



PART A:	MATTERS DEALT WITH UNDER DELEGATED POWERS
REPORT TO:	LICENSING COMMITTEE
DATE:	24 NOVEMBER 2011
REPORT OF THE:	HEAD OF ENVIRONMENT PHIL LONG
TITLE OF REPORT:	THE POLICE REFORM AND SOCIAL RESPONSIBILITY ACT 2011
WARDS AFFECTED:	ALL

EXECUTIVE SUMMARY

1.0 PURPOSE OF REPORT

1.1 This report is to update Members on the progress of The Police Reform and Social Responsibility Bill which has now become an Act.

2.0 RECOMMENDATION

2.1 That members note the content of the report.

3.0 REASON FOR RECOMMENDATION

3.1 To keep Members informed regarding the passage of this Act and the potential changes and implications of it on the Licensing Act 2003.

4.0 SIGNIFICANT RISKS

4.1 There are no significant risks in receiving this report.

REPORT

5.0 BACKGROUND AND INTRODUCTION

5.1 The Police Reform and Social Responsibility Bill completed its Parliamentary passage on the 4 September 2011 and received Royal Assent on the 15 September 2011 making the Bill now an Act. This will bring significant changes to the Licensing Act 2003.

6.0 POLICY CONTEXT

6.1 The following Policies have informed this report:

- Ryedale District Council's Licensing Policy

7.0 CONSULTATION

7.1 Not applicable.

8.0 REPORT DETAILS

- 8.1 The Police and Social Responsibility Bill completed its Parliamentary passage on the 4 September 2011 and received Royal Assent on the 15 September 2011 making the Bill now an Act. This will bring significant changes to the Licensing Act 2003.
- 8.2 The House of Commons consideration of the House of Lords amendments seems to have been limited to those aspects of the Bill which did not affect licensing and on that basis, the original proposals within the Bill in respect of licensing have survived substantially.
- 8.3 The matters that will change as a result of the Act are detailed in Annex 1 to this report.
- 8.4 There will be a raft of "follow up" secondary legislation and revised Guidance which should be the subject of further consultation in due course. These will be reported to the Licensing Committee as necessary.
- 8.5 The principal elements of the Act may be brought into force in October 2012. In any event it is believed that changes will not be implemented until after the Olympic Games in 2012.

9.0 IMPLICATIONS

- 9.1 The following implications have been identified:
- a) Financial
Until regulations and guidance have been finalised it is not possible to assess the financial implications of the proposed changes to the Licensing Act 2003.
 - b) Legal
There are no significant legal issues arising from this report.
 - c) Other
There are no significant other issues arising from this report.

Phil Long
Head of Environment

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

Background Papers:
None.

**SUMMARY OF PRINCIPAL AMENDMENTS CONTAINED IN THE POLICING REFORM
AND SOCIAL RESPONSIBILITY ACT 2011**

NB: No commencement date has yet been announced for the 2011 Act

	Amendment	Comment
1	The Licensing Authority itself becomes a responsible authority, able to make representations and apply for reviews in its own right	The right will be delegated to officers to exercise in the Councils constitution. It is suggested that when officers consider representations are appropriate and when officers consider it is appropriate to withdraw those representations, the chair is notified on an advisory basis.
2	Individual members of licensing authority to no longer be interested parties.	Councillors will no longer be able to make representations unless they are likely to be effected by the application, unless they have been, as currently, been asked to make representations on a residents behalf
3	The Primary Care Trust or Local Health Board becomes a responsible authority, able to make representations and apply for reviews	Website pages will need to be amended accordingly; need to identify who in the PCT or Local Health Board should receive copies of applications; need to check that PCT or LHB receive copies of applications
4	Definition of "interested party" deleted	Now "any other person"
5	Notices of new or varied applications are to be advertised in a prescribed manner to bring it to the attention of "any other persons" who are likely to be affected by the application	This potentially increases the number of people who may make representations about licence applications, with the possibility of more representations leading to more contested applications. The current test of whether someone does or does not live or works in the vicinity of the premises can usually be determined by officers, but whether someone under the new test is likely to be affected by the application may be better resolved at the LSC hearing.
6	Regulations must require the licensing authority to advertise applications including reviews in a prescribed form to bring it to the attention of persons who are likely to be affected by the application.	This will increase officer costs and times in advertising the applications
7	The test for whether a decision is needed will be that it is "appropriate" for the promotion of the licensing objectives, and not "necessary" as now.	"Necessity" suggests that there is a pressing requirement for a decision to be taken that furthers the objectives. "Appropriate" applies a lower threshold which may be harder to challenge on appeal. Will need to amend web information.
8	EHOs will be able to object to Temporary Event Notices	Officers will have to ensure EHOs are notified of (or have received copies of) TENs. Will have to amend website

