

CHESHIRE EAST COUNCIL

LICENSING COMMITTEE

Date of Meeting: 10th January 2010
Report of: Legal Team Leader (Regulatory)
Subject/Title: Information report: Police Reform and Social Responsibility Bill

1.0 Report Summary

- 1.1 The report provides information on the content of the Police Reform and Social Responsibility Bill as it relates to the licensing regime.

2.0 Recommendations

- 2.1 The Licensing Committee is requested to note the report in relation to the provisions of the Police Reform and Social Responsibility Bill.

3.0 Reasons for Recommendations

- 3.1 The Police Reform and Social Responsibility Bill, introduced to the House of Commons on 30th November 2010, contains provisions which relate to the amendment of the Licensing Act 2003. The Licensing Committee is requested to note the information report in relation to the content of the Bill.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications including - Climate change - Health

- 6.1 None.

7.0 Financial Implications 2010/11 and beyond (Authorised by the Borough Treasurer)

- 7.1 None.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 As set out within the body of the report, if enacted, the provisions of the Bill would amend the Licensing Act 2003. Details of the proposed changes are set out in paragraph 10.0.

9.0 Risk Management

- 9.1 N/A

10.0 Background and Options

- 10.1 On 30th November 2010 the Government introduced the Police Reform and Social Responsibility Bill to the House of Commons. The Bill contains provisions which would, if enacted, make a number of amendments to the Licensing Act 2003. A number of the clauses within the Bill would give force to proposals contained within the recent Home Office consultation document, "Rebalancing the Licensing Act."

- 10.2 Attached as Appendix A is an extract from the Explanatory Notes accompanying the Bill which provides the details of the proposals in relation to the licensing regime. As Members will note, key changes within the Bill include:

- Adding licensing authorities to the list of 'responsible authorities;'
- Adding Primary Care Trusts to the list of 'responsible authorities;'
- Removal of the test of 'vicinity' from the 2003 Act so that residents do not have to show that they live 'in the vicinity of the premises' in order to make a relevant representation. There is also an amendment to provide for regulations to require the licensing authority to advertise applications in a way that "ensure it comes to the attention of all persons who it may affect."
- A doubling in the maximum fine for premises which persistently sell alcohol to children to £20,000.
- An amendment to the evidential burden so that rather than requiring licensing authorities to take steps which are "necessary" that they take steps which are "appropriate" for the promotion of the licensing objectives;
- Amendments to the provisions relating to early morning alcohol restriction orders which have the effect of enabling a licensing authority to make an order of any duration between 12 midnight and 6am. An order can be made, amongst other things, at different times on different days
- The police and local authorities exercising environmental health functions would be able to object to Temporary Event Notices on the basis of all the licensing objectives in the 2003 Act. Licensing authorities would also be able to impose conditions on a temporary event notice in limited circumstances.
- Provision to enable premises users to give a limited number of Temporary Event Notices in a shorter timeframe than the existing 10 working days (defined as a 'late temporary event notice');
- An increase to the period for which licensable activities at a single event can be carried on under a Temporary Event Notice (from 96 hours to 168 hours);
- Power to local authorities to suspend a premises licence or club premises certificate for non-payment of an annual fee;

- An amendment to the requirement to review the licensing policy statement every three years to every five years;
- Powers for councils to charge premises that supply alcohol as part of the late night economy a levy to pay for extra policing. Licensing authorities would be able to impose the levy on such premises for a period of any duration between midnight and 6 am. Some premises may be given an exemption or discount. At least 70% of the funds generated by the levy would be paid to the Police. The levy would also fund bodies that operate measure to address the effect of alcohol related crime and disorder.

10.3 On 13th December 2010 the House of Commons debated the main principles of the Bill. The Commons determined that the Bill should be given its Second Reading and sent it to a Public Bill Committee (The Police Reform and Social Responsibility Bill Committee) for scrutiny.

11.0 Overview of Day One, Year One and Term One Issues

11.1 N/A

12.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

For further information:

Officer: Mrs K Khan
 Tel No: (01270) 685847
 Email: kate.khan@cheshireeast.gov.uk

Background Documents:

Appendix A – Extract from Explanatory Memorandum to the Police Reform and Social Responsibility Bill.

