

Draft legislation introduced by the government in the wake of COVID-19 has been given Royal Assent and is now in force.

The changes implemented should help businesses work towards an ‘al fresco’ culture, while many customers are still nervous around eating and drinking inside, despite safeguards introduced to help prevent the transmission of the virus.

Key Provisions

The main changes for operators of licensed premises to be aware of are:

- The Act provides for premises licences, that currently authorise sales of alcohol for consumption on the premises only, to automatically include “off sales” to allow alcohol to be consumed outside (subject to other regimes) and to allow deliveries (a temporary authorisation ending in September 2021).
- A new “Pavement Licence” regime, to be administered by local authorities, designed to make it easier for premises in England serving food and drink such as bars, restaurants and pubs to seat and serve customers outdoors through temporary changes to planning procedures and alcohol licensing, by permitting furniture such as tables and chairs to be placed on the highway.

The initial proposal to allow off-sales until the end of permitted hours under the licence has changed, and the authorisation is now only until 11pm at the latest (the extension does not apply to times when the premises licence does not allow sales of alcohol for consumption in outdoor areas of the premises). The authorisation for off-sales does not apply if an application to allow off-sales has been refused within the last 3 years, or if there has been a review in relation to off-sales within the last 3 years. However, existing conditions requiring off sales to be in sealed containers only will be disapplied.

The government has also issued [guidance](#) on pavement licence applications for proposed outdoor seating, covering: the application process; conditions which will apply to all licences (a no-obstruction condition and a smoke-free seating condition); and notices required to be displayed. The application process is significantly quicker than the existing regime for pavement/ table and chair licences (being 2 weeks, as opposed to a minimum of 28 days, unless a hearing is required) and the maximum fee that can be charged by the local authority is £100.

However, there will be some time involved at the “front end”, in terms of ensuring that you have everything needed for the application, such as a details of what part of the highway / pavement will be used, details of the furniture, the times that you want to cover, and confirmation that you have public liability insurance in place. Local authorities can also require other documents, such as a plan showing the location of the premises, a plan showing the area to be covered, evidence of a right to occupy the premises, details as to the proposed duration and photos / brochures of the furniture (the documents required may vary from authority to authority).

Other Considerations

However, any operator planning to allow consumption of alcohol in an external area should remember that the area may also need to be included in the premises licence, if ‘sales’ of alcohol will take place in that area. In addition, it is important to bear in mind the four licensing objectives, namely:

- Prevention of crime and disorder
- Prevention of public nuisance
- Promotion of public safety
- Protection of children from harm

In the event that these objectives are not met, it is possible that a licence holder could face complaints, or even a review of their premises licence. A number of these objectives could be adversely affected by the use of outdoor areas. There is less sound attenuation in outdoor areas, so noise from customers drinking outside, particularly late in the evening, may disturb neighbours and especially as they may have become used to a quieter environment during lockdown!

Therefore, if you are planning to allow consumption of food and drink outside, you may want to think about restricting closing times to earlier than that permitted under the new legislation (11pm) and you might also want to consider other measures such as signage reminding customers that you have neighbours, and briefing staff to ask customers to quieten down if they become a little rowdy. Litter is another form of nuisance that should be considered. Tables may need to be cleared more regularly than indoors, the provision of litter receptacles outdoors could be helpful, and you should plan for cleaning outdoor areas, if needed, at the end of the day.

It may also be appropriate to assess CCTV coverage of any external area to be used. We would recommend that operators consider whether additional camera coverage is needed outside, or whether existing cameras can be redirected. Effective CCTV monitoring may also be a factor, given social distancing measures indoors and possible uses of different rooms and offices (where CCTV monitors may be located) for different purposes.

Operators should also think about whether they will allow the use of glass outside, whether as drinking vessels or bottles of wine/ beer.

Finally, when submitting any pavement licence, we suggest that you also think about including details of heaters and umbrellas as furniture to be approved, which could allow greater use of outdoor spaces when the good old British weather is not so good!

If you would like any further detail on the changes, or assistance with an application, please don't hesitate to contact us.

Contacts



Stephanie Perraton

Partner

T +44 121 222 3559

E stephanie.perraton@squirepb.com



Nicola Smith

Director

T +44 121 222 3230

E nicola.smith@squirepb.com