9	Objection to TENs may be made if they would undermine a licensing objective	This is an extension from the current position where the police can only object if they feel the TEN would undermine the crime prevention objective. It may potentially increase EHO workload and the number of LSC hearing. Will have to amend website
10	Counter Notices where permitted levels exceeded for the number of TENs allowed in calendar year must also be sent to EHOs	Increase in licensing officer work
11	The Licensing Authority may impose conditions on a TEN where (a) It is appropriate to do so and (b) that those conditions are already included on a premises licence/club premises certificate for those premises and (c) it would be inconsistent with carrying out the licensable activities under the TEN e.g a licence condition to use door supervisors can be extended to include period covered by the TEN.	May require more compliance checks to ensure conditions on TENs have been met. Will require more time in preparing reports for LSC as the relationship between the TEN and the premises licence/club premises certificate will have to be included as well.
12	A separate statement of conditions applicable to the TEN must be given to the premises user, police and EHOs	There will be an increase in officer time to produce these.
13	There will be different routes to give a TEN (a) Electronically or in writing no later than 10 working days before the event or (b) Electronically to the licensing authority no earlier than 9 working days before the event and no later than 5 working days before the event begins(a "LATE TEN") OR (c) In writing to the licensing authority, police, and EHO no later than 5 working days before the event begins and at least one of those no earlier than 9 working days before the event begins (a "LATE TEN")	Late TENs are probably going to become the norm, which makes it easier for premises users but puts significantly more pressure on officers and staffing resources. This will be complicated and we will have to ensure systems are set up both by ourselves and consultees for prompt swapping of information.
14	Officers must give a counter notice where an objection notice has been received from the police or EHO in respect of a TEN	This will increase the workload on officers and their ability to react quickly.
15	In addition to the current 50 standard TENs that a personal licence holder	This will lead to an increase in the number of TENs received.

	can give a year, and the 5 standard TENS a non-personal licence holder can give a year, they will also be able to give a further TEN and 2 Late TENS respectively	
16	TENS will be able to last for a maximum of 168 hours(1 week), rather than the existing 96 hours(4 days), and premises can be used for up to 21 days a year(rather than the existing 15 days)	Most TENS currently only apply for a few hours, so extending them to 168 hours will be of assistance at Christmas when premises may want to have a whole week of extended time, however it opens the possibility of events that could go on for one week uninterrupted
17	The police and EHOs will have 3 working days in which to object to a TEN as opposed to the current 2 working days for the police	
18	Fines for persistently selling alcohol to children will increase from £10,000 to £20,000 The period that offenders can be ordered to cease selling alcohol by a constable or trading standards officers in those circumstances is varied from a minimum of 48 hours to a maximum of 330 hours	It is well documented nationally that courts do not give out anywhere near the current maximum penalties, and the closure notices are seldom used.
19	Where it is appropriate for the promotion of the licensing objective, a licensing authority may make an early morning alcohol restriction order to prohibit the sale or supply of alcohol between midnight and 6 am as specified in the order. The order can specify the days, times, or parts of the authorities area to which it applies, and may be on a temporary basis. They may be varied or revoked, and may contain exemptions in prescribed cases or circumstances	An order may not be made unless the proposal has first been duly advertised and representations considered in accordance with statutory regulations. There is a need for considerable public consultation before an order can be made.
20	Premises licences and club premises certificates must be suspended no less than 2 working days after the annual fee not being paid within 21 days of it being due. Receipts must be issued within 2 working days	There will need to be new procedures and compliance checks where the fee remains unpaid. Need to ensure the invoicing and income process and procedures provide for adequate warning
21	Subject to ministerial approval, the licensing authority will have the power to set certain fees on a cost-recovery basis. The cost may also include the costs of acting as a responsible authority under the Act, e.g. planning authority	
22	Licensing Policy Statements can now be reviewed every 5 years instead of	This may represent a saving in not having to review policies as frequently, providing the

	every 3 years, such period starting from the date of the licensing authority's choosing which must be stated within the policy statement. A 5 year period means subsequent periods ending 6 January 2016	risk of ensuring policies are relevant and up – to-date is managed. The Act allows existing policies determined and published for the 3 year period starting 7 January 2011 to last for 5 years.
23	<p>Further relevant offences have been added to those that may potentially disqualify from holding personal licences</p> <p>-failing to co-operate with preliminary breath tests for drink-driving -attempting to commit any relevant offence -conspiracy to commit any relevant offence -common law offences of conspiracy to defraud</p> <p>Once this section is commenced, this applies to personal licences granted or renewed before, on or after that date, and to offences committed before, on or after the commencement date.</p>	
24	The Secretary of State must carry out a review of the amending provisions contained in the Act, and set out the conclusions in a report to Parliament, as soon as reasonably practicable 5 years after all the amendments have been brought into force.	