Full text of Bill available at:

<http://www.publications.parliament.uk/pa/cm201011/cmbills/116/11116.i-v.html>

**Part 2 – Licensing
Amendments of the Licensing Act 2003****Clause 103: Licensing authorities as responsible authorities**

125. The Licensing Act 2003 defines responsible authorities as including the police, fire authorities, local authorities exercising health and safety, local planning, environmental health and child protection functions, and any licensing authorities (other than the relevant licensing authority) in whose area a part of the premises is situated. The relevant licensing authority is the authority with responsibility for licensing functions relating to the premises in question and currently is not a "responsible authority". Responsible authorities can make representations based on the licensing objectives in relation to applications for the grant or variation of a premises licence or club premises certificate, to request the review of such authorisations or to make representations in relation to other discrete processes. Because relevant licensing authorities are not "responsible authorities" (within the current definition), they are unable to engage in those activities. Clause 103 introduces amendments to bring relevant licensing authorities within the definition of "responsible authority", which will enable relevant licensing authorities to engage in those activities. *Subsections (2) and (3)*, amends the provisions in Part 3 and 4 of the Licensing Act 2003 to make relevant licensing authorities "responsible authorities" in relation to premises licences and club premises certificates. *Subsection 4* makes provision for the application of these amendments.

Clause 104: Primary Care Trusts and Local Health Boards as responsible authorities

126. Clause 104 amends sections - 13(4) and 69(4) - of the Licensing Act 2003 by adding a Primary Care Trust (or its equivalent body in Wales, a Local Health Board) for any area in which a premises is situated (or for any area any part of which is the area specified by an early morning restriction order) as a responsible authority. These new bodies will be able to fulfil the same functions as existing responsible authorities.

127. This clause also amends section 5(3) of the Licensing Act 2003 by adding these bodies as bodies which a licensing authority must consult before determining or revising its statement of licensing policy.

128. *Subsection (5)* makes provision for the application of these amendments.

Clause 105: Premises licences: who may make relevant representations

129. Under the Licensing Act 2003 'interested parties' (persons who can make an application for review or a representation with regard to one of the licensing processes) in most cases must have a particular relationship to the vicinity of the premises in relation to which the application or other process relates (for example, by living in the vicinity or being involved in a business in the vicinity).

130. Clauses 105 to 108 remove this test of 'vicinity' from the Licensing Act 2003, and consequently remove the category of interested party. This will enable any person to make representations in relation to applications for the grant or variation (including a minor variation) of a premises licence or club premises certificate, the grant of a provisional statement and to make applications for the review of such authorisations, and to make representations in relation to other discrete processes. However, all representations will need to relate to the licensing objectives and must not be frivolous or vexatious.

131. Clause 105, at *subsections (2) to (10)*, amends a number of provisions in Part 3 of the Licensing Act 2003 to reflect the introduction of this measure in relation to premises licences. Section 13 of the Act is amended to remove the definition of an 'interested party', and a range of processes are modified. These are the processes governing applications for:

- a) the grant or variation of a licence
- b) the grant of a provisional statement,
- c) a minor variation of a licence, and
- d) an application for a licence by a community premises to remove the requirement to have a designated premises supervisor.

132. The requirement on an applicant to advertise an application, and on a licensing authority to send notices of applications, are modified as a consequence of the removal of the category of interested party from these processes. This amendment also provides that any representations from persons (other than responsible authorities) must not, in the opinion of the relevant licensing authority, be frivolous or vexatious.

133. *Subsection (3)* amends the requirements on the Secretary of State to make regulations governing who should advertise an application. Regulations will require an applicant and licensing authority to advertise the application: the former must advertise the application in a way which ensures that it comes to the attention of persons in the licensing authority's area who it may affect; the latter must advertise it in a way that ensures that it comes to the attention of all persons who it may affect.

134. *Subsection (11)* makes provision for the application of these amendments.

