

MONITORING OFFICER BULLETIN #23

AL FRESCO EATING AND DRINKING UNDER THE BUSINESS AND PLANNING BILL 2020

Under the new [Business and Planning Bill 2020](#), published on 25 June 2020, the Government is looking to simplify and reduce the costs of the licensing process for outdoor seating and stalls. It proposes significant changes designed to help licensed premises to survive and bounce-back from the pandemic lockdown. The provisions include:

1. A new “Pavement Licence” regime, to be administered by local authorities, designed to make it easier for premises 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.
2. Alcohol licensing changes that will allow operators with existing alcohol on-sales licences to also serve alcohol for consumption off the premises and to make deliveries.

Pavement Licences

Once cafes, pubs and restaurants are permitted to open, current social distancing guidelines will have considerable impact on their capacity to accommodate customers.

The Bill therefore includes temporary measures to support businesses, including introducing a temporary fast-track process to obtain permission from the council, in the form of a “Pavement Licence”, for the placement of tables and chairs on the pavement outside their premises.

This will enable them to maximise their capacity whilst adhering to social distancing guidelines. The current process for businesses to obtain these licences can be costly and time-consuming.

The Bill includes:

- temporary measures to place a cap on the application fee for businesses
- enforcement and revocation powers so councils can protect public safety and amenity
- a new 14-day determination period, ensuring that businesses can obtain licences in a timely and cost effective manner, aiding their financial recovery

Alcohol Licensing: off-sales extension

The measures included in the Bill modify provisions in the Licensing Act 2003 to provide automatic extensions to the terms of on-sales alcohol licences to allow for off-sales. It is designed to be a temporary measure to boost the economy, with provisions lasting until the end of September 2021.

The measures will make it possible for licensed premises that have only an on-sales licence to sell alcohol for consumption off the premises. This will allow businesses to trade whilst keeping social distancing measures in place inside.

The provisions remove the need for any application to be made, therefore no fee will need to be paid. This is designed to deliver savings to businesses, as well as providing them with certainty about how they are able to trade. It will also reduce the burden on councils and the police, who will not need to scrutinise any applications for licence variations from the premises affected by these measures.

Licensees who have had an application for an off-sales permission refused or had their off-sales permission excluded by variation or at review within the last three years, will be excluded from this licence extension. This is a safeguard to ensure that where it has recently been decided that the licensee should not have the permission, they do not receive it through this legislation.

The default hours in which off-sales will be permitted will be the same as those in which on-sales are permitted. Any licensee who wishes to open for longer hours could apply for a licence variation.

Conditions

The provisions will also apply temporary conditions to licences where there is a pre-existing permission for off-sales.

The conditions will set the hours of off-sales to match those for on-sales, allow off-sales of alcohol in open containers and allow deliveries of alcohol to residential or work buildings. Those conditions will suspend existing conditions that are more restrictive. So, for example, an existing condition that allowed off-sales only in closed containers would be suspended to allow sales in open containers.

Off-Sales Review

If there were problems of crime and disorder, public nuisance, public safety or the protection of children arising from how the premises operated using the new permission, any responsible authority, including the police or environmental health, could apply for a new off-sales review.

The off-sales review process is modelled on the existing summary review process. In the event that an off-sales review is triggered, it will only relate to off-sales authorised by virtue of these provisions, or conditions which have effect by virtue of these provisions: it cannot be used to revoke the existing licence or modify pre-existing licence conditions.

Conclusion

The Bill will be welcomed by the leisure and hospitality industry - who need all the help they can get in the present period.

However, its provisions will give rise to considerable additional work for hard-pressed council officers who will have to administer, monitor, and then enforce the new pavement licence regime and the automatic extension of off-sales.

The steer towards outdoor eating and drinking in the warm summer months ahead will delight many customers, yet cause real concern to some residents who may well find their pavements and outdoor areas busier, and louder, than ever before. However, the relaxation provisions are subject to strict regulatory checks and balances that should adequately deal with any issues that arise.

It is expected this Bill will rapidly make its way through the Parliamentary process. Whether the proposals will be amended during this passage, and to what extent, will soon become clear.

Geoff Wild
Monitoring Officer
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