



Minor Variations. A Waste of Time?

BRIEFING

Introduction

Readers of our previous Briefings will be aware that we have opposed the Government's proposals to introduce a new minor variation procedure into the Licensing Act 2003 ("the 2003 Act").

By way of reminder, the 2003 Act allows a premises licence holder to apply to a licensing authority to vary a premises licence. The application may be to change licence conditions to reflect proposed alterations to the premises, or to change the licensable activities (sale of alcohol, provision of regulated entertainment or late night refreshment) or the hours during which such activities are permitted. For further detail on the existing procedure please see our January Briefing "A New Year. More Changes to the Licensing Laws. Minor Variations, Mandatory Conditions, Selling Alcohol to Children and Lap Dancing."

In our January Briefing, we questioned the sense of the Government's proposals to introduce a new minor variation procedure, one that relied on a licensing officer to determine whether the proposed changes could impact on the licensing objectives. We suggested that the cost, delay and uncertainty of the proposed procedure would put licence holders off and most would go straight to the full, but more expensive variation process.

The Latest Proposals

Following opposition to the proposals from the Delegated Powers and Regulatory Reform Committee and the House of Commons Regulatory Reform Committee, the Government has laid before Parliament a modified set of regulations setting out how the minor variation procedure will work.

If the new proposals become law, a licence holder may apply for a minor variation. The application will need to be advertised both on the premises and, we believe, in a local newspaper. This will give interested parties such as local residents the opportunity to make a representation. Such representations must be made within 10 working days of the day following receipt by the licensing authority of the application.

The licensing officer will be required to consult with whichever responsible authorities he/she considers appropriate and take into account any relevant representations made by those responsible authorities and by interested parties.

If the licensing officer considers that the variation proposed could not have an adverse effect on the promotion of the licensing objectives then the application must be granted. In any other case the application must be rejected and the licence holder will then need to go through the full variation process.



The licensing officer must determine the minor variation application within 15 working days of the day following receipt by the licensing authority of the application.

An Improvement?

We commented in January that we found it difficult to see who would benefit from the minor variation procedure. Well, it's even worse now. Licence holders face not only the delay and the cost of the application but also the prospect of advertising in a newspaper and having changes to their operation, no matter how small, being scrutinised by local residents and businesses.

We do not believe that licence holders will have any use for this new minor variation procedure. There may be a small gain on the actual variation fee (the fee is yet to be announced) but licence holders will need to consider the prospect of a 3 week delay and advertising in a local newspaper twice should the minor variation application be rejected.

We are not convinced that the new procedure will work in any event. It can take a few days to arrange an advertisement in a local newspaper. This could mean that the 10 working day representation period could expire almost immediately after the advertisement has appeared. We predict a certain amount of chaos. Perhaps this aspect of the reform has not been thought through?

We seem to have come a very long way from the light touch licensing regime promised by the

Government. These latest proposals are a huge disappointment. Let us hope that they will not become law.

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