Clause 106: Premises licences: who may apply for a review

135. *Subsections (2) to (6)* amend a number of provisions in the Licensing Act 2003 governing applications for review or summary review of a premises licence, and a review of a licence following the making of a closure order, to reflect the introduction of this measure. *Subsections (2) and (6)* amend the requirements on a licensing authority to advertise an application for review or summary review, and a review following a closure order, so as to ensure that this is brought to the attention of any persons it may affect, and to advertise the period during which any such person may make representations about the application. These amendments also provide that representations from any persons (other than responsible authorities) must not, in the opinion of the licensing authority, be frivolous or vexatious.

136. *Subsection (7)* makes provision for the application of these amendments.

Clause 107: Club premises certificates: who may make relevant representations

137. *Subsections (2) to (8)* amend a number of provisions in the Licensing Act 2003 relating to applications for the grant, variation and minor variation of a club premises certificate in Part 4 of the Act. Section 69 of the Act is amended to remove the definition of "interested party". These amendments require a licensing authority to advertise applications for the grant or variation of a certificate so as to ensure that this is brought to the attention of any persons it may affect, and to advertise the period during which any such person may make representations about the application. These amendments also provide that representations from any persons (other than responsible authorities) must not, in the opinion of the licensing authority, be frivolous or vexatious.

138. *Subsection (3)* amends the requirements on the Secretary of State to make regulations governing who should advertise an application. Regulations will require the application and licensing authority to advertise the application: the former must advertise the application in a way which ensures that it comes to the attention of persons in the licensing authority's area who it may affect; the latter must advertise it in a way that ensures that it comes to the attention of all persons who it may affect.

139. *Subsection (9)* makes provision for the application of these amendments.

Clause 108: Club premises certificates: who may apply for a review

140. *Subsections (2) to (4)* amend a number of provisions in the Licensing Act 2003 governing applications for review of a club premises certificate to reflect the introduction of this measure. *Subsection (3)* amends the requirements on a licensing authority to advertise an application for review so as to ensure that this is brought to the attention of any persons it may affect, and to advertise the period during which any such person may make representations about the application. *Subsection (4)* provides that representations from any persons (other than responsible authorities) must not, in the opinion of the licensing authority, be frivolous or vexatious.

141. *Subsection (5)* makes provision for the application of these amendments on the amendments coming into force.

Clause 109: Reducing the burden: premises licences

142. The Licensing Act 2003 imposes a general duty on licensing authorities to exercise their licensing functions with a view to promoting the licensing objectives; the objectives are the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm. A number of specific processes require licensing authorities to take steps which are "necessary" for the promotion of the objectives. This requirement is imposed on licensing authorities by a range of provisions in the Act; this primarily arises when licensing authorities are considering whether to grant or refuse an authorisation in relation to which relevant representations or objections have been made.

143. Clauses 109 to 111 amend those provisions by instead requiring licensing authorities to take steps which are "appropriate" for the promotion of the objectives. This has the effect of reducing the threshold which licensing authorities must meet to achieve the promotion of the objectives, but ensures that their decisions continue to be solely for the purpose of promoting the objectives. These clauses introduce this amendment into provisions according to whether these relate to premises licences (Part 3 of the Act), club premises certificates (Part 4) or various discrete processes, for example in relation to temporary event notices or applications for personal licences.

144. *Subsections (2) to (14)* amend a number of provisions in the Licensing Act 2003 that relate to premises licences to reflect the introduction of this measure. The basis on which a licensing authority makes decisions in a range of processes relating to premises licences is correspondingly modified. These are the processes governing applications for:

- a) the grant or variation of a licence following relevant representations,
- b) the imposition of conditions on licences which authorise the performance of plays at a premises to promote public safety,
- c) the removal of the requirement to have a designated premises supervisor in relation to a community premises following a police objection,
- d) the grant of a provisional statement following relevant representations,
- e) the variation of a licence to specify an individual as a designated premises supervisor following a police objection,
- f) the minor variation of a licence following representations,
- g) the transfer of a licence following a police objection,

h) review of a licence and

i) summary review of a licence (in relation to whether interim steps should be taken and what steps to take following the review determination). This amendment also relates to a licensing authority's decision to cancel an interim authority notice following police objections.

145. *Subsections (15) and (16)* make provision for the application of these amendments.

