

NEXSTART

Business and Planning Bill

Alcohol licensing

The Bill amends the Licensing Act 2003. Premises with a licence authorising “on-sales” only (sales of alcohol authorised for consumption on the premises – ie: within the red line of the plan) automatically have “off-sales” added to their licence, if they haven’t already got it.

Many licensed premises are already licensed for the sale of alcohol on and off the premises. Off-sales means that the alcohol can be taken away from the red line plan of the premises for consumption somewhere else.

The automatic addition of “off sales” to premises licences is a temporary measure that will end on 30 September 2021 (unless further extended by the Government).

The automatic addition of off-sales to every premises licence mirrors the same hours that the premises have for on-sales. Because the addition of this authorisation is automatic, no applications have to be made to anyone, and no fee is payable. Responsible authorities are not consulted about it, and cannot object to it.

If a licensee wanted longer hours for off-sales, (longer than their on-sales), they could make an application to vary the licence, as per normal.

There are exceptions for licensees who have previously made an application to add off-sales authorisation to their licence within the last three years and were refused, or who had off-sales removed from their licence at a review in the last three years. This is called a “disqualifying event”. They do not benefit from this new right in the Bill.

If a licensee already has a licence for off-sales as well as on-sales, then there may still be some changes to the licence. If the on and off-sales licence has three types of specific restrictive conditions then those three types of conditions will automatically be suspended (not apply until 30 September 2021).

The three types of conditions are:

(i) Restrictions on times for off-sales. Off-sales can now mirror the times for on-sales. This would apply, for example, if the times of off-sales in a beer garden (which was outside the red line plan - hence “off” the premises) were limited by condition, and more restrictive than the hours for sales inside the premises.

(ii) Restrictions on selling alcohol for off-sales in an open container. Open containers are now automatically permitted, and any condition requiring off sales to be in sealed containers only is disapplied.

(iii) Restrictions on deliveries to the door (of office or residential properties). Home (office) deliveries are now automatically permitted, without any additional conditions.

These relaxed conditions apply automatically to everyone, without an application.

If they cause particular problems in an individual case, then any responsible authority (eg: Police, Environmental Health, Licensing Authority, Trading Standards and others) can apply to the Local Authority for a review - just of the new automatic off-sales permission. The review application has to be based on one or more of the four licensing objectives. The review application works in a similar way to the existing summary review application, so it is a fast application. The Council has the power to consider it quickly, and apply interim steps, within 48 hours, just like a regular summary review.

The only thing that the responsible authorities and the Council can consider in an Off-Sales review is the permission for off-sales itself, and whether that should be removed again. They cannot consider any other conditions on the licence and they cannot revoke the licence under this procedure.

The licensing authority could remove the automatic right to have off-sales, or could re-impose conditions, such as time limits in beer gardens, or restrictions on home deliveries, in the off-sales review. The licensing authority can apply interim steps without the licence holder being present, but the licensee has the right to be heard to review interim steps, and there is a mandatory fully review hearing 28 days after the off-sales review application by the responsible authority. At this full review, only the off-sales provision may be considered – not the rest of the licence.

It is possible to appeal against the decisions both for interim steps and the final review.

This does not prevent the responsible authorities applying for a regular review, or a regular summary review, in the normal way, to deal with any other issues arising

The provisions apply to England and Wales.

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25 June 2020