referred to in sub-paragraph (1) are that—
- (a) the requirements of section 177A(1) are satisfied, and
- (b) conditions are not included in the premises licence or club premises certificate referred to in section 177A(1)(a) by virtue of section 177A(3) or (4).

12B Live music in workplaces

The provision of entertainment consisting of a performance of live music is not to be regarded as the provision of regulated entertainment for the purposes of this Act, provided that—

- (a) the place where the performance is provided is not licensed under this Act (or is so licensed only for the provision of late night refreshment) but is a workplace as defined in regulation 2(1) of the Workplace (Health, Safety and Welfare) Regulations 1992,
- (b) the performance takes place in the presence of an audience of no more than 500 persons, and
- (c) the performance takes place between 8am and 11pm on the same day.

Chapter 10: Circuses

12D.—(1) The provision of any entertainment that consists of or forms part of a performance by a travelling circus is not to be regarded as the provision of regulated entertainment for the purposes of this Act if the conditions in sub-paragraphs (2) to (5) are satisfied.

(2) The first condition is that the entertainment is not of a description falling within paragraph 2(1)(b) (exhibition of a film) or paragraph 2(1)(d) (boxing or wrestling entertainment).

(3) The second condition is that the entertainment takes place between 8am and 11pm on the same day.

(4) The third condition is that—

- (a) the entertainment takes place wholly within a moveable structure, and
- (b) the audience present is accommodated wholly inside that moveable structure.

(5) The fourth condition is that the travelling circus has not been located on the same site for more than 28 consecutive days.

(6) In this paragraph, “travelling circus” means a circus which travels from site to site for the purpose of giving performances.

Chapter 11:

Chapter 12: Boxing or wrestling entertainment: certain forms of wrestling

12E. The provision of entertainment consisting of a boxing or wrestling entertainment is not to be regarded as the provision of regulated entertainment for the purposes of this Act if—

- (a) it is a contest, exhibition or display of Greco-Roman wrestling, or of freestyle wrestling, between two participants (regardless of their sex),

Chapter 13: (b) it takes place in the presence of no more than 1,000 spectators,

Chapter 14: (c) it takes place between 8am and 11pm on the same day,

Chapter 15: (d) it takes place wholly inside a building, and

- (e) the spectators present at that entertainment are accommodated wholly inside that building.

Chapter 16: Health care providers and hospitals

19.—(1) “Health care provider” means a person providing any form of health care services for individuals.

(2) In sub-paragraph (1), “health care” means all forms of health care provided for individuals, whether relating to physical or mental health, and the reference to health care services is to be read accordingly.

(3) “Hospital”—

- (a) in England, has the same meaning as in section 275 of the National Health Service Act 2006, and

- (b) in Wales, has the same meaning as in section 206 of the National Health Service (Wales) Act 2006.

Chapter 17: Local authorities

20. “Local authority” means—

- (a) a local authority within the meaning of section 270 of the Local Government Act 1972;
- (b) the Greater London Authority;

- (c) the Common Council of the City of London;
- (d) the Council of the Isles of Scilly;
- (e) a National Park authority established by an order under section 63(1) of the Environment Act 1995 for an area in England or Wales;
- (f) the Broads Authority; and
- (g) the Sub-Treasurer of the Inner Temple or the Under-Treasurer of the Middle Temple.

Chapter 18: Schools, school proprietors and school premises

21.—(1) “School” means—

- (a) a maintained school as defined by section 20(7) of the School Standards and Framework Act 1998;
- (b) an independent school as defined by section 463 of the Education Act 1996 entered on a register of independent schools kept under section 158 of the Education Act 2002;
- (c) an independent educational institution within section 92(1)(b) of the Education and Skills Act 2008 entered on a register of independent educational institutions kept under section 95 of that Act;
- (d) a pupil referral unit as defined by section 19 of the Education Act 1996;
- (e) an alternative provision Academy within the meaning of section 1C(3) of the Academies Act 2010, other than an independent school as defined by section 463 of the Education Act 1996;
- (f) a school approved under section 342 of the Education Act 1996 (non-maintained special schools);
- (g) a 16 to 19 Academy within the meaning of section 1B(3) of the Academies Act 2010;
- (h) a sixth form college as defined by section 91(3A) of the Further and Higher Education Act 1992; and
- (i) a maintained nursery school as defined by section 22(9) of the Schools Standards and Framework Act 1998.

(2) “School proprietor” means—

- (a) in relation to a school (other than a pupil referral unit or a sixth form college), the person or body of persons responsible for the management of the school,
- (b) in relation to a pupil referral unit—
 - (i) the committee which is established to act as the management committee for that unit by virtue of paragraph 15 of Schedule 1 to the Education Act 1996, or
 - (ii) if there is no such committee, the local authority (as defined by section 579(1) of that Act) which maintains that unit,
- (c) in relation to a sixth form college, the sixth form college corporation as defined in section 90(1) of the Further and Higher Education Act 1992.(3) In relation to a school, “premises” includes any detached playing fields.