Clause 110: Reducing the burden: club premises certificates

146. *Subsections (2) to (5)* amend a number of provisions in Part 4 of the Licensing Act 2003 relating to club premises certificates to reflect the introduction of this measure. The basis on which a licensing authority makes decisions in a range of processes relating to club premises certificates is correspondingly modified. These are the processes governing applications for:

a) the grant or variation of a certificate following relevant representations,

b) the imposition of conditions on certificates which authorise the performance of plays at a club premises to promote public safety, and

c) review of a certificate.

147. *Subsection (6)* makes provision for the application of these amendments.

Clause 111: Reducing the burden: other situations

148. *Subsections (2) to (7)* amend provisions in relation to a range of discrete processes in the Licensing Act 2003 to reflect the introduction of this measure. The basis on which a licensing authority makes decisions in those processes is correspondingly modified. These are the processes governing a licensing authority's decision to:

a) send a premises user a counter notice following police objections on a temporary event notice,

b) reject an application for a personal licence following police objections,

c) reject an application for renewal of a personal licence following police objections, and

d) revoke a personal licence following police objections in relation to new convictions coming to light.

149. These also amend the basis on which a licensing authority makes decisions in relation to the steps it must take at a review following a closure order and the making of an early morning restriction.

150. *Subsections (8) to (11)* make provision for the application of these amendments.

Clause 112: Temporary event notices: who may make an objection

151. The Licensing Act 2003 currently includes a scheme which enables an individual to carry on a licensable activity, on a temporary basis, by virtue of a temporary event notice. To hold a temporary event the event holder ('premises user') must send a temporary event notice to the licensing authority and the Chief Officer of Police at least 10 working days before the event. The Chief Officer, if satisfied that the temporary event would undermine the crime prevention objective, must send an objection notice to the licensing authority and premises user no later than 48 hours after receipt of the temporary event notice.

152. Police objections trigger a requirement on the licensing authority to hold a hearing and may result in a counter notice being sent to the premises user if the licensing authority thinks that the temporary event would undermine the crime prevention objective. The licensing authority must also give the premises user a counter notice if one of the prescribed limits is exceeded. If a counter notice is issued, the temporary event notice will no longer authorise any licensable activities taking place under it.

153. Clause 112 extends the right to object to a temporary event notice to the environmental health authority, and allows the police and the environmental health authority for the area in which the premises are situated (defined as 'relevant persons'), to object to a temporary event on the grounds of all four licensing objectives. It also allows licensing authorities to issue a counter notice under section 105 of the Act on the basis of all four of the licensing objectives.

154. *Subsections (2) to (13)* amend sections 104 to 107 of the Licensing Act 2003. These amendments introduce the new category of 'relevant person', and revise and adapt the processes governing objections from relevant persons; these relate to the holding of a hearing or modification of a temporary event notice following receipt of objections from one or both relevant persons, the notices which the relevant licensing authority must send to the premises user and relevant persons, the timetable governing when these steps must be taken, and extend existing rights of appeal to the magistrates' court to those involved in the process. These amendments do not represent a departure from the existing processes in Part 5 of the Act, but adapt these to facilitate the involvement of the environmental health officer and the ability of relevant persons to object on the basis of all the licensing objectives.

155. *Subsection (14)* makes provision for the application of these amendments.

Clause 113: Temporary event notices: conditions

156. This clause enables a licensing authority to impose conditions on a temporary event notice if it considers that this promotes the licensing objectives. A licensing authority can only impose such conditions if an objection has been made by at least one relevant person (and the licensing authority considers that permitting the event to proceed would promote the licensing objectives), and at least a part of the premises in relation to which the temporary event notice is given is already subject to a premises licence or club premises certificate. Any such conditions must be consistent with the activity authorised by the temporary event notice and existing conditions attaching to the subsisting licence or certificate.

157. *Subsections (2) to (5)* amend sections 98, 109 and 110 of the Licensing Act 2003 and insert section 106A into the Act. This has the effect that a permitted temporary activity must be carried on in accordance with both the existing conditions imposed under section 100 of the Act and any conditions imposed on a temporary event notice by a licensing authority under the new section 106A. A licensing authority, if it decides to impose one or more conditions on the temporary event notice under the new section 106A, must give the premises user a notice of the decision and a separate statement (the 'statement of conditions') that sets out the conditions imposed on the temporary event notice and give a copy of the notice and statement to each relevant person. This clause makes a number of amendments to the existing process to facilitate the introduction of a licensing authority's power to impose conditions.