NEW PROVISIONS INTRODUCED IN THE POLICING REFORM AND SOCIAL RESPONSIBILITY ACT 2011

1	<p>Licensing Authorities may decide that a late night levy is to apply in its area, after considering:</p> <p>(a) Policing and other costs for reducing or preventing alcohol-related crime and disorder between midnight and 6 am</p> <p>(b) And the desirability of raising revenue in accordance with regulation, of which not less than 70% must be applied to the local policing body.</p>	
---	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

2	The late night levy must apply to the whole of the licensing area, subject to any time restrictions of premises liable to pay for it, any “permitted exemption categories” (if any), and “permitted reduction categories” (if any)	
3	The licensing authority may determine the time of day between midnight and 6 am during which the late night levy may apply, which must be the same throughout a “payment year”	“Payment years” in relation to premises licences and club premises certificates are to be determined in regulations. This may either be linked to the annual fee under ss55(2) and 92(2) LA03 or may be potentially be determined at the same time as the authority decides a levy is to apply within its area.
4	The licensing authority may decide upon “applicable exemption categories” that apply in its area from the levy for the levy year.	This suggests licensing authorities can change the premises exempt from the levy from year to year. The applicable exemption categories will be set out in regulations for the licensing authority to decide whether any particular category applies in its area.
5	The licensing authority may decide upon “applicable reduction categories” that apply in its area from the levy for the levy year.	The levy is the amount prescribed by, or the amount calculated in accordance with regulations to be made. The applicable reduction categories will be set out in regulations for the licensing authority to decide whether any particular category applies in its area.
6	Regulations will specify how payments are collected, administered and enforced, including times for payment. They may also set out how to deal with cases where relevant late-night premises cease or become liable to pay the levy during the payment year, including where an early morning alcohol restriction order has been implemented during that year.	This may inhibit licensing authority flexibility to organise its own affairs in the collection of the levy payments.
7	Failure to pay the levy may be recovered as a civil debt and lead to suspension of the premises licence/club premises certificate under the new provisions dealing with non-payment of the annual fee.	
8	Regulations will specify the relevant expenses that may be deducted in calculating the “net amount” of levy payments, may determine the amounts to be taken into account in calculating the net amount and may determine the periods to which payments or deductions should be attributable. Not less than 70 per cent of the “net amount” must be paid to the local policing body and the remainder applied in accordance with regulations. (Other regulations may amend the specified 70 per cent).	

9	“Relevant expenses” to calculate the “net amount” means licensing authority administration expenses, particularly the costs of deciding whether to implement, end or amend the levy, and in collecting and enforcing levy payments.	Regulations will also specify the times at which payments are to be made by the licensing authority to the local policing body.
10	Licensing authorities must publish before the beginning of the levy year a statement of its estimated permitted deductions, and after the end of the levy year a statement of the net amount.	Licensing authorities can decide how to publish those statements.
11	The licensing authority may decide the date on which the levy is to start; the time period to which it applies; any permitted exemption or reduction categories; and the proportion of the net amount of levy payments to be paid to the relevant local policing body.	
12	Decisions on the introduction, variation or revocation of a levy will be subject to regulations that in particular must require consultation with the local policing body and chief officer of police; holders of relevant late night authorisations; and other prescribed persons. Notices of such decisions must be published.	
13	Regulations may also set out the matters of which the licensing authority must be satisfied before deciding that a levy is to apply in its area.	This suggests the link between alcohol and crime and disorder may not be the only consideration, or that crime and disorder has to trigger specific levels before a levy could be introduced.
14	Late night authorisations may be varied before the start of the levy year without any fee, so as to exempt them from having to pay the levy.	Premises subject to a levy may amend their licence/certificate for free prior to the levy year coming into force. There is no guidance at this stage as to how far in advance such applications may be made, the cost to the licensing authority in the (unlikely) event of a contested application and if the application seeks to take advantage of amending the licence (such as adding licensable activities to it) at the same time as reducing the hours to avoid the levy.
15	The regulations listing “permitted exemption” and “permitted reduction” categories may relate to taking part in particular arrangements such as taking part in Pubwatch or Best Bar None Schemes, or particular descriptions of premises, such as hotels or casinos.	There may be complexities around any individual premises that for example fall within the permitted reduction category.

16	Regulations must specify what the amount of reduction to be enjoyed by those in the permitted reduction categories, or how the reduced amount is to be calculated, which must be the same for all holders of late night authorisations in that category for a levy year.	
17	The arrangements relating to levies apply to licensed premises on Crown land and that owned by the Duchies of Cornwall and Lancaster.	

OTHER AMENDMENTS

1	The power to designate an alcohol disorder zone under the Violent Crime Reduction Act 2006 is repealed.	
---	---------------------------------------------------------------------------------------------------------	--