



PART A: MATTERS DEALT WITH UNDER DELEGATED POWERS

REPORT TO: LICENSING COMMITTEE

DATE: 25 MARCH 2010

**REPORT OF THE: HEAD OF ENVIRONMENT
PHIL LONG**

**TITLE OF REPORT: POLICING AND CRIME ACT 2009 LICENSING
IMPLICATIONS**

WARDS AFFECTED: ALL

EXECUTIVE SUMMARY

1.0 PURPOSE OF REPORT

1.1 The purpose of this report is to summarise the provisions in the Policing and Crime Act 2009 and advise of the implications on the licensing regime.

2.0 RECOMMENDATION

2.1 It is recommended that Members note the implications of the report.

3.0 REASON FOR RECOMMENDATION

3.1 To inform members of some of the key changes to be introduced by the Policing and Crime Act 2009.

4.0 SIGNIFICANT RISKS

4.1 Not applicable.

REPORT

5.0 BACKGROUND AND INTRODUCTION

5.1 The Policing and Crime Act 2009 received Royal Assent in November 2009. It contains several provisions relating to licensing and licensing offences. This report, which is for information, summarises the relevant provisions.

6.0 POLICY CONTEXT

6.1 The following Policies have informed this report:

Council Plan 2009–13 - Aim 4: to have active communities where everyone feels welcome and safe.

Ryedale District Council Statement of Licensing Policy January 2008

7.0 CONSULTATION

7.1 Not applicable.

8.0 REPORT DETAILS

8.1 Section 28 of the Policing and Crime Act 2009 amends the offence of persistently selling alcohol to children so that the offence is committed if alcohol is sold to an individual under the age of 18 on two or more occasions within three months rather than on three or more occasions within three months.

8.2 Section 29 of the Policing and Crime Act 2009 amends the Confiscation of Alcohol (Young Persons) Act 1997 so that police officers can confiscate sealed containers of alcohol from young persons in public places without needing to prove that they were consuming alcohol or that they intended to consume alcohol in a public place. This amendment also allows the police to return, where appropriate, individuals that are reasonably suspected of being under 16 to their home or a place of safety.

8.3 Section 30 of the Policing Act 2009 introduces a new offence of persistently possessing alcohol in a public place. Young people under 18 can be prosecuted for this offence if they are caught with alcohol in a public place three or more times within a 12-month period. The maximum punishment for this is a level 2 fine (currently £500).

8.4 Section 32 introduces Schedule 4 of the Policing and Crime Act 2009, which makes provision about mandatory licensing conditions relating to alcohol. This amends the Licensing Act 2003 to create an enabling power that allows the Secretary of State to set out (in secondary legislation) no more than nine mandatory licence conditions relating to the supply of alcohol for all new and existing premises licences and for all new and existing club premises certificates respectively (or for those premises licences or club premises certificates of a particular description).

8.4.1 All conditions must be made in accordance with the four licensing objectives set out in the Licensing Act 2003. These are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance; and
- The protection of children from harm

8.4.2 Paragraph 1 of Schedule 4 amends the Licensing Act 2003 so that where premises are licensed to sell alcohol, their licence is subject to the mandatory conditions specified in an order made by the Secretary of State.

8.4.3 Paragraph 2 of Schedule 4 amends the Licensing Act 2003 to allow the Secretary of State, in secondary legislation, to specify up to nine mandatory licensing conditions that could apply to all current or future premises licences. Each mandatory condition takes precedence over any existing licensing conditions to the extent the mandatory conditions are identical or inconsistent and more onerous.

8.4.4 Paragraphs 3 and 4 of Schedule 4 are equivalent to paragraphs 1 and 2 respectively, except that they relate to club premises certificates rather than to premises licences (the list of conditions in respect of club premises certificates could be different to that for premises licences). These certificates relate to members` clubs rather than nightclubs.

8.4.5 In summary the initial conditions and the date they will come into effect are summarised as follows:

- Banning irresponsible promotions; e.g. drinking games, speed drinking, women drink for free, all you can drink for £10
- Banning the dispensing of alcohol directly into the mouth e.g. dentists chair
- Ensuring the provision of free tap water for customers

All the above apply to On trade and qualifying club premises certificates and will come into force in April 2010.

- Ensuring that an age verification policy is in place, which includes checking the ID of anyone who appears to be under 18 who attempts to purchase alcohol
- Ensuring that small measures of beers, spirits and wines are made available to customers.

The above apply to On trade and qualifying club premises certificates (the age verification also applies to Off sales) and will come into force in October 2010.

8.5 Section 33 amends sections 13 and 69 of the Licensing Act 2003 to allow members of a licensing authority to act as "interested parties". This allows members of licensing authorities (i.e. any Councillor) to make representations to object to licence applications or to call for a licensing review, powers which under the Licensing Act 2003 are only exercisable by interested parties or responsible authorities.

8.5.1 This is a significant change in that it means that a Councillor may now make representations on an application for premises anywhere in the area of the Council on which they sit.

8.5.2 This came into effect on the 29th January 2010.

8.6 The provisions within the Policing and Crime Act will reclassify lap dancing clubs as "sex establishments" under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. This will bring the licensing of lap dancing and pole dancing clubs and other similar venues under the regime set out in the 1982 Act, which is currently used to regulate establishments such as sex shops and sex cinemas.

8.6.1 It is intended that local communities will have a stronger say over the establishment and location of lap dancing clubs and allow them to make objections on grounds wider than is currently allowed. Local people will be able to oppose an application if they have legitimate concerns that a lap dancing club would be inappropriate given the character of an area, for example, if the area was primarily a residential area. Local authorities will have the power to set a cap on the number of lap dancing clubs that they think is appropriate for a particular area and impose a wider range of conditions on the licences.

8.6.2 Entertainment provided at lap dancing clubs which is integral to the provision of lap dancing, such as music and dancing, will not be regarded as regulated entertainment under the Licensing Act.

8.6.3 The following are inserted into Schedule 3 of the Local Government Act 1982.

A “sexual entertainment venue” is defined as premises where relevant entertainment is provided, or permitted to be provided, by or on behalf of the organiser in front of a live audience for the financial gain of the organiser or entertainer. “Relevant entertainment” may take the form of a live performance or live display of nudity and must be of such a nature that, ignoring financial gain, it must reasonably be assumed to have been provided solely or principally for the purpose of sexually stimulating any member of the audience. Sub-paragraph (14) states that an audience can consist of just one person.

The following are specified as not sexual entertainment venues for the purpose of the Schedule:

- Sex shops and sex cinemas;
- Any premises that at the time in question:
 - has not provided relevant entertainment on more than 11 occasions within the previous 12 months;
 - no such occasion has begun within the period of one month beginning with the end of any previous occasion; and
 - no such occasion has lasted for more than 24 hours
- other premises exempted by order of the Secretary of State

8.6.4 In addition, an order can be made that certain types of performances or displays of nudity are not to be treated as relevant entertainment for the purpose of the Schedule

8.6.5 No such premises currently exist in Ryedale district.

9.0 IMPLICATIONS

9.1 The following implications have been identified:

- a) Financial
None
- b) Legal
The Council as the licensing authority must be compliant with national legislation
- c) Other
None

**PHIL LONG
HEAD OF ENVIRONMENT SERVICE**

Author: Steven Richmond, Health and Environment Manager
Telephone No: 01653 600666 ext: 247
E-Mail Address: steve.richmond@ryedale.gov.uk

Background Papers:

Policing and Crime Act 2009

Licensing Act 2003

National Guidance issued under Section 182 of the Licensing Act 2003

Ryedale District Councils Statement of Licensing Policy January 2008