158. *Subsection (6)* makes provision for the application of these amendments.

Clause 114: Temporary event notices: late notices

159. Clause 114 enables a premises user to give a limited number of temporary event notices in a shorter timeframe than that which applies to the existing temporary event notice process. This is defined as a "late temporary event notice". A temporary event notice which is given in accordance with the existing timeframe is defined as a "standard temporary event notice". An objection from at least one relevant person to a "late temporary event notice" will result in a

counter notice being issued. This will make the late temporary event notice ineffective (without a right to a hearing and onward appeal, as applies to the existing process) and the event to which it relates cannot lawfully take place.

160. *Subsections (2) to (12)* insert new sections 100A and 104A which amend a number of provisions in Part 5 of the Licensing Act 2003 to introduce a separate process stream for standard and late temporary event notices.

161. The existing processes are adapted to facilitate the introduction of the availability of a late temporary event notice. A standard temporary event notice is a temporary event notice which is given to the relevant licensing authority and (if it is made in writing) to each relevant person, no later than 10 days before the temporary event to which it relates. A late temporary event notice is a temporary event notice which is given to the relevant licensing authority electronically no later than five working days, but no earlier than nine working days before the temporary event begins; or, if it is made in writing, is given to the licensing authority and each relevant person no later than five working days before the temporary event begins and to at least one of those persons no earlier than nine working days before the event begins. There is a limit on how many late temporary event notices can be given in any calendar year: this is 10 for personal licence holders and two for non-personal licence holders.

162. *Subsection (13)* makes provision for the application of these amendments.

Clause 115: Relaxation of time limits applying to temporary event notices

163. Clause 115 amends sections 100 and 107 of the Licensing Act 2003 to increase the period for which licensable activities at any single event can be carried on in accordance with a temporary event notice from 96 to 168 hours, and the number of days in any calendar year on which a single premises can be used to carry on licensable activities from 15 to 21 days.

164. *Subsection (4)* makes provision for the application of these amendments on the amendments coming into force.

Clause 116: Temporary event notices: acknowledgement of notice

165. Clause 116 amends section 102 of the Licensing Act 2003 to remove the requirement on a licensing authority to acknowledge receipt of a temporary event notice by sending one notice to the premises user, and replaces this with a requirement to give written acknowledgement.

166. *Subsection (2)* makes provision for the application of these amendments.

Clause 117: Temporary event notice: time for objection by police

167. Clause 117 amends section 104(3) of the Licensing Act 2003 to extend the period in which a relevant person can object to a temporary event notice from two to three working days. *Subsection (2)* makes provision for the application of this amendment to temporary event notices given on or after the commencement of this clause.

Clause 118: Persistently selling alcohol to children

168. Section 147A of the Licensing Act 2003 makes it an offence for a premises licence holder, or person who has given a temporary event notice, to sell alcohol on two or more occasions in a three month period to a child. On conviction, a person is liable to a fine not exceeding £10,000. This amendment increases the maximum fine to £20,000.

169. Section 169A of the Act enables the police and trading standards officers to issue a closure notice to a person in relation to whom there is evidence that he has committed an

offence under section 147A of the Act and for which there is a reasonable prospect of conviction. The closure notice discharges the person from any further criminal liability but prevents him from selling alcohol for the period specified in the notice. This amendment increases that period from a maximum of 48 hours to a period of between 48 hours and 336 hours.

170. *Subsections (4) and (5)* make provision for the application of these amendments.

Clause 119: Early morning alcohol restriction orders

171. Section 172A of the Licensing Act 2003 enables a licensing authority to make an early morning restriction order to prohibit the supply of alcohol from premises (including supplies authorised by a temporary event notice) between 3am and 6am in the whole or part of its area. The order can apply every day or on specified days, and for a limited or unlimited period. A decision to make an order must be made by the full council of a licensing authority. A licensing authority can only make an order if it considers that this will promote one or more of the licensing objectives, and the making of the order is subject to a licensing authority observing prescribed procedures. The procedures include a requirement that a licensing authority must advertise its decision to make an order, a right of affected persons to make representations and a requirement on a licensing authority to hold a hearing to consider such representations.

