

GENERAL PURPOSES AND LICENSING COMMITTEE – 11 NOVEMBER 2011

LICENSING ACT 2003 - CONSULTATION ON GOVERNMENT PROPOSAL FOR THE DEREGULATION OF SCHEDULE 1

1. Introduction

- 1.1 The purpose of this report is to inform members of the Governments consultation on the deregulation of Regulated Entertainment. This report also seeks to ascertain whether the Committee wishes to submit views to the Department for Culture, Media and Sport (DCMS).

2. Background

- 2.1 The Licensing Act 2003 brought together nine separate outdated licensing related regimes to create a single Act that controlled licensable activities. These being; the sale and supply of alcohol, late night refreshment and regulated entertainment. In tidying up the previous licensing regime new problems have been reported by those wanting to hold entertainment events.
- 2.2 The Government is therefore proposing a reform of licensable activities currently classed as 'regulated entertainment' in Schedule One of the 2003 Act. The 12 week consultation seeks views on the removal in certain circumstances of the requirement for a licence to host a performance of a play, an exhibition of a film, an indoor sporting event, a performance of live music, any playing of recorded music, or a performance of dance.

3. Consultation

- 3.1 On Saturday 10 September 2011 the Government issued the consultation proposing to deregulate regulated entertainment.
- 3.2 The impact assessment prepared by the DCMS for their proposal to exempt regulated entertainment from the provisions of the Licensing Act 2003 is attached as **Appendix 1**.
- 3.3 The consultation paper itself highlights the issues involved comprehensively and members are invited to read the DCMS document, attached as **Appendix 2**.
- 3.4 The document asks a total of 48 questions. Responses for the focus of discussion by the Committee regarding certain questions are set out in **Appendix 3**.
- 3.5 The closing date for submissions to DCMS is Saturday 3 December 2011.

4. Conclusion

- 4.1 The general proposal is to remove certain types of regulated entertainment from Schedule 1 of the Licensing Act 2003. The DCMS consultation is wide

ranging and includes; films, plays, indoor sporting events, live and recorded music, dance and dancing, subject to audience sizes of no more than 5000. Boxing and wrestling is specifically excluded from the consultation.

- 4.2 The proposals would effectively de-licence regulated entertainment in most pubs, restaurants and clubs.

5. Financial Implications

- 5.1 The impact of some of the proposals could have a limited financial implication reducing revenue of about £5K currently derived from certain applications, variations, annual fees and temporary event notices.

6. Environmental Implications

- 6.1 The impact of these proposals will have significant implications of how Environmental Health address public nuisance from premises and other public events.

7. Crime and Disorder Implications

- 7.1 The impact of these proposals could have significant implications of how the Police address crime and disorder considerations from various public events.

8. Equality and Diversity Implications

- 8.1 The impact of these proposals will affect the manner and opportunity for residents to make representations about certain public events and activities undertaken at some premises.

9. Recommendation

- 9.1 That the Committee note the content of the consultation and agrees a response to the Department for Culture, Media and Sport.

Further information:

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Background Papers:

DCMS consultation documents

<p>Title: Impact Assessment for the proposal to exempt regulated entertainment from the provisions of the Licensing Act 2003</p> <p>Lead department or agency: Department for Culture, Media and Sport</p> <p>Other departments or agencies:</p>	Impact Assessment (IA)
	IA No: DCMS033
	Date: 22/06/2011
	Stage: Consultation
	Source of intervention: Domestic
	Type of measure: Primary legislation
<p>Contact for enquiries: Stuart Roberts 020 7211 6099</p>	

Summary: Intervention and Options

What is the problem under consideration? Why is government intervention necessary?

The regulatory burdens imposed by the Licensing Act 2003 (the 2003 Act) were intended to prevent potential adverse impacts on the four licensing objectives: preventing crime and disorder; public safety; preventing public nuisance; and protecting children from harm. However, the Government agrees with a number of stakeholders who believe the requirements of the 2003 Act are unduly restrictive and burdensome for many forms of regulated entertainment and there is some evidence of negative impact in deterring the staging of entertainment events.

What are the policy objectives and the intended effects?

We want to remove unnecessary regulatory burdens and reduce the costs that deter venues from staging certain forms of entertainment. We also want to stimulate activity by community groups and other parts of the Big Society by removing barriers which dissuade them from laying on local entertainment.

We want to ensure that performers, participants and the audiences that wish to attend entertainment events, including theatre, live music and indoor sport do not have their opportunities unnecessarily limited.

We want to simplify the existing complex and highly inconsistent treatment of different kinds of entertainment, where some are regulated and other, similar events, are not.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

1. Do nothing
2. Remove all regulated entertainment, as defined in Schedule 1 of the 2003 Act.
3. (Preferred Option) Retain regulated entertainment in Schedule 1 of the 2003 Act where audiences are 5,000 or greater and for a small number of higher-risk forms of entertainment. Those activities are set out in paragraph 23 onwards.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 01/2014

What is the basis for this review? PIR. If applicable, set sunset clause date: N/A

Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?

Yes

Sign-off. For final proposal stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible

Date: 30 June 2011

Summary: Analysis and Evidence

Policy Option 3

Description: Exempt regulated entertainment to audiences of fewer than 5,000 (with exceptions)

Price Base Year 2009	PV Base Year 2011	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: £32.8m	High: £43.2m	Best Estimate: £38m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0	£417k	£3.59m
High	0	£787k	£6.77m
Best Estimate	0	£600k	£5.17m

Description and scale of key monetised costs by 'main affected groups'

Some local authorities have suggested that the proposals to remove most forms of regulated entertainment from licensing requirements could potentially lead to an increase in noise related complaints made to local authorities. For indicative purposes, using figures from the Chartered Institute of Environmental Health and DEFRA, we have estimated the potential burden on Environmental Health Officers. An increase in noise complaints could also lead to an increase in alcohol licence reviews, the cost of these to licensing authorities has also been estimated.

Other key non-monetised costs by 'main affected groups'

It is likely that the majority of any additional noise related complaints will be dealt with informally by the licensing authorities, and the threat of either a licence review or revocation will act as a sufficient deterrent to a majority of licence holders. These informal instances have not been costed.

There is also a potential cost to the general public through wellbeing lost due to noise nuisance, although we expect the number of incidents to be small.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	£4.23m	£36.39m
High	0	£5.81m	£50.00m
Best Estimate	0	£5.02m	£43.20m

Description and scale of key monetised benefits by 'main affected groups'

The proposal will deliver direct benefits to pubs and entertainment venues by removing fees and the administrative burden of applying for licences or variations to stage entertainment. In addition schools, the third sector, and other secondary venues that currently have to apply for Temporary Event Notices (TENs) to stage entertainment will find it significantly simpler, easier, cheaper and less off-putting to organise and arrange events. There are likely to be further benefits to local authorities, such as the removal of burdens for events held in public buildings / spaces, where the local authority is both applicant to the process and the relevant licensing body, as well as the cost of processing applications for venues which do not attract a fee.

Other key non-monetised benefits by 'main affected groups'

Businesses and venues that are currently dissuaded from staging entertainment by the existing licensing regime will benefit from diversifying their business and attracting new audiences. Entertainers and athletes, whether professional, amateur or merely aspiring, will benefit from more opportunities to practice and hone their live performance skills, and should create extra opportunities for them to get noticed too. The remaining controls and regulations will be more consistent and intuitively understandable by those they affect, and by the general public too, which will make the significantly more legitimate than at present. Third sector and "Big Society" organisations in local communities should be energised and encouraged to do more by this tangible evidence of Government action to help their work. The general public will benefit from an increase in entertainment consumption, particularly at a local level. small venues. Any additional activity by community groups and other parts of the Big Society as a result of deregulation will also have positive benefits for local people and community wellbeing.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5
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Given the lack of licensing data that relates solely to licences granted to regulated entertainment, we have made a number of assumptions to derive the savings to businesses. Given the safeguards already in place, we have also assumed a comparatively small increase in noise related incidents, although this may not lead to any noticeable additional costs. We have, for illustrative purposes, estimated that incidents to be investigated will increase by 5%-10%. We also expect further savings will be realised by businesses that no longer have to apply for TENS, however, we have excluded TENS from the OIOO, as explained in para. 57. Further detail pertaining to these assumptions and calculations is set out in the evidence base.

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: £0m	Benefits: £3.06m	Net: £3.06m	Yes	OUT

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?	England and Wales				
From what date will the policy be implemented?	April 2012				
Which organisation(s) will enforce the policy?	Licensing Authorities				
What is the annual change in enforcement cost (£m)?	£0.6m				
Does enforcement comply with Hampton principles?	Yes				
Does implementation go beyond minimum EU requirements?	No				
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded: N/A		Non-traded: N/A		
Does the proposal have an impact on competition?	Yes				
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?	Costs: N/A		Benefits: N/A		
Distribution of annual cost (%) by organisation size (excl. Transition) (Constant Price)	Micro N/A	< 20 N/A	Small N/A	Medium N/A	Large N/A
Are any of these organisations exempt?	No	No	No	No	No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
Statutory equality duties¹ Statutory Equality Duties Impact Test guidance	No	
Economic impacts		
Competition Competition Assessment Impact Test guidance	Yes	26
Small firms Small Firms Impact Test guidance	Yes	26
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	
Wider environmental issues Wider Environmental Issues Impact Test guidance	No	
Social impacts		

¹ Public bodies including Whitehall departments are required to consider the impact of their policies and measures on race, disability and gender. It is intended to extend this consideration requirement under the Equality Act 2010 to cover age, sexual orientation, religion or belief and gender reassignment from April 2011 (to Great Britain only). The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Health and well-being Health and Well-being Impact Test guidance	Yes	27
Human rights Human Rights Impact Test guidance	No	
Justice system Justice Impact Test guidance	Yes	27
Rural proofing Rural Proofing Impact Test guidance	Yes	27
Sustainable development Sustainable Development Impact Test guidance	No	

Evidence Base (for summary sheets) – Notes

References

Include the links to relevant legislation and publications, such as public impact assessments of earlier stages (e.g. Consultation, Final, Enactment) and those of the matching IN or OUTs measures.

No.	Legislation or publication
1	Licensing Act 2003 http://www.legislation.gov.uk/ukpga/2003/17/contents
2	Report of the Culture, Media and Sport Select Committee – The Licensing Act 2003 http://www.publications.parliament.uk/pa/cm200809/cmselect/cmcmums/492/49202.htm
3	Impact Assessment for the proposal to exempt live music from the provisions of the Licensing Act 2003, RPC opinion 17/06/11, reference RPC11-DCMS-790(2)
4	Impact Assessment of a proposal to exempt small live music events (<100) from the Licensing Act http://webarchive.nationalarchives.gov.uk/20100407120701/http://www.culture.gov.uk/images/consultations/IA_exempts_small_livemusic_events.pdf
5	Consultation on a proposal to exempt small live music events (<100) from the Licensing Act http://webarchive.nationalarchives.gov.uk/20100407120701/http://www.culture.gov.uk/images/consultations/condoc_exempts_small_livemusic_events.pdf
6	Consultation on a proposal to introduce a simplified process for minor variations to premises licences and club premises certificates http://webarchive.nationalarchives.gov.uk/20100407120701/http://www.culture.gov.uk/images/consultations/LicensingconsultationJuly2008minorvar.pdf

+ Add another row

Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

	Y ₀	Y ₁	Y ₂	Y ₃	Y ₄	Y ₅	Y ₆	Y ₇	Y ₈	Y ₉
Transition costs	0	0	0	0	0	0	0	0	0	0
Annual recurring cost	0.6	0.6	0.6	0.6	0.6	0.6	0.6	0.6	0.6	0.6
Total annual costs	0.6	0.6	0.6	0.6	0.6	0.6	0.6	0.6	0.6	0.6
Transition benefits	0	0	0	0	0	0	0	0	0	0
Annual recurring benefits	5.02	5.02	5.02	5.02	5.02	5.02	5.02	5.02	5.02	5.02
Total annual benefits	5.02	5.02	5.02	5.02	5.02	5.02	5.02	5.02	5.02	5.02

* For non-monetised benefits please see summary pages and main evidence base section

