

briefing

The Licensing Act

This month will see the end of what everyone agrees is an unwieldy and out of date licensing regime. Its replacement however the Licensing Act 2003 has provoked a raft of criticism from a wide coalition of detractors. This briefing looks at what the Act does and the main arguments for and against its most contentious provision.

What does the Licensing Act do?

The Licensing Act 2003 is a far-reaching piece of legislation that sweeps away in one go a licensing regime in place for almost a century. The act transfers from magistrates to local authorities the authority to issue licenses, introduces licences for the first time for both premises and landlords, and requires local authorities and licensed premises to meet four broad objectives - prevent crime and disorder and public nuisance, and to protect public safety and children. Most notably, the Act removes restrictions on the sale of alcohol after 11 o'clock to usher in the start of "24 hour drinking".

The rationale for the changes?

The Government believes the changes are long overdue and will replace a regime rooted in some of its provisions in Victorian times with one more in keeping with today's 24/7 consumers. It will give people more choice around when they drink, support the rapidly expanding night-time economy - worth 3 per cent of Britain's GDP - and by staggering closing times, reduce the strain on public transport and risk of "flashpoints" or alcohol fuelled violence. Successive Ministers have said the changes will help change our current drinking habits to a more "Continental-style café culture".

What do the critics say?

Health professionals faced with growing numbers of patients with alcohol related diseases and casualty wards choc a bloc with young binge drinkers at weekends, have been critical. They contend there is a vast gulf between a Continental "wine tipping culture" and our deeply entrenched and widespread pattern of alcohol misuse. Extending opening hours sends out the wrong message and will simply lead to more drinking rather than more mature drinking, they say. Why else would the highly competitive licensing industry

support longer opening hours other than to sell more alcohol? Local authorities have also complained that the legislation is heavily weighted in favour of the drinks industry and makes it difficult to turn down applications for longer opening. Applications cannot be opposed unless members of the public or the police object, and they must be considered on an individual basis making it difficult to stop large numbers of pubs in one area staying open late. In addition, Government guidelines say the "general principle should be to support later opening so that customers leave for natural reasons slowly over a longer period" and make reference to "thriving



night-time local economies...important for investment and employment". Meanwhile, the cost of defending appeals from cash-rich pub chains, who have already shown a willingness to go to court to challenge decisions, will, critics say, make it even less likely that councils will turn down applications. There is also concern that town centres lack the basic infrastructure - transport, street cleaning, public toilets and especially policing - to support longer opening hours.

How has the Government responded to the criticism?

The Government has stood firm against the mounting barrage of criticism. Its view is that the only real problem lies with a relatively small group of antisocial drinkers who consume far too much at weekends causing a disproportionate amount of nuisance and public disorder. Why spoil the enjoyment of the responsible majority who simply want a late night drink because of these? It points out that the Licensing Act gives local authorities enhanced powers to

deal with irresponsible licensees, allowing them to review, revoke, change and suspend licenses and remove the management team. There are also proposals under the Violent Crime Reduction Bill to designate areas with recurrent problems Alcohol Disorder Zones (ADZs). Pubs and clubs in the zones will have to contribute to the cost of policing, police will have powers to suspend the sale of alcohol from rogue premises and "Drinking Banning Orders" can be imposed on troublesome individuals. Critics remain unimpressed. They point to the fact that it is currently illegal to sell to minors and drunk customers and tough penalties are already in place for irresponsible licensees but these are rarely enforced. Will the police and councils have the resources and will to act any differently under the new regime?

What next?

The Government made one concession when it announced recently that a review of the legislation will begin next February within three months of the changes coming into effect. It is certain then that from 24 November, critics and supporters alike will be watching closely to see what impact the changes have. It is expected that of the 17,000 licensed premises in London, only a small minority will stay open around the clock. Most pubs appear to have put in applications to stay open for one or two hours longer on Friday and Saturday nights, though alcohol is likely to be more widely on sale in 24 hour supermarkets. The British Beer and Pub Association (BBPA) has said the changes will have little impact and that pubs responsible reaction to the changes will "expose the urban myth of 24 hour drinking". The early indications however are that when challenged, the industry will not allow what the BBPA calls "over zealous town hall bureaucracy and unnecessary hearings" to get in the way of keeping the drink flowing.