172. *Subsection (2)* excepts the decision of a licensing authority to make an early morning restriction order from those licensing functions which can be exercised by licensing committees. This has the consequence that a licensing authority's decision to make such an order must be made by its full council. *Subsections (3) and (4)* repeal section 55 of the Crime and Security Act 2010 (which inserted sections 172A to 172E into the Licensing Act 2003) and introduce these provisions in an amended form. This has the effect of enabling a licensing authority to make an order of any duration between 12 midnight and 6am. An order can be made, amongst other things, at different times on different days. A licensing authority's ability to exercise this power remains subject to the existing processes prescribed in sections 172A to 172E of the Licensing Act 2003 .

Clause 120: Suspension of licence or certificate for failing to pay annual fee

173. Sections 55 and 92 of the Licensing Act 2003 contain powers to make regulations to prescribe the annual fees payable by the holders of premises licences and club premises certificates. The annual fee is payable on the anniversary of the grant of the licence or certificate. A fee which is not paid on the due date can be recovered as a debt due to a licensing authority. No other sanction for non payment of annual fee is available to a licensing authority. This clause introduces amendments to the Licensing Act 2003, by inserting sections 55A and 92A, to enable a licensing authority to suspend a licence or certificate for non payment of an annual fee. The exercise of this power is subject to conditions.

174. A licensing authority will be able to suspend a licence or certificate if the annual fee is not paid when it is due. A licence or certificate holder will avoid this consequence if, at the time that the annual fee became due, the non payment was a result of an administrative error (by any person) or the holder disputed liability to pay the fee (whether as to liability to pay a fee at all, or its amount) and the grace period of 21 days had not expired. In the event of a dispute about liability to pay a fee, the holder of a licence or certificate must notify the licensing authority in writing of this dispute on or before the due date for the fee. If a licensing authority suspends a licence or certificate, it must notify the holder in writing and specify the date on which the suspension takes effect; this date must be at least two working days after the day the authority gives the notice. A suspension ceases to have effect on the day on which the authority receives payment of the fee from the licence or certificate holder. The authority is required to give the holder written acknowledgment of receipt as soon as practicable following receipt, and in any event no later than the period prescribed in paragraph (6).

175. *Subsection (6)* makes provision for the application of these amendments on the amendments coming into force.

Clause 121: Licensing policy statements

176. Section 5 of the Licensing Act 2003 requires a licensing authority to determine its licensing policy in respect of each three year period and publish a statement of that policy in the form of a 'licensing statement' before the beginning of each such period. The licensing authority must also keep its policy under review during each three year period and revise it as appropriate.

177. This clause enables a licensing authority to determine its licensing policy and publish a licensing statement in respect of every five year period (this cycle commences on 7 January 2011), unless it replaces its entire policy at any time during each five year period, in which case the new five year period begins from the date on which the policy is replaced. A licensing authority continues to be required to keep its policy under review during each five year period.

Clause 122: Personal licences: relevant offences

178. This clause amends Schedule 4 of the Licensing Act 2003. This contains the offences ("relevant offences"). An applicant for the grant or renewal of a personal licence must disclose an unspent conviction for a relevant offence or a foreign offence. A licensing authority notifies the police of the existence of such a conviction, and the police can object to the grant or renewal of the application if they are satisfied that the grant or renewal of the application would undermine the crime prevention objective. This objection requires the licensing authority to hold a hearing to determine the matter. There is also provision for revocation of a personal licence if a personal licence holder is convicted of a relevant offence.

179. The relevant offences include sex offences, offences involving violence and dishonesty, road traffic offences and drugs offences. This clause amends the list of relevant offences to include an offence of attempt to commit a relevant offence or conspiracy to commit a relevant offence, an offence of failing to co-operate with a preliminary test under section 6(6) of the Road Traffic Act 1988 and conspiracy to defraud.

180. *Subsection (5)* makes provision for the application of these amendments.

Clause 123: Review of effect of amendments on licensing scheme

181. This clause requires the Secretary of State to review the regulatory impact on the licensing regime under the 2003 Act of the amendments being introduced in this Bill. The review must be carried out as soon as practicable after the expiry of a five year period from the last date on which these amendments come into force. The duty to review only applies in relation to amendments which are or may introduce a regulatory burden; these provisions are listed in *subsection 1(a)*.