Evidence Base (for summary sheets)

Background

Existing Legislation

1. The Licensing Act 2003 (the 2003 Act) came into force in November 2005 in England and Wales. It replaced eight separate licensing regimes in order to streamline the process to regulate the sale and supply of alcohol, the sale of late night refreshments, and the provision of **regulated entertainment**.
2. The Licensing Act 2003 devolves responsibility for the administration of the 2003 Act to local licensing authorities, which are mainly local authorities. They must carry out their functions with a view to promoting the following licensing objectives:
 - the prevention of crime and disorder;
 - public safety;
 - the prevention of public nuisance; and
 - the protection of children from harm
3. Subject to some exemptions (such as incidental music), the provision of the following constitutes regulated entertainment if it is put on for the public or for profit:
 - a performance of a play;
 - an exhibition of a film;
 - an indoor sporting event;
 - a boxing or wrestling entertainment;
 - a performance of live music (or of facilities for making music or dancing);
 - any playing of recorded music; and
 - a performance of dance

Detail of Existing Legislation

4. Section 2 of the 2003 Act requires anyone who wishes to carry on a licensable activity to obtain an appropriate authorisation in the form of one licence covering all permissions i.e. a premises licence, a club premises certificate, or a temporary event notice (TEN). Venues are limited to 12 TENs per year (of which a maximum of five can be granted to an individual applicant). Any changes to a licence or club premises certificate, such as the addition of regulated entertainment, must be authorised through the full or minor variation process.
5. Regulations made under section 17(5) of the 2003 Act stipulate that an application for a premises licence or a full variation must be advertised in a local newspaper and outside the premises for a certain period to give local residents and responsible authorities (the police, environmental health, etc.) the opportunity to make representations against, or in favour of, the application to the licensing authority.
6. The Minor Variations Impact Assessment¹ estimated that the administrative cost of making new applications, full and minor variation as between £385 and £950 plus a fee payable to the licensing authority which can vary typically from between £100 - £635 depending on the rateable value of the premises. If representations are made, section 18 of the 2003 Act requires the licensing authority to hold a hearing to consider the evidence and, if necessary, impose conditions on the licence to remove or mitigate any risks to the licensing objectives,

¹ Consultation on proposals to introduce a new minor variations process, and remove certain requirements at community premises, February 2008
<http://webarchive.nationalarchives.gov.uk/20100407120701/http://www.culture.gov.uk/images/consultations/LicensingconsultationJuly2008minorvar.pdf>

refuse authorisation for a specific licensable activity or, in extreme cases, reject the application outright.

7. In many cases, licence conditions typically include; sound proofing measures when music is being performed, restrictions on capacities; opening hours and restriction on performance times; as well as health and safety measures. The licence holder may incur a cost in meeting some of these conditions; for example, at the top end, a noise limiter can cost around £3000. The minor variation process is intended only for changes that will not impact adversely on the licensing objectives, such as the addition of low risk entertainment provision. The process is quicker and cheaper than the full variation process, but there is still an estimated administrative cost to applicants of £35 and a flat rate fee of £89. People who wish to hold regulated entertainment on an occasional basis can do so by sending a Temporary Event Notice to the licensing authority at a flat rate fee of £21 and an admin burden estimated at £16 to the applicant.
8. There is no annual fee or premises licence fee payable for an application or variation for regulated entertainment in educational institutions where the entertainment is for and on behalf of the educational institute; or to authorise regulated entertainment in church halls, village halls, parish halls, community halls or similar buildings. Administrative burdens still apply in these cases.

Alcohol and Entertainment Licence Statutory Fees

Rateable value band	Band	Application fee	Full Variation fee	Annual fee
None to £4,300	A	£100	£100	£70
£4,301- £33,000	B	£190	£190	£180
£33,001 - £87,000	C	£315	£315	£295
£87,001 - £125,000	D	£450	£450	£320
Premises primarily used for alcohol	D	£900	£900	£640
£125,001 +	E	£635	£635	£350
Premises primarily used for alcohol	E	£1905	£1905	£1050

Other Fees

Description	Fee
Temporary Event Notice	£21
Minor Variation	£89
Personal Licence	£37
Transfer of premises licence	£23
Copy of notice / licence / certificate of summary	£10.50
Notification of change of details	£10.50
Application for Provisional Statement	£315
Interim Authority Notice	£23
Notification of interest in a premises	£23

Problem under consideration

9. The burdens imposed by the 2003 Act were justified by the need to prevent potential adverse impacts on the four licensing objectives: the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm. However, stakeholders in particular from the music industry, but also from wider arts and sports bodies as well as

various charitable / third sector organisations, believe the requirements of the 2003 Act are unduly restrictive and burdensome in respect of performance of live music and there is some evidence of negative impact in deterring the staging of entertainment.

10. The Government considers that deregulating entertainment regulated under the 2003 Act would increase opportunities for such entertainment to take place, and is unlikely to have an adverse impact on the promotion of the licensing objectives, as there are already other robust laws in place to safeguard the public and to provide remedy in the event of disturbance. The new arrangements would retain the key protections of the 2003 Act in relation to alcohol licenced premises (such as the retention of licence reviews, which allow local residents and businesses a say in local licensing matters) and would dovetail neatly with other protections, rather than "double-regulation" of these low risk events that are at the heart of many local communities.

Rationale for intervention

11. The Licensing Act 2003 aimed to simplify processes and reduce red tape and bureaucracy. But the regime has led to a variety of entertainment events facing disproportionate and unnecessary regulation, even though they are unlikely to be detrimental to the licensing objectives.

12. Live music has often been the standout example of how the 2003 Act has inadvertently led to red tape for entertainment organisers, in particular in small venues which wish to put on occasional live music. However, we know from stakeholders that there are many other instances where other forms of entertainment defined in Schedule 1 of the 2003 Act have been adversely affected. Some of these include:

- Private events where a charge is made to raise money for charity
- School plays and productions
- Punch and Judy performances
- Travelling circuses
- Children's film shown to toddler groups
- A school disco where children are charged a ticket price to support the PTA
- An exhibition of dancing by pupils at a school fete
- A costumed storyteller

13. There are also numerous areas of inconsistency when consideration is given to the types of events which can take place without a licence. For example:

- Stock car racing does not need a licence, but indoor athletics does;
- An evangelist can speak in a large arena without a licence, a licence would be required for a play in the same venue.
- A performance of Morris Dance with live or recorded music accompanying it is exempt from licensing requirements, but not the performance of mime.
- Other such activities which do not require a licence include country fairs and outdoor sport to crowds of fewer than 10,000 (5,000 for football)

14. We consider, using the football example as a bench mark, if events where 5,000 people or fewer are present are removed from the requirements of the Licensing Act, the necessary protection to address noise, crime, disorder, and public safety will continue because there is a range of robust legislation already in place, including Health and Safety at Work, Fire Order, Noise Nuisance, and Environmental Protection. Additionally, a licence will still be required for events at which alcohol is sold, where the risks to the public are higher, ensuring that controls still remain.

15. The relaxation of the licensing requirements for entertainment regulated under Schedule 1 of the 2003 Act is consistent with the aims of Lord Young's health and safety review, as well as Lord

Hodgson's review into red tape affecting the third sector. In addition it will complement the Big Society proposals as it will lift burdens on community and small charitable events, with a particularly helpful effect on fundraising events in community and village halls (in so far as these activities fall within the definitions of the exemptions).

Policy objective

16. The objective is to remove unnecessary regulation and reduce the requirements and costs that deter venues, and users of Temporary Event Notices from staging entertainment. Ultimately the aim is to ensure that performers (including sportsmen and women) and the audiences that wish to attend events do not have their opportunities limited unnecessarily by licensing restrictions.

Options considered

Option 1: Do nothing i.e. keep existing licensing restrictions in place

17. The first option would leave the existing arrangements in place. The intention behind the Licensing Act 2003 was to encourage a wider range of live music in pubs, bars and other venues by simplifying entertainment licensing requirements.
18. However, there is some evidence that there has been a decrease in the performance of regulated entertainment. For example, a survey for DCMS in 2007² found a 5% decrease in the provision of live music in secondary venues due, in large part, to a decrease in provision in church halls and community centres. The existing burden of disproportionate and unnecessary red tape on entertainment venues can do nothing to improve the situation across all forms of entertainment.
19. As explained in the background, there are a number of inconsistencies which have emerged as a result of the 2003 Act. These inconsistencies can lead to confusion on the part of premises owners, event organisers and licencing authorities, for example it is still unclear whether circus performances are covered by the regulated entertainment in the 2003 Act, with some licensing authorities requiring a licence for circuses, and some not. This lack of clarity can also extend to other types of performance, such as street performance and carol singing.
20. The "do nothing" option would not remedy these unintended consequences of the 2003 Act, and there would continue to be unnecessary red tape for organisers wishing to put on low risk events, confusion and inconsistency, as well as inequality regarding the types of events which do or do not require a licence. A disincentive for venues to try out entertainment provision or to put on events at late notice would also remain.

Option 2: Remove all regulated entertainment, as defined in Schedule 1 of the Licensing Act 2003, from the 2003 Act.

21. In 2009/10 there were 124,400 applications made to local authorities for temporary event notices (TENS). We have assessed a sample of these and estimate that approximately 74% (92,000) TENS include entertainment in some form and would therefore benefit from the deregulation either by becoming entirely exempt from licensing (about 16,000 of the total) or, where the event also required an alcohol licence (about 76,000 of the total), the process would be simpler. We also estimate 1,613 applications are made to local authorities annually

² http://webarchive.nationalarchives.gov.uk/%2B/http://www.culture.gov.uk/reference_library/research_and_statistics/4854.aspx

for new applications and variations of existing licences in relation to regulated entertainment and a further 21,075 licences for regulated entertainment which are reviewed annually. The burden and cost of applying for, and processing these applications would be lifted.

22. We believe that most of the entertainment is of low risk to the key objectives of the Licensing Act 2003, much of disorder and public nuisance is caused as a result of alcohol, the sale and supply of which will still be regulated and subject to review. However, we appreciate there are risks that a blanket exemption could produce potential unintended consequences and would favour an option with greater consideration of risks.

Option 3: Retain regulated entertainment as defined in Schedule 1 of the Licensing Act 2003 where audiences are 5,000 or greater, and for a small number of higher-risk forms of entertainment of any size. (Preferred Option)

23. We have had a number of representations from licensing and enforcement authorities, as well as resident associations, with regard to a number of issues concerning a blanket exemption of regulated entertainment. One issue concerns regulating the size of an audience. We will ask specific questions in the consultation regarding audience size.
24. Further discussions with stakeholders identified certain forms of entertainment which are considered to be of high-risk to the objectives of the 2003 Act. In these instances, the burden of enforcement imposed by a full deregulation may outweigh the benefit of deregulation itself, we will explore these in paragraphs 29-35.
25. At present, outdoor sports with audiences under 10,000 do not require safety certificates, the only exception to this is football, where there have been historical instances of public disorder, and as such requires a safety certificate if the capacity is 5,000 or greater. In addition, the existing fees regime under the 2003 Act, which has been approved by Parliament, recognises that large events require additional work for local authorities to assess, manage and enforce risks related to this size of event therefore an additional fee applies for large events of 5,000 people and over.

Indoor Venues

26. In terms of regulated entertainment in indoor venues, we estimate close to 100% of venues that could potentially stage regulated entertainment would have capacities of fewer than 5,000 people, and therefore fall into the scope of the deregulation. However, the vast majority of these venues (particularly indoors) would still sell alcohol alongside any entertainment and as such, require alcohol licences, which will ensure premises and events are meeting the objectives of the 2003 Act. We believe that the larger the venue, the greater the likelihood that they are purpose built facilities for entertainment and therefore have an alcohol licence. They would also still be subject to the protection afforded by fire regulations, health and safety etc.

