

Review

Licensing Without Hiccups



For our last Review of 2011, we round up key licensing developments including:

- Police Reform and Social Responsibility Act – What, when, how?
- PPL Specially Featured Entertainment Consultation
- Live Music Bill
- De-Regulation of Entertainment
- Relaxation for Diamond Jubilee

More generally, as set out in our previous issue, as Christmas approaches, duty managers should be prepared for licence inspections and test purchase operations. You may be happy that you have all relevant documents and procedures, but have these been properly communicated to the front of house staff? Remember, that if you are using temporary or agency staff, they should receive and sign off on all required training. Remember too that during inspections you may be asked to show compliance with Mandatory Conditions, for example the production of your proof of age policy.

The last date for applying for a Temporary Event Notice for New Year's Eve is 15 December 2011. Most converted on-Licences authorise sales of alcohol 24 hours on New Year's Eve, but Licences granted under the new regime may not.

Extensions may also be required for Regulated Entertainment and/ or Late Night Refreshment. Make sure you apply before the deadline if you need an extension.

Police Reform and Social Responsibility Act – What, When, How?

The Police Reform and Social Responsibility Bill received Royal Assent and became an Act of Parliament on 15 September 2011. The changes will affect all operators, not least because of the changes to fees.

However, it is not currently clear when the provisions will come into force. The changes will be subject to secondary legislation, which has not yet been published for consultation. Furthermore, timetables for implementation have not been announced by the Home Office. There have been informal indications that the majority of the proposals will not come into force until at least after the Olympics, albeit that the changes to Temporary Event Notices may be implemented earlier, perhaps from April. However, this is to a large degree speculation and we will ultimately have to wait and see when and how the Act will be implemented.

Although the proposed changes to licensing were discussed in the House of Lords, the legislation remains pretty much as originally drafted. There will be Guidance on interpretation of the provisions (an amendment of the existing Guidance to Licensing Authorities) although again the draft amended Guidance has not yet been published.

“Duty Managers should be prepared for licence inspections and test purchase operations”



“TENs may be subject to appropriate conditions”

The key changes are as previously reported. In brief, these are as follows:

- Allowing Licensing Authorities to set licence fees at a local level on a cost recovery basis;
- Suspension of Premises Licences for failure to pay annual fees on time, with a 'grace period' of only 21 days;
- Removing the 'vicinity' test to allow any person to submit a representation, although that representation must still be 'relevant' and not frivolous or vexatious;
- Licensing Authorities to become Responsible Authorities within the meaning of the Act – as such they will themselves be entitled to make representations to an application (for example because it is within a cumulative impact area) and to review Premises Licences;
- Changes to Temporary Event Notice (TEN) procedures to allow shorter notice and longer duration TENs, but also requiring that notice is given to Environmental Health as well as the police and Council; and that TENs may be subject to appropriate conditions;
- The introduction of Early Morning Restriction Orders allowing Licensing Authorities to ban the sale of alcohol during the times specified in the Order which can be anywhere between midnight and 6am ;
- The introduction of a Late Night Levy allowing Licensing Authorities to charge an additional fee to businesses where their Licence authorises the sale of alcohol during the times specified, which again can be anywhere between midnight and 6am;
- Replacing requirement for Licensing Authority decisions to be 'necessary' for the promotion of the licensing objectives, with a requirements that they only need to be 'appropriate' (perhaps paving the way still further for 'standard' conditions in certain areas); and
- Doubling the maximum fine for persistent underage sales from £10,000 to £20,000.

PPL Specially Featured Entertainment Consultation

The closing date for PPL's consultation on proposed changes to their tariff for Specially Featured Entertainment was in October. PPL have written to licensees outlining that they have received a significant number of responses to the consultation and will now consider the results of the consultation process and issues raised.

The proposed tariff changes as drafted in the consultation document would lead to substantial fee increases for many operators who play music as part of Specially Featured Entertainment (such as discos). Many will hope therefore that PPL will indeed take note of trade responses and amend their proposals accordingly. Please let us know if you have been having any issues with PPL or have any comments on the proposed tariff changes.

Live Music Bill

The Live Music Bill has had its second reading in Parliament. As reported in the last issue of Licensing Without Hiccups, the Bill provides that (amplified) live music will not be licensable in premises authorised for on- sales of alcohol for audiences of up to 200 persons between 8am and 11pm.

Furthermore any conditions on existing Licences relating to music will not apply to live music which meets the test. There is a separate exemption for live unamplified music which takes place between 8am and 11pm, without a specification as to audience numbers and regardless of whether it takes place on alcohol-licensed premises.