Late night levy

Clauses 124 to 138: Late night levy

182. These clauses enable a licensing authority to introduce a levy payable by the holders of a premises licence or club premises certificate in relation to each premises in its area which is authorised to supply alcohol during a set period (the "late night supply period") between midnight and 6am. *Clause 124* contains provision enabling licensing authorities to decide to introduce a levy. Definitions of premises to which, or the times at which, it would apply are contained in *clause 125*. The funds generated by the levy will, subject to a deduction for the expenses of administering the scheme, be payable to the police and crime commissioner or be used in accordance with regulations under *clause 130*. *Clause 130* also provides that at least 70% of these funds must be paid to the police and crime commissioner. The

Government intends that the regulations will permit the funds to be paid to other organs of local government which operate or administer measures to address the effect of alcohol-related crime and disorder in the night-time economy.

183. The holders of licences and certificates which permit the late night supply of alcohol benefit from the existence of a late night economy. But alcohol-related crime and disorder in that night time economy give rise to costs for the police, local authorities and other bodies. The Government's intention in introducing the provisions is to enable licensing authorities to require those who benefit from the late night economy by being permitted to supply alcohol between midnight and 6 am to contribute to police costs and the costs of other measures that the Government intends to permit in regulations under *clause 130* to address the effect of alcohol-related crime and disorder in the night-time economy. Licensing authorities are required under *clause 124* to consider, before deciding to introduce a levy in their area, whether this measure is an appropriate means of raising revenue in relation to these costs.

184. The liability of holders of licences or certificates to pay a levy (unless they are exempt and subject to whether they fall within a reduction category: see *clause 134*) will be determined in accordance with their payment year. *Clause 125* enables regulations to prescribe how a licensing authority will determine the payment year for a licence or certificate holder by reference to, for example, the period in respect of which the holder pays an annual fee under the Licensing Act 2003. The holder's liability will be determined by reference to when that year begins and regulations under *clause 128* may provide for a holder's liability to pay the levy to be adjusted should its authorisation to supply alcohol cease or commence during that payment year. A licensing authority will be required to determine the basis on which a payment year will be set at the time that it decides to introduce a levy.

185. *Clause 127* contains power to make regulations which will prescribe the amount of the levy, or the basis on which it will be determined, which must be uniform across England and Wales.

186. These provisions will enable licensing authorities to:

- introduce the levy requirement in their area, where it will apply indefinitely until they decide to revoke it under *clause 132*
- set the late night supply period within the midnight to 6am window (although this must be the same on each day) (see *clause 125*),
- afford exemptions or discounts in cases prescribed by regulations under *clause 134* ; the Government intends that the regulations will permit exemptions and discounts for categories of premises based on the extent to which licensing authorities assess the activities carried on at those premises to contribute to alcohol-related crime and disorder,
- to determine the proportion of the funds generated by the levy that will be paid to the police under *clause 130* (which must be at least 70%),
- to revoke the levy in their areas, or vary any of these matters. All these decisions must be made for whole years.

187. These provisions also contain powers to make regulations about collection and administration of the levy (see *clause 128*), to determine how the net sum available to be paid to the police and others is calculated (see *clause 129*), and to vary the minimum proportion of the funds generated by the levy that is paid to the police (see *clause 130*).

188. Under *clause 133* regulations must require that prior to introducing the levy in its area, a licensing authority must allow any person with a potential liability to pay a levy to apply to vary the relevant licence or certificate with the effect that the person ceases to be liable, without incurring the fee which ordinarily must accompany such applications.

189. Under *clause 128 (6)* a licensing authority may suspend a premises licence or club premises certificate for non-payment of the levy, on the same basis that a licence or

certificate can be suspended for non payment of an annual fee by virtue of the provision in *clause 120*.

190. Under *clause 133* regulations must require a licensing authority to consult the police, holders of relevant authorisations and other persons who may be prescribed by regulations before making a decision to introduce the levy in its area or to revoke it or vary certain matters. The levy would not be introduced so as to apply retrospectively to any premises affected by it.