Outdoor venues

27. Outdoor events offer their own particular set of problems, especially in terms of limit the crowd size. We believe that most events of the type we intend are unlikely to reach close to 5,000 audience size, however, where these do (in particular sporting events and live music) they would usually supply alcohol.
28. There are also large scale events which are not regulated by schedule 1 of the Act which attract significant crowds, which safely take place with only alcohol licences, or no licence at all (for instance funfairs, stock car racing and rugby or cricket matches) this not only highlights unjustifiable inconsistencies in the current legislation, but also that entertainment licences are not necessarily the driving force behind good practice in ensuring health and safety. We will test our proposal further in the consultation; however, we currently consider limiting the exemption of

the proposed regulated entertainment to audiences of less than 5,000 would maximise the benefits to business without serious compromise of the licencing objectives.

Limits on Boxing and Wrestling

29. Following pre-consultation discussions with the police and licencing authorities, we are not intending to deregulate boxing and wrestling, which are considered to be a higher risk than other sports, and as such are listed separately from indoor sports in the schedule 1 of the Licensing Act 2003. The two main risks we have considered are:
- (a) There are significant health and safety risks attributed to competing in these events, and there is a concern that deregulating these forms of entertainment could lead to an increase in events happening under unsuitable conditions.
 - (b) Further, the Police have raised concerns about the risk of public disorder at such events.
30. Nonetheless we wish to explore options in our consultation, including whether a distinction should be made between largely commercial events and those which are governed by a recognised sports' governing body. For the purposes of this impact assessment, we will make two assumptions:
- There will be no adverse impact on enforcement, as we do not intend to deregulate boxing and wrestling in such a way where this will be an issue.
 - We believe the overall cost and benefit to business of licencing boxing and wrestling alone is relatively small and therefore we have not costed out the impact of deregulating or continuing to regulate such events as such figure are likely to be lost in the rounding - we know from Licensing Data that there are approximately 5,100 (2.3%) of premises licences and club certificates which contain allowances to put on boxing and wrestling events, if we apply the assumed 10.4% proportion of Licences which are for regulated entertainment only (the calculation behind this is explained in detail in paragraph 49) then we can assume that 530 (0.25%) of premises would be estimated to have a licence for boxing and wrestling, without alcohol.
31. In both instances, we would require further information from the Police with regard to the estimate cost of enforcing an exemption of these events. It is certainly difficult to estimate an increase in new events taking place or for there to be an increase in disorder as a result of more events taking place. We will continue to seek further evidence on the potential cost throughout the consultation process.

Exhibition of film

32. Our overall aim is to remove the "exhibition of film" from the requirements of the Licensing Act Act 2003. However, **we would only do this** once we have made changes, using other primary legislation, to mirror the existing age classification protections for children that are set out in the Licensing Act 2003 and the Video Recordings Act 1984.
33. Removing "exhibition of film" from Schedule One in this way, whilst maintaining protections, will end the current inconsistencies and confusion around showing recordings in schools and video in art installations, and will also benefit small, community film clubs too. So our proposal is to remove the current licensing requirement for film, but recreate a classification and enforcement mechanism elsewhere to ensure appropriate levels of protection without the need for a specific licence to exhibit film to the public.
34. Again, it is difficult to estimate the number of licenses purely relating to film. We know, according to figures provided by the Cinema Exhibitors' Association there are 763 cinema sites across the

UK, consisting of 3,741 screens³, of these, many will include alcohol licences. Beyond this, we know that there are approximately 40,200 licenses which include film, of which an estimated 4,180 (10.4% - see paragraph 49) would not include alcohol in their licence, which represents just 2% of the 202,000 total licenced premises. However, for the purpose of this impact assessment we have continued to include the savings to business of removing the licensing requirement of exhibiting film and, as we intend to keep statutory powers restricting entry to children, we have not assumed a burden of enforcement as a result of an increase in children watching inappropriate material as this should not be a consequence. However, we hope to use the consultation to inform our eventual policy decision, and should further costing be required as a result of this, which would arise from leaving exhibition of film as a licensable activity in the 2003 Act, we will do so in subsequent impact assessments on this matter.

Other Limits on the Proposal

35. Finally, most forms of entertainment such as striptease and pole dancing are covered by separate legislation governing sex entertainment. However, premises which only hold such events less than 12 times a year are exempt from that legislation and the activity is instead regarded as performance of dance under the 2003 Act. We do not propose to remove any licensing requirements from this type of activity and will ensure an appropriate definition remains in schedule 1 of the 2003 Act. We have no data on how frequently these events are held, but believe that they are in nearly all cases likely to be at venues requiring a permission to sell alcohol. We therefore do not believe that there will be any impact on the benefits to business of retaining licensing requirements in relation to this activity and, as such, no figures on the benefit or costs are included in the impact assessment.

Costs and Benefits

36. Costs and benefits will occur in each of options 2 and 3, however, these will be scalable depending on the type of activities that remain regulated in each scenario.

37. Due to its deregulatory nature, our proposal does not directly impose any costs. However, should it lead to an increase in noise related complaints and disputes, or public disorder, there may be potential for some additional costs for:

- Licensing authorities dealing with additional reviews of alcohol licences;
- Local authorities or police dealing with incidents; and/or
- The general public in terms of wellbeing lost (although we estimate this will be significantly offset by wellbeing gains from increased opportunities to spectate and perform at entertainment events)

38. However, it should be noted that the continued use of the Licence Review procedure under the Licensing Act 2003 for premises with an alcohol licence would continue to act as a powerful disincentive for premises to fail to comply with good practice, as conditions may be placed on their licence which could limit activities or result in the removal of the licence. Also, any additional costs will depend on factors such as the success of preventative action (such as best practice guidelines for premises and threat of action under noise legislation) and the extent to which there are already out of hours services for dealing with incidents.

39. The proposal delivers direct benefits by removing the administrative burden of applying for a entertainment licence for a significant number of venues. In particular it will benefit:

- Venues applying for Temporary Event Notices to stage entertainment;
- Venues applying for variations to their premise licence or club certificate to add; and permission for entertainment or increase the provision where it is already permitted

³ <http://www.cinemauk.org.uk/ukcinemasector/ukcinema-sitesandscreens/ukcinemasitesscreensandseats2000-2007/>

- Potential venues that have no alcohol licence but wish to provide entertainment.

40. In addition there will be further benefits to other groups:

- Significant cost savings for charitable and other third sector volunteer groups wishing to host events;
- Wellbeing gains for the general public should the exemption lead to an increase in the availability of entertainment;
- Venues, such as pubs, clubs, restaurants and hotels may also be encouraged to provide new and varying forms of entertainment to attract new customers and to diversify their business;
- Cost savings for licensing authorities that will have to process fewer licence applications and assess fewer activities on applications for multiple activities; and
- Increased opportunities for performers and sportsmen and women to perform.

Costs and Benefits to Businesses

41. The administrative burden lifted will be that currently borne by those applying to put on regulated entertainment which will become exempt. The following cost burdens at these venues will be affected:

- (a) **Temporary Event Notices (TENs)** made purely for regulated entertainment.
- (b) **Variations to premises licences and club certificates**, either to add permission for regulated entertainment or increase the provision where it is already permitted. Some of these are likely to be minor variations, particularly for increasing the provision of regulated entertainment where it is already permitted.
- (c) The **savings related to the costs of additional conditions** that can be imposed following representations received during a variation application, or volunteered alongside a minor variation. We will not attempt to quantify this cost, as there are too many unknown variables. For example, in a small number of cases, conditions have been imposed that limit the number of performances. This will be a substantial cost in some circumstances but in other cases will have no impact at all (because there is no intention to have more than this many events in any case).
- (d) A more innocent seeming condition is that of having to close doors and windows. This will usually have very little cost. However, in a rare case it may effectively require a venue to fit air conditioning. This cost is also different from the total cost of conditions relating to live music which already apply to venues licenced for live music. For similar reasons, these too are difficult to estimate because the conditions and their costs will be specific to each venue and many venues, particularly those with alcohol licences, will continue to make every practicable effort to apply these conditions, as good practice.

Voluntary Sector and Schools

42. In their 2009 inquiry into the Licensing Act 2003, the Culture, Media and Sport Select Committee were particularly concerned about the impact of the Licensing Act on the voluntary sector⁴. The process of applying for regulated entertainment licences is burdensome to many third sector organisations that are staffed by volunteers – besides the upfront £21 cost of the TEN, and related administrative time cost, the process is generally off-putting with the result that many events across the country have not taken place.

⁴ Para 56 of the 2009 report on the Licensing Act 2003 <http://www.publications.parliament.uk/pa/cm200809/cmselect/cmcmumeds/cmcmumeds.htm>

43. Although there is no licence fee charged, there will be an administrative saving for community buildings and schools that no longer have to go through the process of making new applications, variations, or TENs in respect of regulated entertainment. Where this saving is made against time spent by public servants such as teachers, there is an extra cost saving element.
44. Furthermore, there are 27,340 schools and colleges in England and Wales. A very small number of schools have a premises licence, but the majority use TENs to hold events involving regulated entertainment. Based on figures provided by educational organisations, it has been estimated in a previous IA that schools use around 35,000-50,000 TENs per year for this purpose. We assume that some schools do not use any TENs because, for example, they take events offsite, use an associated premises, or because they do not hold events. Schools are seen as a relatively low risk to disorder and public nuisance and freeing them from the burdens of the licensing regime on regulated entertainment would give schools greater freedom to explore the arts and put on public performances for the benefit of the school, the parent teacher associations and pupils.

Number of TENs

45. According to the most recent Statistical Bulletin, there were 124,400 TENs in 2009-10⁵. TENs may authorise the full range of licensable activities, including regulated entertainment and the provision of alcohol. While local authorities keep historical records of all TENs issued, the statistics on the reasons for individual TEN applications are not routinely kept by Local Authorities, for example, we cannot extract accurate data which ascertains the number of applications made purely for live entertainment, or indeed specifically by the type of entertainment.
46. In the Department's recent impact assessment which looked at an exemption of small live music venues from the 2003 Act (referred in this document as the "live music impact assessment")⁶, we estimated a figure of 25,600-34,100 TEN applications were made purely for staging live music in venues – this was based on responses to the 2007 live music survey and such data is not available for the regulated entertainment.
47. To calculate the number of venues using TENs to stage regulated entertainment, we have assessed a sample of 4,132 publically available TEN applications made to Local Authorities. Of these applications 634 (12.8%) were listed as being made for regulated entertainment only. However, if this figure is applied to the 124,400 total TENs in 2009-10 this estimates a lower limit of TENs granted for regulated entertainment alone as 16,000 (see table 1, rounded to nearest 100). This figure is significantly lower than the lower bound estimate for live music. One possible reason why we believe that this is the case is that the live music impact assessment calculated the number of TENs based on the number of *potential* secondary venues which could host live music events, whereas the data from local authorities represents historical figures of actual events that have occurred. It is likely that the upper-bound figure is more indicative of the number of venues that could potentially benefit from deregulation, thus staging more events, while the lower bound estimate is more indicative of the savings applied to the numbers staging events under the current licencing regime. This may in itself simply be in part an indication of the extent to which licensing requirements put off venues from providing entertainment. There are also a number of further reasons why the two figures are different:
- **Methodology:** Different methodologies were used in each impact assessment, from different data sources. In each case these were considered to be the most reliable forms

⁵ http://www.culture.gov.uk/images/research/Licensing_Statistics_Bulletin2010.pdf

⁶ RPC reference: RPC11-DCMS-790(2)

of data, given the lack of information breaking down licences by type The number of TENs is a relatively small sample size and represents only 3.32% of total TEN applications. We hope that we will be able to obtain more data throughout the consultation process.

- **Inconsistencies in the application process:** a considerable proportion of TEN applications are for licenced premises which request permission for both regulated entertainment and the sale or supply of alcohol. In many cases there will be a legitimate reason for this (unlicensed areas of the premises, or an extension of hours), however, we believe that there is evidence to suggest that the phrasing of the question on the TEN form⁷ could lead to licenced premises erroneously applying for the sale or supply of alcohol, to ensure their event is correctly licenced.
- **Addition of alcohol:** There are a significant number of unlicensed premises (such as schools and churches) applying for TENs for low risk regulated entertainment events and including alcohol in their application, even when there is no intent to supply alcohol in the first instance. In doing so, there would be no extra cost to the applicant, but a saving in cost and administrative burdens should they wish to add alcohol at a later date. Should the process be simplified and entertainment is deregulated, we should see decrease in the number of TENs made by schools, church halls and community centres which include both supply of alcohol and regulated entertainment.
- **Minor Variations:** Since the live music survey was conducted in 2007, the minor variations process was introduced, and allowed variations to be made to existing licenses for reasons including putting on of entertainment, while we estimate the number of variations to be small (247 –see table 3) these could each represent 6-8 TENs each (the assumption used for annual TENs per venue in the live music impact assessment) – approximately accounting for 1,500-2,000 TENs.