The Bill also proposes to remove the requirement to license the provision of 'entertainment facilities' and to de-regulate live music in the work place, subject to the restrictions on hours and audience numbers.

De – Regulation of Entertainment

As part of the 'Red Tape Challenge' the DCMS are currently consulting on a proposal to remove the requirement to license entertainment (except for sexual entertainment and boxing and wrestling) for audiences of up to 5,000 people.

There are discussions in the industry and local government about whether this would be sensible from a nuisance and safety perspective; whether 5,000 is an appropriate number; and how the proposals would impact upon existing Premises Licences authorising entertainment. Proposals are at a very early stage and whether this proposal will ever see the light of day will probably depend on political will and competing demands on parliamentary time.

Relaxation of Hours for Queen's Diamond Jubilee

The Home Office have carried out a consultation on a proposed relaxation of hours for alcohol, entertainment and late night refreshment for the Queen's Jubilee. The proposal is to extend hours on the evenings of Friday 1 June 2012 and Saturday 2 June 2012 until 1am the following morning. The consultation closed on 1 December and we will report any further announcements as to this proposal.

FURTHER INFORMATION

Stephanie Perraton

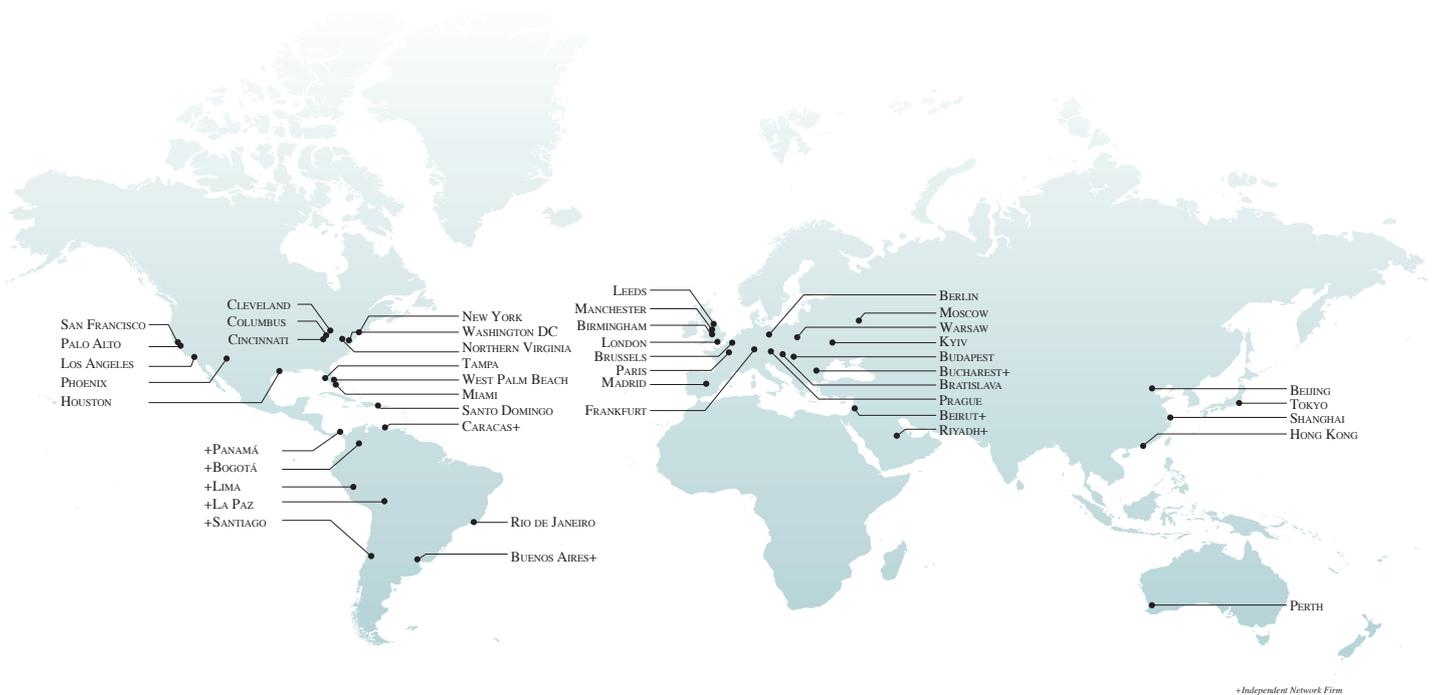
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