

Note to Licensing and Safety Committee

Changes to the Licensing Act

Regulations relating to the Late Night Levy and Early Morning Restriction Orders have now been published and they will come into force on 31st October 2012.

The Regulations can be found on the following links:

<http://www.legislation.gov.uk/uksi/2012/2551/made?view=plain>

<http://www.legislation.gov.uk/uksi/2012/2550/made?view=plain>

The Licensing Act 2003 (Early Morning Alcohol Restriction Orders) Regulations 2012

In these Regulations we get to see the detail of the procedure needed to bring in an EMRO in a particular area.

Where a licensing authority proposes to make an EMRO it must:

- allow a minimum period of 42 days for representations to be made;
- advertise its proposal on its website;
- advertise on a notice 'in the area which will be affected by the EMRO and in a manner which is likely to bring the proposal to the attention of persons who have an interest in it'
- advertise in a local newspaper
- send a letter to all Premises Licence Holders, Club Premises Certificate Holders and holders of Temporary Event Notices who may be affected by the EMRO
- Hold a hearing which must commence no later than 30 working days after the 42 day representation period has ended.
- after the hearing the authority must make its decision within 10 working days
- No later than 7 days after making its decision, send a copy of the EMRO to all Licence Holders affected by the decision and by publishing the EMRO on its website and in the EMRO area.

The detail on how to bring one in seems equally as baffling and time consuming as the process for the old "alcohol disorder zones". If an EMRO was to be considered in the Kirklees area (and I have no evidence that one is needed anywhere in the district) the issue would be capable of challenge in the High Court if we get the detail wrong.

Additionally, the Government has created some exemption category for premises:

- hotels/guest houses/lodging houses/hostels where, during the hours of midnight to 6am sales of alcohol can only be made to persons staying at the premises for consumption in their rooms either by room service or by virtue of mini bars;
- Licensed premises which supply alcohol in these hours only on New Year's Day.

The Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012

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As a reminder the Late Night Levy is a charge for those operating premises between midnight and 06:00 hours and the charge band is from £299.00 for premises with a rateable value of less than £4,300.00 up to £1,493.00 for premises with a rateable value greater than £125,000.00. For those premises within Bands D and E (rateable value) there is a multiplier of 2 or 3 if the premises are used exclusively or primarily for the sale of alcohol. 70% of the income raised from the levy must be paid over to the police for our area.

The regulations in relation to the EMRO are detailed about the procedure but the Levy Regulations deal with exemptions and reduction categories rather than the detail involved in bringing about a Levy in any area.

The licensing authority has absolute discretion on whether to exempt any or all of the following categories:

Hotels for residents staying at the hotel and only for consumption on the premises;

- Theatres;
- Cinemas;
- Bingo halls;
- Community amateur sports clubs;
- Community premises;
- Public Houses entitled to rural rate relief;
- Participants in Business Improvement Districts (BID) if it is likely to result in the reduction or prevention of crime and disorder in connection with the supply of alcohol between midnight and 6am;
- Licensed premises which only supply alcohol in the levy hours on New Year's Eve.

As well as complete exemptions, there are also permitted reduction categories:

- any 'relevant arrangement';
- which is established for 'relevant purposes';
- and requires its members to take steps to promote those relevant purposes;
- and contains provision for the cessation of the membership of a member who has failed to take those steps;
- will be entitled to a reduction if the licensing authority decides;
- the discount of 30%, is a fixed amount;
- Licensed premises entitled to small business relief.

This means that active members of Pub Watch, Best Bar None and similar best practice schemes could receive a discount of 30% in their Levy amount.

Cath Walter

29.10.12

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