Table 1. Calculating the potential number of TENs purely for regulated entertainment

Total number of TENs	124,400
Estimated proportion of these that are purely for Regulated Entertainment	12.8%
Estimated number of these that are purely for Regulated Entertainment	15,956

48. While we have no strong evidence to disprove the range estimated in the live music impact assessment, given the further evidence from the analysis of local authority data we will assume a broader range from that given in the live music impact assessment of 16,000-34,100.

Burden of Applying for TENs

49. The fee for a TEN is £21. The administrative cost of applying for a TEN has been estimated previously as £16⁸. Table 2 below shows how these figures derive an **estimate of burden lifted of £927k for venues.**

⁷ The TEN form asks event organisers to "Please state the licensable activities that you intend to carry on at the premises" with a check box system for regulated entertainment, sale of alcohol, supply of alcohol on behalf of a club and the provision of late night entertainment.

⁸ This is the calculated monetised value compiled using the Better Regulation Executive Admin Burdens Calculator <https://www.abcalculator.bis.gov.uk/>

Table 2. Calculating the burden lifted on TENs purely for regulated entertainment

Fee burden per application	£21
Total lower bound fee burden	£336,000
Total upper bound fee burden	£716,100
Admin burden	£16
Total lower bound admin burden	£256,000
Total upper bound admin burden	£545,000
Total lower bound fee and admin burden	£592,000
Total upper bound fee and admin burden	£1,261,100
Total fee and admin burden (average)	£926,550

Number of New Licences, Variations, Minor Variations and Annual Licence Fees

50. According to Licensing Statistical Bulletins there are approximately 202,000 premises licences in force currently in force, of which 36,000 do not include alcohol. As many of these could be for premises which serve late night refreshment (e.g. takeaways) we do not know for certain how many of these are for regulated entertainment.
51. Of the 202,000 premises licences, we know that there are 117,000 which include regulated entertainment and 81,500 that include late night refreshment. For the purpose of estimating the number of premises licences for regulated entertainment which do not include provision for alcohol, we have taken the estimated proportion of premises licences that include regulated entertainment (58%) and applied this proportion to the 36,000 premises we know do not include alcohol in their licence, we therefore estimate that 21,075 of licences relate to regulated entertainment only (10.4% of all licences). This is an oversimplified figure, which does not take into account premises which include both regulated entertainment and late night refreshment. Given that this type of license is only likely to represent a limited number of takeaways and restaurants which stage regulated entertainment that is not incidental and after 11pm, and the fact there are no better statistics available, we will also assume that a proportion of 10.4% to be approximately true in respect of premises licences and variations purely for regulated entertainment. This proportion has not been applied to TENs as we believe a greater proportion of TENs are used for venues, such as schools, village halls and public spaces that only wish to put on regulated entertainment.
52. Of these 21,075 we have estimated that there are a further **8,096** licence holders that are **subject to annual licence fees**. This figure is derived from information in the 2009/10 licensing statistics which show 12,979 licences held by public institutions, such as schools and hospitals, which are exempt from paying an annual fee. Such licences can only be exempt from licence fees if they are for regulated entertainment only. We have, for simplicity, deducted these 12,979 licences from the 21,075 total licences we have estimated are for regulated entertainment only, as they do not impose a fee burden on business, showing 8,096 licences which are for regulated entertainment only and do attract a licence fee.
53. Licensing Statistical Bulletins tell us that there are around **9,105 new applications** for premises licences, **6,400 variations** and **2,377 minor variations** per year. Using our assumption that a proportion of 10.4% are purely for regulated entertainment, we estimate that **947 new applications, 666 variations and 247 minor variations per year**, are for regulated entertainment only.

Table 3. Calculating the potential number of applications for new licences, variations and minor variations for regulated entertainment

Estimated number of new licences per year	9,105
Estimated proportion of new licences that are <u>just</u> for regulated entertainment	10.4%
Estimated number of new licences that are <u>just</u> for regulated entertainment	947
Estimated number of full variations per year	6,400
Estimated proportion of full variations that are <u>just</u> for regulated entertainment	10.4%
Estimated number of full variations that are <u>just</u> for regulated entertainment	666
Estimated number of minor variations per year	2377
Estimated proportion of minor variations that are <u>just</u> for regulated entertainment	10.4%
Estimated number of minor variations that are <u>just</u> for regulated entertainment	247
Estimated number of existing licences that are <u>just</u> for regulated entertainment	21,075
Estimated number of existing licences for regulated entertainment where an exemption from annual fees applies.	12,979
Estimated number of existing licences for regulated entertainment, where an annual fee cost applies	8,096

Burden of Applying for New Licences, Variations and Annual Licence Fees

54. In 2009/10 figures show that there were 16,273 new, and variations to, premises licences and club premises certificates across bands A to E, at a cost of between £100 and £1905. The average cost of applying for these licences has been calculated as £238. The cost of minor variations is £89 per application.

55. We have also calculated the estimated burden of venues applying for new licences and variations. We have estimated the average cost of fees at £238; this is based on statistics of the number of venues across each licensing band and the cost of a licence. In doing so, we have assumed that the same proportion of venues in each band will benefit from savings. The Minor Variations Impact Assessment⁹ contained estimates that the administrative cost of a full variation is £385-£950. Some of the current applications made for the purpose of authorising regulated entertainment will be minor variations applications, the fee for this is £89, and the estimated administrative cost is £35.

56. We also have figures of the number of annual licence fees in each band in 2009/10, assuming an equal proportion of venues across each band that benefit. We have estimated an annual fee burden of £194 per licence.

57. Table 4, below, shows a total burden lifted for applying for both new licences and variations produces an **estimated burden lifted of £2.6 million- £3.5million for venues.**

⁹ Consultation on proposals to introduce a new minor variations process, and remove certain requirements at community premises, February 2008 <http://webarchive.nationalarchives.gov.uk/20100407120701/http://www.culture.gov.uk/images/consultations/LicensingconsultationJuly2008minorvar.pdf>

Table 4. Calculating the potential number cost and burden of applications for variations for regulated entertainment

Estimated number of new licences that are <u>just</u> for regulated entertainment	947
Fee Burden for new Licences (at £238)	£225,386
Lower bound admin burden for new licences (at £385 each)	£364,595
Upper bound admin burden for new licences (at £950 each)	£899,650
Estimated number of full variations that are <u>just</u> for regulated entertainment	666
Fee burden for full variations (at £238 each)	£158,508
Lower bound admin burden for full variations (at £385 each)	£256,410
Upper bound admin burden for full variations (at £950 each)	£632,700
Estimated number of variations that are just for regulated entertainment	247
Fee burden for minor variations (at £89 each)	£21,983
Admin burden for minor variations (at £35 each)	£8,645
Estimated number of licences for regulated entertainment where annual fee applies	8,096
Fee burden for annual licence fees (at £194) each	£1,570,624
Lower bound total fee and admin burden	£2,606,151
Upper bound total fee and admin burden	£3,517,496

58. Adding together the burden lifted for both TENs and variations produces an estimated total **burden lifted of £3.2million - £4.8million for venues.**

59. For the purposes of OIOO we have estimated the average saving to business and civil society as **£3.06million**. This is just the saving from removing the burden to apply for new licences as well as full and minor variations. We have not included the savings from applying for TENs as a significant number of these will be for schools and therefore out of scope. While we understand that many applications for TENS will be made by businesses and voluntary organisations, and indeed many of the instances of schools using TENS may be through voluntary organisations (such as Parent Teacher Associations), we cannot determine how much of the TENs savings would fall to each group and have therefore left all the savings out of scope. As such, the OUT claimed is a very conservative estimate. We hope that further evidence from the consultation will help us to establish a better figure.

60. Beneficiaries will also include those who do not currently provide regulated entertainment and are therefore not subject to a formal "administrative burden" but are nevertheless restricted by current licensing requirements. We have no means of accurately estimating how many beneficiaries may take advantage of the proposed exemptions, but this is a key group that the change in the legislation is designed to assist, and will include:

- (a) Premises licenced for alcohol or late night refreshment such as pubs, bars and restaurants that wish to provide regulated entertainment but do not because of regulated entertainment licensing requirements.

- (b) Venues (or, rather, potential venues) that have no licence but wish to provide live music. This could include, for example, scout huts, cafes, restaurants and record shops.

Estimated Burden of proposed exemption on Local Authorities and Licensing Authorities

61. By increasing the number of potential entertainment venues and, arguably, removing a tool for preventative action via a licence the proposal may increase the prevalence of noise complaints which local authorities will have to deal with. Local authorities are obligated to deal with disturbance under other legislation i.e. under the Noise Act 1996 local authorities must take reasonable steps to investigate complaints of noise between 11pm and 7am at licenced premises, and the Anti-Social Behaviour Act 2003 requires local authorities to deal with noise complaints at licenced premises at any time of day. In addition, under Section 80 of the Environmental Protection Act 1990 (EPA), local authorities must take "all reasonable steps" to investigate and prevent public nuisance, including noise complaints, and the EPA applies to both licenced and unlicenced premises. Many local authorities have out of hours noise nuisance teams to deal with complaints, while others rely on the police.
62. It should be noted that noise problems from venues are fairly infrequent. According to the National Noise Survey 2008¹⁰ only 3% of those interviewed specifically identified pubs, clubs - or other entertainment venues - as a source of noise that was bothering them. Despite the size of the events we are proposing to deregulate, we believe that it is unlikely that deregulation will give rise to greatly increased complaints or disturbance. We expect a majority of events (in particular those involving live music) will still be of a small scale attracting audiences of no more than 100-200 people, with larger events of up to 5,000 people taking place less frequently in specialised venues. There may as audience size increases, be incidental noise when the audience enters or leaves the venue. We also expect there to be a low risk of noise direct from wider regulated entertainment beyond live music such as plays and indoor sport, where much of the benefit will be seen at schools, village halls and community and leisure centres. Where there are noise related complaints about a venue they will either be dealt with by investigation by environmental health officers or, where there is an associated alcohol licence, by investigation by licensing authorities.
63. The Chartered Institute of Environmental Health (CIEH) provide figures on noise complaints from "Commercial / Leisure" sources for 2008-09. These breakdown the number of incidents that are complained of, the number of those that are then confirmed as statutory nuisances¹¹, the number that lead to abatement notices and the number that eventually lead to prosecutions. The raw figures they collect reflect around half of local authorities so these have been grossed up to reflect the total population¹². The figures are not disaggregated beyond "Commercial / Leisure" which will include shops, restaurants, supermarkets, etc. that are not relevant to this calculation. Based on the National Noise Survey 2008 (3% specifically identified pubs, clubs or other entertainment venues as a source of noise that was bothering them, compared to a further 3% of those interviewed who are bothered by noise from commercial premises), we have, for the purposes of this impact assessment, assumed that 50% of the incidents reported by CIEH under the heading "Commercial / Leisure" can be attributed to pubs / clubs / entertainment venues.
64. Finally, to establish the number of these complaints that might be attributable to regulated entertainment we have used the proportion of all premises licences and club premises certificates that include regulated entertainment (61%). The table below shows how this produces estimates for the number of noise incidents complained about, statutory

¹⁰ http://www.environmental-protection.org.uk/assets/library/documents/National_Noise_Survey_2008.pdf

¹¹ A statutory nuisance means that the noise is causing an unreasonable interference with someone's use of their land or material discomfort to the population at large.

¹² The figures have been grossed up without weighting for the size of authorities included / excluded

nuisances, abatement notices and prosecutions attributable to live music at pubs / clubs / entertainment venues in 2008-09. That is not to suggest that every noise complaint at a pub/club/entertainment venue which puts on entertainment is due to that event. However, in order to assess the possible impacts of the proposed exemptions, and in the absence of any specific data, this is a reasonable proxy for a starting baseline.

Table 5. Estimating the number of noise incidents complained about, statutory nuisances, abatement notices and prosecutions attributable to entertainment at pubs / clubs / entertainment venues in 2008-09.

	Raw figures based on 46.3% of local authorities	Figures grossed up to population	Attributable to pubs / clubs / entertainment venues	Attributable to entertainment at pubs / clubs / entertainment venues
Incidents	17,763	38,391	19,196	11,693
Statutory Nuisances	3,904	8,438	4,219	2,570
Abatement Notice	670	1,448	724	441
Prosecutions	51	110	55	34

65. It is very difficult to estimate how the number of noise incidents suggested above might be affected by the proposed exemption. We estimate that it will only be a small increase, if any, because:

- Most venues affected will also have an alcohol licence so may already be subject to general conditions relating to noise disturbance;
- Some venues affected will have experience of putting on entertainment under the current licensing regime and will already have in place suitable controls for nuisance noise which they will wish to retain;
- TENs are currently not subject to scrutiny in advance because of noise nuisance (they can only be dealt with retrospectively) so this exemption will not change how they are enforced.

66. Of any increase in nuisance noise incidents we would expect that many would be related to venues with an alcohol licence. In which case it is likely that licensing authorities would deal with the complaint through informal procedures and, if necessary, the addition of conditions relating to noise on the alcohol licence through review. As such, we expect relatively few additional cases of noise nuisance relating to regulated entertainment to be processed by environmental health officers. For the purposes of this impact assessment we will estimate that there will be an increase of between 5% and 10%. This figure is the same increase as estimated in the live music impact assessment but applied to a greater number of venues where entertainment can take place, giving us an increased total burden.

67. The Department for Environment and Rural Affairs (DEFRA) have provided us with estimates of the costs of dealing with noise incidents as agreed with LG Regulation/ LACORS. They estimate that investigation of a complaint would take 10 man hours at a total cost of £506.30, serving an abatement notice takes 20 man hours at a total cost of £1012.60, and that processing a prosecution would cost £10,000. In terms of dealing with the majority of live music related noise incidents we believe that 10 man hours is likely to be an overestimate as they can often be resolved informally and more quickly. However, for the purposes of this IA and in the absence of alternative information we have used that estimate. Using the indicative estimates of a 5% to 10% increase in noise complaints dealt with by

environmental health officers we estimate this would produce a **burden of £338k to £667k** per year, as outlined in Table 6 below.

Table 6. Estimating the burden on environmental health officers of increases in noise complaints

	Increase of 5%	Cost of Increase of 5%	Increase of 10%	Cost of Increase of 10%
Incidents	585	£296,000	1169	£592,000
Statutory Nuisances	128		257	
Abatement Notice	22	£22,000	44	£45,000
Prosecutions	2	£20,000	3	£30,000
Total		£338,000		£667,000

68. As mentioned above, of any increase in nuisance noise incidents we would expect that many would be related to venues with an alcohol licence and would therefore be dealt with by licensing authorities. It is likely that this would be done through informal procedures and, if necessary, the addition of conditions relating to noise on the alcohol licence through review. It is likely that the threat of review will minimise the number of times that this is necessary and we would expect such a burden to be marginal. There were 2121 reviews of licences in 2009/10, split into four categories as shown in Table 7 below.

Table 7. Review of Licence by Reason, 2009/10¹³

Reason for review	Number of reviews
Crime and Disorder	970
Protection of Children	485
Public Nuisance	444
Public Safety	222

69. Of these reasons for review it is likely that there will be no impact on protection of children or crime and disorder as a result of the proposed exemption (the implications for crime and disorder are discussed in more detail below under the estimated burden on the police).

70. However, there may be some impact on public nuisance or public safety due to noise or crowd issues. Again, we expect any impact to be small and most additional complaints to be dealt with informally. For the purposes of the live music impact assessment we estimated an increase in reviews of between 5% and 10%. However, given that we estimate a greater number of complaints (approx. 42%) due to size of venues and deregulating wider entertainment, we believe that the increase in the number of complaints may filter down to an increase of 10-15% for regulated entertainment with audiences of fewer than 5,000 people. Often reviews are conducted for more than one reason so there will be some overlap between categories. However, it is not possible to separate them in the statistics so we have added together the categories of public nuisance and public safety for the purposes of this calculation. This means the figures quoted are an overestimate of the cost of a 10% to 15% increase, meaning the burden is more likely to lie towards the lower end of this range. The cost to a licensing authority of carrying out a review has been estimated for

¹³ Scaled up from those reported in the 2010 Licensing Statistics Bulletin based on 99% response rate (http://www.culture.gov.uk/images/research/Licensing_Statistics_Bulletin2010.pdf). Note that reviews can be for more than one reason so there is some overlap between the categories listed in the table.

previous impact assessments as £1,200¹⁴. Using the indicative estimates of a 10% to 15% increase in reviews we estimate this would produce a **burden of £79k to £120k** per year, as outlined in Table 8 below.

Table 8. Estimating the burden on licensing authorities of an increase in reviews

	Increase of 10%	Cost of Increase of 10%	Increase of 15%	Cost of Increase of 15%
Public Nuisance	44	£52,800	67	£80,400
Public Safety	22	£26,400	33	£39,600
Total		£79,200		£120,000

71. In total, the estimated burden on local authorities and licensing authorities, should there be a 5-10% increase in noise complaints and a 10-15% increase in reviews is **£417k to £787k**. This is the total potential change in enforcement costs. To offset this potential burden local authorities will no longer need to process applications, variations, or appeals for licences covering live music only, and will no longer have to process the live music element of an application that covers multiple activities.

Estimated Savings for Local Authorities

72. We know from 2009/10 licensing statistics that there are also 12,979 licences for other public institutions, such as schools and hospitals, which do not attract an annual licence fee, but attract a burden to licensing authorities to process. Most of these institutions will be Band A premises, and therefore attract an annual fee of £70. Based on the assumption that fee reflects the burden to local authorities, we assume the average of £70 admin burden lifted per application processed, which represents a **saving to local authorities of £908,530**.

73. Using available figures obtained from approximately half of local authorities, we have identified approximately 900 public spaces which are licenced for Regulated Entertainment (up-scaled to approximately 1,800 across all LAs). Each of these would place an admin burden on local authorities who are both applying for annual licence fee and processing the annual licence fee payments. While the admin cost of the annual fee payment to businesses has not been costed as it is considered to be relatively small, the cost lifted to Local Authorities of processing these (at £70 each) represents a further saving of £126,000.

74. Therefore, we estimate the **total saving to local authorities is £1.03million**. If this is netted off against the £417k to £787k cost for processing noise related complaints, we estimate a **total net saving to local authorities of £248k to £617k**.

75. We believe here may also be further savings to local authorities which have not been costed. For example, we know from sourcing data on TENs that a significant number of TEN applications are for regulated entertainment events in public spaces (such as parks) and local authority buildings, these also place numerous burdens on Local Authorities, in particular as all TENs attract application fees. However, given the availability of data, it is difficult to estimate the number of these made purely for regulated entertainment with any degree of certainty.

Estimated Burden of proposed deregulation on the Police

76. Following discussions with the police and licensing authorities we are aware of concerns about proposals to deregulate entertainment and its effect on public safety, crime and disorder, in particular in relation to events at the upper end of the proposed audience limit. However, police representatives have previously indicated that the vast majority of live music events have no implications for policing or public safety and that problems of criminality are the exception¹⁵ and they have also indicated in discussions that other forms of entertainment in the act (excluding boxing and wrestling) are even less of an issue. We will continue to discuss concerns with police and will assess the impact of deregulation throughout the consultation process.
77. We consider that concerns about crime and disorder relating to entertainment events are mostly connected to events where alcohol is present. These proposals will not impede events where alcohol is sold continuing to require a licence. So that in most cases, the licensing regime for alcohol will provide sufficient incentive for event organisers to apply best practice and to work with the police to mitigate potential problems. In the event of disturbance the premises licence or club premises certificate can be reviewed and a condition altered or added to the effect that section 177 does not apply to it so that any condition relating to the provision of music entertainment will have effect.
78. Premises which do not sell alcohol, such as community halls, schools, hospitals, cafes, and some restaurants do not represent a significant risk, and in any case will still be covered by noise nuisance legislation, fire regulations, and Health and Safety at Work legislation (which includes a duty to take reasonable steps to protect the public from risks to their health and safety). The combined legislation will ensure public protection and prevent potential problems through the risk assessments and duties imposed, rather than the layer of bureaucracy imposed by licensing. We will continue to seek evidence and to test how existing legislation, beyond the Licensing Act 2003, will continue to offer adequate assurances to the police and licensing authorities throughout the consultation process.
79. It is also worth noting that there are already many types of entertainment activity where large numbers of people gather in one place without an entertainment licence, including fun fairs, country shows, religious events, stock car racing, outdoor sport, and political rallies.
80. As we have previously explained in paragraphs 28-30, we are further considering the position on Boxing and Wrestling in the consultation. Discussions with licensing authorities and representations with the police in relation to these events indicate a negative impact on the licensing objectives, in deregulating such events, particularly in regard to crime and disorder and the safety of competitors and spectators. We have not been able to ascertain the potential burden in enforcing an increased number of unlicensed boxing and wrestling events, as such, for the purpose of this IA, we are proposing that we do not deregulate boxing and wrestling, and as such, no further costs to the police will be imposed for these events as a result a change of policy.

Costs and Benefits to the Public

81. By removing the deterrent licensing requirements and costs, it will be easier for venues to put on events. Unlike live music there isn't any evidence to predict the change in attendance

¹⁵ In correspondence to Phil Little of the Live Music Forum Commander Paul Minton, Chief of Staff, Association of Chief Police Officers stated "The vast majority of live music events serve to provide considerable pleasure and social benefit without implication for policing or public safety. In a very small number of cases there is clear evidence of association of criminality with events or acts and that obviously needs to be dealt with as the intelligence and circumstances indicate, however, this is clearly the exception and not the norm".

from changes on licensing. The Live Music Survey 2007¹⁶ found that 3% of venues that had not put on live music in the last 12 months stated that a change in licensing arrangements would encourage them to put on live music while 4% of venues that had put on live music in the last 12 months stated that a change in licensing arrangements would encourage them to put on more live music. Without better evidence we shall use these ranges (3% as the upper range) to predict the change in the following regulated events, unfortunately we are unable to predict the change in all event types.

82. Using the CASE model of engagement¹⁷ we can estimate how many additional people would attend an event as a result of the exemption. The most relevant variable in the model is the percentage of people for whom supply issues are not a problem, which is based on Taking Part Survey data. Based on the evidence above from the Live Music Survey around the amount of additional events that might be staged we have modelled a 1 percentage point to 3 percentage point increase in this variable. The change in attendance can be found below. It must be noted that these are only approximations due to difference in the definition of events and variables in the CASE model, therefore these scenarios should be seen as illustrative. Furthermore we can only predict the change in participation in 2 events due coverage. Plays have been increased by 1% and 3% (not modelled).
83. The change results in an increase in people attending live music at least once a year of 122,000 to 354,000, performance of dance 109,399 to 328,199, plays 89,530 and 268,590. This does not take into account the number of people who already do attend once a year but will attend more frequently.
84. This increase in attendance will provide significant enjoyment and social benefit for the general population. Evidence from the DCMS Culture and Sport Evidence (CASE)¹⁸ programme has shown that attending a concert provides a positive boost to subjective wellbeing (i.e. an individual's perception of their own wellbeing) and that this generally increases the more often an individual engages. As an indicative figure, using data from the British Household Panel Survey it is estimated that the gain in subjective wellbeing from attending a concert at least once a week is about a third of that associated with being employed (compared to being unemployed). Even attending a concert just once a year can lead to an increase in subjective wellbeing equivalent to around a sixth of that associated with being employed. If we assume that same level of wellbeing can be attained through other activities similar to concerts then we should expect a wellbeing gain from increased attendance in other events. Furthermore any activities that increase sports participation are also likely to achieve a wellbeing increase and improvements in health.
85. There is also a potential cost to the general population if the proposal leads to an increase in noise nuisance from extra events. However, even if it is small there is the potential for impacts through adverse health effects, loss of productivity and annoyance to the public.
86. Paragraphs 60 and 61 establish that these events are not a significant source of noise problems. Only 3% of individuals identify pubs, clubs and entertainment venues as a source of noise that bothers them. Table 5 establishes an estimate of noise incidents attributable to live music at pubs / clubs / entertainment venues in 2008-09 and Table 6 provides indicative estimates of any potential increase as 5% to 10%. This is a very small number of additional noise incidents and given the protections put in place such as the ability to add conditions to an alcohol licence, or for environmental health teams to issue noise abatement orders they are likely to be isolated incidents that are not repeated.

¹⁶ <http://www.culture.gov.uk/images/research/surveyoflivemusicdec2007.pdf>

¹⁷ http://www.culture.gov.uk/what_we_do/research_and_statistics/7275.aspx#drivers

¹⁸ "Understanding the value of engagement in culture and sport" CASE (2010) <http://www.culture.gov.uk/images/research/CASE-value-summary-report-July10.pdf>

87. There is a substantial body of research into the health costs of noise. However, this work has focused on constant background noise, in particular from transport, as this is most likely to produce impacts on health and productivity. For example, the Interdepartmental Group on Costs and Benefits Noise subject group have produced guidance for estimating the health impacts and associated costs for increases in background noise for a full range of decibel levels¹⁹. The type of noise nuisance associated with live music, which is occasional and intermittent, has not been investigated and researched in the same level of detail and it is not possible to estimate costs in the same way. To some extent this reflects the fact that this kind of noise nuisance is seen as having far less risk to health and a less annoyance value. Having discussed this issue with the relevant team in DEFRA they have confirmed that there is no suitable evidence for valuing this type of noise impact.

Summary and preferred option

88. The preferred option is 3, to introduce a licence exemption for regulated entertainment, excluding boxing and wrestling, for audiences of fewer than 5000 persons. The proposed exemption would free numerous venues from the unintended effects of the Licensing Act 2003 and free up venues such as public houses, schools, hospitals, restaurants and cafes, from the burden of applying for Licences to put on entertainment. As discussed in the section "Options Considered" we will continue to assess the situation regarding the exhibition of a film, or preferred option is to deregulate film.

89. Our preferred option is subject to testing at consultation stage, we are aware that in some cases the data used is incomplete and we will continue to seek further, balanced assurances in the consultation. However, making best use of the data available to us, we believe our current preference is the only option which best meets the policy objectives:

- Of all the options, it achieves the largest cost saving (see below)
- The proposal does not impose any unreasonable burden on licensing authorities
- It achieves the greatest benefit by exempting performances for relatively small audiences and enables the majority of venues to benefit from the deregulation.
- It balances the needs of entertainment venues and audiences with the interests of residents and licensing authorities, with assurance that deregulation does not affect the range of other safeguard legislation.

90. Our proposed option gives a net benefit (present value (PV)) estimate (as displayed in the summary sheet) of £32.8m-£43.2m. This is the net result, over a 10 year period, of costs to licencing authorities in enforcing public nuisance (£338k-667k) and conducting reviews (£79k-£120k), offset against savings to licensing authorities of not having to process licences exempt from annual fees (£1.0m) and saving to businesses and venues that no longer apply for TENs (£592k-£1.3m) and other licensing charges, such as new licences, variations and annual fees (£2.6m-£3.5m).

¹⁹ <http://www.defra.gov.uk/environment/quality/noise/igcb/publications/noisehealthreport.htm>

Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. If the policy is subject to a sunset clause, the review should be carried out sufficiently early that any renewal or amendment to legislation can be enacted before the expiry date. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

Basis of the review: [The basis of the review could be statutory (forming part of the legislation), i.e. a sunset clause or a duty to review, or there could be a political commitment to review (PIR)];

There is a political commitment to review the impact of deregulating regulated entertainment.

Review objective: [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]

The purpose of the PIR will be to assess the impact of the deregulation, particularly to assess if there has been any unexpected cost, or negative impact on the licensing objectives (public nuisance, crime and disorder, public safety, and protection of children from harm), and to assess whether it has increased the provision of regulated entertainment.

Review approach and rationale: [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]

The review will monitor local authority data on licensing, police statistics, regulated entertainment event statistics, and consult with stakeholders in order to adequately assess the validity of concerns about costs, resources and crime and disorder.

Baseline: [The current (baseline) position against which the change introduced by the legislation can be measured]

The baseline for licensing statistics will be the DCMS Licensing Statistical Bulletin 2009-2010. Although this is being transferred to the Home Office and it is expected to cover less entertainment related statistics in the future it will continue to provide headline data on licence numbers, number of TENs, etc. The baseline for looking at attendance at live music events will be taken from the annual DCMS Taking Part Survey.

Success criteria: [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]

The overall objective is to increase the number of regulated entertainment events, without impacting negatively on the licensing objectives.

Monitoring information arrangements: [Provide further details of the planned/existing arrangements in place that will allow a systematic collection of monitoring information for future policy review]

The DCMS annual Taking Part Survey will be used to monitor the prevalence of attendance at live music events. Local authority data on reviews and licensing statistics collated in the future by the Home Office will be used to monitor data on licence numbers, number of TENs, etc.

Reasons for not planning a review: [If there is no plan to do a PIR please provide reasons here]

Annex 2: Specific Impact Test

Competition

The Office of Fair Trading published revised guidelines for Departments on the consideration of competition assessments in 2007. The guidelines state that, in relation to competition assessments, the following four key questions should be considered:

- (i) Does it limit the number or range of suppliers
- (ii) Does it indirectly limit the number of range suppliers
- (iii) Does it limit the ability of suppliers to compete
- (iv) Does it reduce suppliers incentives to compete vigorously

The proposal promotes competition as it applies equally to all venues putting on regulated entertainment to audiences of few than 5,000 people. It will apply equally to every place that qualifies as a work place (including pubs, clubs, schools, hospitals, restaurants and cafes) as well as other potential venues, such as parks and other public spaces. Therefore, the proposal will not limit or indirectly limit the number or range of suppliers, nor will it limit the ability of suppliers to compete, or reduce suppliers' incentives to compete vigorously.

The current requirements are disproportionate and unnecessary for regulated entertainment events, which are, on the whole, considered low risk form to the licensing objectives. The requirements discourage the entertainment events being staged. The exemption will reduce cost and red tape and lead to more businesses diversifying their offer to include regulated entertainment, more opportunities for performers and sportsmen and women, as well as more choice for consumers who wish greater opportunities to enjoy the arts, film and indoor sport.

Small firms

The main impact on small firms will be to reduce burden and allow greater flexibility in business operation. The stakeholder group set up to advise us on previous consultation proposals included a wide range of bodies which, to varying degrees, represent small businesses, including the Federation of Small Businesses, Association of Convenience Stores, Business in Sport and Leisure, Musicians Union and Bar Entertainment and Dance Association. None of these groups have advised us of any adverse impact of the deregulation proposals on small businesses.

The 2006 Ipsos-Mori survey results showed that 38% of venues had a capacity of <100, while 30% of venues had a capacity of 100 – 200. Therefore the <200 limit covers more than two-thirds of venues. While we intend to go beyond this with a proposal of audiences of fewer than 5,000 people, small venues will still make up the majority of the beneficiaries.

There are real savings to be made by small firms from these proposals. The estimated administrative cost (in addition to the fee) of a new application or a full variation application is £385-£950, for a minor variation the estimated administrative cost is £35 (in addition to a £89 fee), while the estimated average administrative cost of a TEN (in addition to the £21 fee) is £16. Figures from the 2010 statistical bulletin indicated that 463 businesses would benefit from an exemption from the full

variation, 180 would benefit from an exemption from a minor variation and 16,000 – 34,100 TENs would now be covered by the exemption.

Health and well-being

The proposal should encourage entertainment for the benefit of society with no detriment to the objectives of the Licensing Act (the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm). An increase in the provision of regulated entertainment will provide significant enjoyment and social benefit for the general population. While we do not have evidence for all entertainment types, evidence from the DCMS Culture and Sport Evidence (CASE)¹ programme has shown that attending a live music provides a positive boost to subjective wellbeing and that this generally increases the more often an individual engages. Using income compensation figures the impact on wellbeing of attending a concert at least once a week has been estimated at £9,000 a year. We would expect this figure to be broadly the same across all entertainment types. While we cannot estimate the increase in frequency of people attending entertainment events it is clear that even a small increase would deliver significant benefits for the general population.

Locally organised events also provide a boost to the Big Society agenda, creating local focus for community engagement and the opportunity for “bridge and bond” activity.

Public health and well-being will continue to be safeguarded through the licensing of alcohol, and by applying existing legislation such as health and safety at work, noise nuisance and fire regulations. There is a potential increase in noise nuisance but we would expect this to be relatively small due to the other controls that are still in place. However, even if it is small there is the potential for impacts through adverse health effects, loss of productivity and annoyance to the public.

Justice system

The removal of the licensing requirement will result in the licensing authorities not being given prior notification about events, and there have been concerns raised about this leading to increased disorder, crime, crowd control and disturbance. However, the police will still be aware of many events through local intelligence and as most are advertised. Moreover, the greatest risks are at premises selling alcohol and such premises will still require a licence, which can address concerns including noise and disorder and lead to the application of conditions, or the removal of the entire licence,

Rural proofing

Village halls account for a significant proportion of premises that require an entertainment licence. The halls are often the hub of cultural life in rural communities, so that the proposal will make it easier and encourage activity in village halls for the benefit of the area. Action with Communities in Rural England (ACRE) is a member of the DCMS stakeholder group and considers that the impact of these proposals on rural communities will be beneficial.

¹ “Understanding the value of engagement in culture and sport” CASE (2010)
<http://www.culture.gov.uk/images/research/CASE-value-summary-report-July10.pdf>



department for
**culture, media
and sport**

Regulated Entertainment

A Consultation proposal to examine the deregulation of
Schedule One of the Licensing Act 2003

September 2011

improving
the quality
of life for all

Our aim is to improve the quality of life for all through cultural and sporting activities, support the pursuit of excellence, and champion the tourism, creative and leisure industries.

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Foreword

At the moment, the law and regulations which require some (but not all) types of entertainment to be licensed are a mess. For example, you will need a licence if you want to put on an opera but not if you want to organise a stock car race. A folk duo performing in the corner of a village pub needs permission, but the big screen broadcast of an England football match to a packed barn-like city centre pub does not. An athletics meeting needs licensing if it is an indoor event, but not if it's held outdoors. A free school concert to parents doesn't need a licence, but would if there is a small charge to raise money for PTA funds or if there are members of the wider public present. A travelling circus generally needs a permit whereas a travelling funfair does not. A carol concert in a Church doesn't need a licence, but does if it is moved to the Church Hall. There are many other examples where types of entertainment are treated differently for no good reason – the distinctions are inconsistent, illogical and capricious.

But they cause other problems too. Whenever we force local community groups to obtain a licence to put on entertainment such as a fundraising disco, an amateur play or a film night, the bureaucratic burden soaks up their energy and time and the application fees cost them money too. Effectively we're imposing a deadweight cost which holds back the work of the voluntary and community sector, and hobbles the big society as well.

Equally importantly, the various musicians' and other performers' unions are extremely concerned that all these obstacles reduce the scope for new talent to get started, because small-scale venues find it harder to stay open with all the extra red tape. There is also evidence that pubs which diversified their offer to include activities other than drinking were better able to survive the recession. Making it easier for them to put on entertainment may therefore provide an important source of new income to struggling businesses such as pubs, restaurants and hotels.

Last but not least, laws which require Government approval for such a large range of public events put a small but significant dent in our community creativity and expression. If there's no good reason for preventing them, our presumption should be that they should be allowed.

So this is a golden opportunity to deregulate, reduce bureaucratic burdens, cut costs, give the big society a boost and give free speech a helping hand as well. Our proposals are, simply, to remove the need for a licence from as many types of entertainment as possible. I urge you to participate in this consultation so that we can restore the balance.

John Penrose

Minister for Tourism and Heritage

Chapter 1: Regulated Entertainment - a proposal to deregulate

Introduction

- 1.1. The consultation seeks views on a proposal to remove licensing requirements in England and Wales for most activities currently defined as “regulated entertainment” in Schedule One to the Licensing Act 2003.
- 1.2. The Licensing Act 2003 brought together nine separate licensing related regimes covering alcohol supply and sale, late night refreshment, and “regulated entertainment”. In doing so the Act modernised many out-dated laws that had been left behind by changes in technology and modern lifestyle.
- 1.3. The Licensing Act 2003 changed the way that licensing procedures worked. Having a single licence for permissions for multiple licensable activities was undoubtedly a great step forward for many, who had previously needed to make separate costly and time consuming licence applications. In this respect, the 2003 Act has been a success. In other respects, it has been less successful. The Government is currently legislating via the Police Reform and Social Responsibility Bill to rebalance alcohol licensing in favour of local communities, for example.
- 1.4. In addition, despite a radical approach to alcohol licensing, the 2003 Act failed to match its ambition. The regime for “regulated entertainment” missed a real opportunity to enable entertainment activities and either simply aped old licensing regimes or instead took a new, overcautious line. This was particularly apparent with the removal of the “two in a bar” rule, which allowed previously two musicians to perform in a pub without needing to obtain a specific entertainment licence. But instead of modernising an old law that had simply gone past its sell by date, the 2003 Act ended up potentially criminalising a harmless cultural pastime.
- 1.5. Indeed tidying up the administrative processes created new problems for many others. The Government has received countless representations about the difficulties that the 2003 Act has brought to a wide range of cultural and voluntary sector and commercial organisations. New licensing requirements, under the 2003 Act were, for many, a step backwards, bringing costly and bureaucratic processes for low risk, or no risk, events, including:
 - Private events where a charge is made to raise money for charity;
 - School plays and productions;
 - Punch and Judy performances;
 - Travelling circuses;

- Children’s films shown to toddler groups;
 - Music performances to hospital patients;
 - Brass bands playing in the local park;
 - School discos where children are charged a ticket price to support the PTA;
 - Exhibitions of dancing by pupils at school fetes;
 - Costumed storytellers;
 - Folk duos in pubs;
 - Pianists in restaurants;
 - Magician’s shows;
 - Performances by street artists;
 - And even performances by a quayside barber shop quartet.
- 1.6. Before the General Election both Coalition parties recognised the need for reform, and in the Coalition Programme for Government we made a firm commitment to remove red tape affecting live music in small venues. Then, as part of the Growth Review which was published alongside the Budget this year, we announced an examination of “regulated entertainment”, with the aim of removing licensing regulation that unnecessarily restricts creativity or participation in cultural and sporting events. This consultation is the result of that work.
- 1.7. In the chapters to come we will explore each of the entertainment activities regulated by the Licensing Act 2003 and ask for views on the key question: “what would happen if this activity were no longer licensable?”
- 1.8. In many areas, early discussions with stakeholders have indicated that deregulation would be welcome and straightforward. With other forms of licensable activity though, we recognise that there may be some inherent difficulties. In such circumstances, this consultation outlines where we feel particular protections will be needed, and indeed where full deregulation may not be possible at all.
- 1.9. This consultation is predicated on the fact that we think there is ample scope to sensibly deregulate most, but not all, of Schedule One to the 2003 Act. Removing the need for proactive licensing for regulated entertainment could provide a great boost for community organisations, charities, cultural and sporting organisations, for artists and performers, for entertainment venues, and for those local institutions that are at the heart of every community, such as parent/teacher organisations, schools and hospitals.
- 1.10. We do, though, need to request and examine evidence from this consultation in order to fully evaluate the proposals and to ensure we have a complete picture with regard to any potential benefits or impacts to ensure there are no unintended consequences.

Chapter 2: The Current situation, and our detailed proposal

The current situation - background

2. The Licensing Act 2003 classifies the following activities as “regulated entertainment”, and therefore licensable:

- a performance of a play,
- an exhibition of a film,
- an indoor sporting event,
- a boxing or wrestling entertainment (both indoors and outdoors),
- a performance of live music,
- any playing of recorded music, and
- a performance of dance

- 2.1. In addition, there is a licence requirement relating to the provision for entertainment facilities (which generally means the provision of facilities which enable members of the public to make music or dance).
- 2.2. Licensable activities can only be carried out under the permission of a licence¹ or a Temporary Event Notice (TEN) from a local licensing authority. Licences (or TENs) are required for any of the activities above (subject to limited exemptions set out in part 2 of Schedule 1) whether they are free events to which the general public is admitted, or public or private events where a charge is made with the intention of making a profit - even when raising money for charity.
- 2.3. Applications for licences to host regulated entertainment can often occur as part of an application for an alcohol licence, particularly in venues such as pubs, clubs, and hotels, but there are also many venues that are primarily “entertainment venues” that operate a bar, such as theatres, which still require alcohol licence permissions to do so.

¹ In this consultation “licence” refers to a Premises Licence or a Club Premises Certificate for ease of reading.

Licensing powers and national scale

- 2.4. The Licensing Act 2003 has four underlying licensing objectives: Prevention of Crime and Disorder; Prevention of Public Nuisance; Protection of Children from Harm; and Public Safety. Licensing authorities must exercise their functions and make their decisions with a view to promoting those objectives .
- 2.5. In support of these four objectives, licences can be subject to extensive conditions. These conditions can be placed on a licence at time of grant - either volunteered by the applicant or imposed by the licensing authority, as part of an application to vary a licence, or imposed as part of a licence Review. Conditions play an important part role in ensuring a “contract” between a licensing authority and licensee, and play an important role in setting the context in which the licensed premise can operate.
- 2.6. Similarly, licence Reviews play an important role in the controls process. Reviews provide relevant authorities with powers to address problems, and they ensure appropriate local representation in the decision making processes. Reviews can be triggered by complaints from local residents or businesses, or by representations by relevant authorities such as the police. For a licensee, a licence review is a very serious issue, and failure to comply with the law could lead to closure of a premises, a very heavy fine, and even a potential prison sentence.
- 2.7. In terms of scale, there are currently around 133,000 premises in England and Wales licensed for regulated entertainment, with almost all of these premises licensed to sell alcohol. Additionally, over 120,000 TENs are authorised each year. TENs can be used as an alternative to a fuller licence, as a “one-off” permission for a licensable event, at a cost of £21 per application.
- 2.8. An event organiser is permitted up to five TENs per year, unless they also hold a personal licence for alcohol sale or supply, in which case the limit is extended to 12 TENs per year at the same premises or up to 50 events at different places.

This proposal

- 2.9. The starting point for this consultation is to examine the need for a licensing regime for each of the activities classed as “regulated entertainment”. Where there is no such need, we propose to remove the licensing requirement, subject to the views and evidence generated through this consultation.
- 2.10. Where there is a genuine need to licence a type of entertainment, then this consultation proposes that the licensing requirement would remain, either in full, or in part if more appropriate. In such cases this consultation seeks to identify the precise nature of the potential harm, and seek evidence to identify effective and proportionate solutions.
- 2.11. Chapter 3 of this consultation will address the generic issues that are relevant to more than one type of regulated entertainment. For example, we are interested to hear views on the handling of health and safety protections and noise nuisance prevention, as well as views from a public safety and crime and disorder perspective. The consultation will pose a number of questions related to these aspects, and will ask a final question where any further comments can be added on any issues of note.

- 2.12. Chapters 4-11 will then examine each activity in Schedule One to the Licensing Act 2003 and investigate specific issues particular to that activity.
- 2.13. Although both Chapter 3, and Chapters 4-11 will ask questions relating to deregulation principles, **this consultation would like to make clear at the outset that in any instance, Government intends to retain the licensing requirements for:**
- Any performance of live music, theatre, dance, recorded music, indoor sport or exhibition of film where the audience is of 5,000 people or more.
 - Boxing and wrestling.
 - Any performance of dance that may be classed as sexual entertainment, but is exempt from separate sexual entertainment venue regulations.

More details of how we would ensure these protections are in place can be found in Chapters 4-11.

Next steps and methodology

- 2.14. We will collate and review comments from this consultation and then publish a Government response. Where we have a clear view that deregulation for an activity is supported, we will look to remove or replace the Schedule One definition relating to that activity as soon as possible, using existing powers in the 2003 Act to do so where this is possible.
- 2.15. Where changes would require either new exemptions or new provisions in the Licensing Act 2003, or an amendment to any other legislation, we will assess needs and legislative options following the consultation analysis and set out the forward plan in the consultation response.

Who will be interested in this proposal?

- 2.16. Each aspect of regulated entertainment has a wide range of interested parties. In some cases there are groups of stakeholders who will have interest in more than one of the regulated entertainment activities. Some of these will include:
- Existing small and medium professional and amateur cultural groups, such as arts centres, theatre groups, dance groups.
 - Mainstream and independent cinemas, film clubs
 - Musicians – amateur and professional
 - Actors, performers
 - Local cultural providers and practitioners, and event organisers
 - Charities, PTAs, Schools
 - Community audiences for all of the art forms regulated by the 2003 Act
 - Residents and community representatives
 - Licensed premises, such as clubs and pubs, hotels and bed and breakfasts

- Unlicensed premises such as coffee shops, scout huts, church halls, record shops, schools and hospitals, amongst others
- The music industry
- Larger cultural institutions, and cultural development stakeholders
- Those involved in local regeneration
- Other cultural and creative institutions, such as dance and theatre companies, sports bodies who could gain increased exposure in their sport from greater opportunities, potentially leading to an uptake in participation
- Cultural and sporting development organisations
- Licensing authorities, noise officers, health and safety officers
- The police, fire service and trading standards officers and others with an interest in public safety and crime and disorder.

Impacts and benefits

- 2.17. An initial Impact Assessment has been produced for these proposals. This Assessment details, wherever possible, the benefits and impacts of these proposals and has been examined by the independent Regulatory Policy Committee. The initial Impact Assessment can be viewed online at www.culture.gov.uk and is available in hard copy from DCMS from the address provided in annex A.
- 2.18. The initial Impact Assessment has a provisional status and will be informed by the responses to this consultation. We will undertake further work to quantify the consequential costs, benefits and burdens on the police, licensing authorities and others on the central proposal to deregulate entertainment events involving 4999 people or less. Many of the activities classed as regulated entertainment are small local events and, because of this, national data collection is currently disproportionately expensive.
- 2.19. In these circumstances assumptions have been made by Government analysts, following various extrapolations of the available data but in this consultation we would be very grateful for any new data that may be helpful to our overall understanding of the local nuance or the national statistical picture.
- 2.20. It is not possible, for instance, to predict precisely the additional activities that we expect to arise if there were currently no licensing requirements in respect of regulated entertainment, and so we are grateful for views through the questions in this consultation. It has also not been possible to cost every possible benefit (such as the effect of the Culture and Sport Evidence Programme led by DCMS, Arts Council England, English Heritage and Sport England) or possible impact (for example data on costs of the noise complaint processes under the Noise or Environmental Protection Acts) - so again we will use evidence from the consultation responses to update the Impact Assessment to ensure costs and benefits of these proposals are reflected as accurately as possible before any final considerations.
- 2.21. The headline detail from the Impact Assessment is that we would expect to see a huge range of benefits, with a total economic benefit of best estimate of £43.2m per year. Besides the direct economic benefit, and the costs and labour saving, there are expected to be substantial benefits to individual and collective wellbeing due to extra provision of entertainment and participation, as well as additional social interaction

benefits.

- 2.22. This proposal would also bring clarity to existing laws, ending uncertainty about whether and in what circumstances activities, such as street artists, buskers, poets, and carol singers would require a licence under the Licensing Act 2003.

Effect on the current licensing regime

- 2.23. Over 133,000 premises have some form of regulated entertainment provision granted on their licence. The benefits of removing licensing requirements will vary, depending on individual circumstances.
- 2.24. Premises that currently hold a licence **only** for the activities that were formerly classed as regulated entertainment (for example, some church halls) would no longer need a licence. In these cases all licensing requirements would cease, and fees and licence conditions would end when a licence is surrendered. Venues would be able to host activities formerly classed as regulated entertainment without the need for any licence.
- 2.25. Premises that continue to hold a licence after the reforms (for example, for alcohol, late night refreshment, or remaining forms of regulated entertainment) would be able to host entertainment activities that were formerly regulated without the need to go through a Minor or Full Variation process. We propose that all existing conditions on such licences would continue to apply unless the premises decided to apply for a variation to remove or amend them - a situation that should prevent the need for a wholesale reissue of licences by licensing authorities. Conditions are an integral part of a licence authorisation, so this consultation seeks evidence with regard to any potential transitional issues, to ensure sufficient certainty for both licensee and those monitoring compliance to ensure all parties are aware of what is required of a premises. Taking account of any such issues, full guidance would be issued to licensing authorities and other interested parties before any changes would be made.
- 2.26. Finally, on a very practical local level, there are also at least 900 areas listed on the DCMS licensed public land register² which represent areas licensed by local authorities solely for regulated entertainment purposes - such as town centres, promenades, high streets, parks, gardens and recreation grounds. Licensing authorities would also no longer have to process and oversee over 12,500 licences per annum for which they do not receive a fee, such as village halls and for certain performances held in schools. Together this is at least 13,400 community and non-commercial premises per annum that would no longer be subject to a licensing regime.

²culture.gov.uk/what_we_do/regulated_entertainment/3196.aspx

Proposal Impacts: Questions

You may wish to read the full document before commenting - a composite list of questions is provided at the end of the document

Q1: Do you agree that the proposals outlined in this consultation will lead to more performances, and would benefit community and voluntary organisations? If yes, please can you estimate the amount of extra events that you or your organisation or that you think others would put on?

Q2: If you are replying as an individual, do you think this proposal would help you participate in, or attend, extra community or voluntary performance?

Q3: Do you agree with our estimates of savings to businesses, charitable and voluntary organisations as outlined in the impact assessment? If you do not, please outline the areas of difference and any figures that you think need to be taken into account (see paragraph 57 of the Impact Assessment).

Q4: Do you agree with our estimates of potential savings and costs to local authorities, police and others as outlined in the impact assessment? If you do not, please outline the areas of difference and any figures you think need to be taken into account.

Q5: Would you expect any change in the number of noise complaints as a result of these proposals? If you do, please provide a rationale and evidence, taking into account the continuation of licensing authority controls on alcohol licensed premises and for late night refreshment

Q6: The Impact Assessment for these proposals makes a number of assumptions around the number of extra events, and likely attendance that would arise, if the deregulation proposals are implemented. If you disagree with the assumptions, as per paragraphs 79 and 80 of the Impact Assessment, please provide estimates of what you think the correct ranges should be and explain how those figures have been estimated.

Q7: Can you provide any additional evidence to inform the Impact Assessment, in particular in respect of the impacts that have not been monetised?

Q8: Are there any impacts that have not been identified in the Impact Assessment?

Q9: Would any of the different options explored in this consultation have noticeable implications for costs, burdens and savings set out in the impact assessment? If so, please give figures and details of evidence behind your assumptions.

Q10: Do you agree that premises that continue to hold a licence after the reforms would be able to host entertainment activities that were formerly regulated without the need to go through a Minor or Full Variation process?

Chapter 3: The role of licensing controls

Introduction

3. In this section we will explain the general background to regulatory protections in the Licensing Act 2003 and ask for views that apply across the “regulated entertainment” regime. Chapters 4-11 will cover individual items included in Schedule One, so you may choose to apply your comments in questions posed in those sections if more appropriate.

The four licensing objectives

- 3.1. As set out in paragraph 2.4, the Licensing Act 2003 has four licensing objectives and licensing authorities must exercise their functions with a view to promoting those objectives. They are:

- Prevention of Crime and Disorder;
- Prevention of Public Nuisance;
- Protection of Children from Harm;
- Public Safety.

These four objectives are important protections, particularly in respect of alcohol sale and supply, which is the principal component of the Licensing Act 2003.

- 3.2. In taking stock of the efficacy and proportionality of the licensing regime, this proposal seeks to examine the need for licensing in the context of the other legislative protections that are already in place. This chapter will do this by examining each of the four licensing objectives and seek views regarding necessary controls.
- 3.3. This consultation proposal suggests that regulated entertainment itself in general poses little risk to the licensing objectives. There are though considerations concerning noise nuisance from music and where audiences of up to 4,999 people could attend events where no licensing authority licence was present, as well as related public safety issues.

Crime and disorder

- 3.4. Where problems do occur, it is often because of the presence of alcohol sales and consumption.
- 3.5. Most existing venues offering regulated entertainment are already licensed for alcohol and **existing controls will continue to apply under these proposals**. The existing alcohol safeguards provide a powerful incentive to ensure that licensing objectives are safeguarded, and as outlined earlier, failure to comply can result in a licence review,

which can lead to closure of the premises, a very heavy fine, and a potential prison sentence for the licensee. However, under our proposals, there would be no requirement to notify the licensing authority or the police of an event of up to 4999 people that did not involve the sale of alcohol.

- 3.6. The Government is also legislating via the Police Reform and Social Responsibility Bill to rebalance the regulation around alcohol licensing. These measures include, for example giving licensing authorities and the police more powers to remove licences from problem premises and increasing the involvement of health bodies and environmental health authorities in licensing decisions, including Temporary Event Notices.
- 3.7. In addition, the Government is giving local communities additional powers to shape their night-time economies and tackle alcohol-fuelled crime and disorder, by allowing licensing authorities to collect a contribution or levy from late opening alcohol retailers towards the cost of late night policing and extending powers to restrict the sale of alcohol in problem areas. The Government will also take steps to dismantle unnecessary legislation but will continue to regulate in a targeted way where this is needed. The new measures on alcohol, taken together with a sensible deregulation of the no risk or low risk entertainment activities, should lead to a more effective and focussed controls regime.
- 3.8. So while there would no longer be a requirement for a specific permission for activities currently classed as regulated entertainment, there would still be generic controls in place related to the alcohol licence (or, where relevant, permission for late night refreshment). For example, under the current arrangements, a pub does not need a specific permission to show a big screen football international. However, if it is necessary to address identifiable risk of disorder related to the event, a responsible authority such as the police can seek a review to apply measures such as limits on opening hours before the screening, or the use of plastic glasses, or the employment of extra door staff - even though the television broadcast itself is not a licensable activity.
- 3.9. Events in non-licensed premises that are currently held under a TEN will usually be held in non-commercial premises that are overseen and controlled by a management committee or governing body (for example, a community hall, school or club) or otherwise run by the local authority. While this may not singularly remove every risk of crime and disorder, it does suggest that a blanket requirement for all those providing music and other entertainment to secure a licence is disproportionate and unnecessary.
- 3.10. However, we should also pay regard to the fact that the removal of licensing regulations will remove the requirement to automatically notify the Licensing Authority and the police that an entertainment event is taking place. We would be grateful for views on potential public safety and crime and disorder considerations in the questions in this consultation.

Public Nuisance (noise)

- 3.11. **Premises selling alcohol will still require a licence** as outlined above. Alcohol licences can already be used to address noise and other areas of concern, and the Licensing Act 2003 gives the police powers to close licensed premises at short notice as a result of disorder or on the grounds of public nuisance, which includes noise. This process can result in conditions being stipulated which must be met before the premises can reopen. Such Closure Orders under the Licensing Act 2003 lead automatically to a review of the licence where, again, conditions can be attached to the licence. Local Authorities also maintain the right to impose a full range of conditions on alcohol licenses after a licence Review. Again, failure to comply can result in a very heavy fine, and a potential prison sentence up to six months for the licensee.
- 3.12. **All premises**, whether licensed for alcohol or not, will also continue be subject to existing noise nuisance and abatement powers in the Environmental Protection Act 1990. These powers require local authorities to take reasonable steps to investigate a complaint about a potential nuisance and to serve an abatement notice when they are satisfied that a nuisance exists or is likely to occur or recur.
- 3.13. Additionally, there are also powers in the Anti-Social Behaviour Act 2003 which allow the police to close licensed premises to prevent a public nuisance caused by noise from those premises. Earlier this year, the Government set out proposals to radically simplify and improve the powers the police and others have to deal with anti-social behaviour.
- 3.14. There is also the Noise Act 1996 which allows the local authority to take action (issuing a warning notice, or fixed penalty notice, or seizing equipment) in respect of licensed premises where noise between 11pm and 7am exceeds permitted levels.
- 3.15. Finally, under the Criminal Justice and Public Order Act 1994, the police currently have powers to remove people attending or preparing for night-time raves on land in the open air - refusal to leave or returning to such land following a police direction is a criminal offence.
- 3.16. **Premises which do not sell alcohol** (such as non-licensed restaurants and cafes, as well as non-commercial premises such as community halls, schools and hospitals) would be covered by noise nuisance legislation such as the Environmental Protection Act 1990. As referenced above, non-commercial premises such as village halls tend to be run by a local management board or committee to represent the interests of the local community and exercise necessary control should problems occur. In such circumstances though the existing licence controls would no longer be in place, and so in the questions in this consultation we would be grateful for views on any potential concerns.

Public Safety

- 3.17. The Health and Safety at Work Act 1974 together with disability legislation, offers protection in relation to the safety of the public at an event, placing a clear duty to take reasonable steps to protect the public from risks to their health and safety. In addition, the Regulatory Reform (Fire Safety) Order 2005 (SI 2005/1541) imposes fire safety

duties in respect of most non-domestic premises.

- 3.18. Potential problems at events should be prevented through the risk assessments and compliance with other duties imposed by this legislation, rather than the additional layer of bureaucracy imposed by requirements of the Licensing Act 2003.
- 3.19. Although some licensing authorities rely on the Licensing Act 2003 rather than other legislation, many types of existing mass entertainment activity already take place successfully outside the licensing regime. Large numbers of people gather in one place without an entertainment licence for events such as fun fairs, country shows, political rallies and demonstrations, religious events, stock car racing, or outdoor sport such as the Ryder Cup, or three-day eventing. There is no directly justifiable reason why events such as ballet, classical concerts or circuses should be considered any more of a risk to public safety than these activities.

Protection of Children

- 3.20. There are two main areas of relevance in relation to regulated entertainment where it is important we protect children from harm.
- 3.21. The first of these is the prevention of access to unsuitable content (for example by film classification restrictions, and by restrictions on sexual entertainment). The second aspect is with the physical protection of children in relation to participation in indoor sport and other activities.
- 3.22. Issues specific to unsuitable content in the context of dance and film are addressed directly in chapters 6 and 7 respectively in this consultation. Some content protection themes do though cut across several forms of regulated entertainment, and we seek your views on these at the end of this chapter.
- 3.23. Adult entertainment is not a separate or distinct licensable activity under the 2003 Act, but is generally dealt with under other legislation (see paragraph 11.4). Some forms of adult entertainment (such as “blue” comedians) are not currently licensable at all. In most cases, such activities take place in premises that are licensed for the sale of alcohol for consumption on the premises, and restrictions automatically apply on the admission of unaccompanied children. The proposals in this consultation would not affect the status quo.
- 3.24. In the second area of child protection (physical protection for children taking part in indoor sports, and similar activities) there are already robust existing child protection policies in place across all Government funded sports. Recognised sports are required to have a governing body in place that controls the sport and ensures that coaches and officials are properly trained.
- 3.25. Most importantly, the Children Act 1989 places a duty on Local Authorities to investigate if there are concerns that a child may be suffering or may be at risk of suffering significant harm. Additionally, the employment of children is covered by other legislation, such as the Children and Young Persons Act 1963 which, among other things, places restrictions on children taking part in public performances.

Size of events

- 3.26. The Government recognises that, once an event reaches a certain size, it can be difficult to control the events using alcohol licences alone, and there may also be large entertainment events that do not – either currently or in the future – choose to sell alcohol. Sports ground safety legislation, which applies to outdoor sport, applies a limit of 5,000 spectators for football, and 10,000 for other sports before specific safety requirements apply.
- 3.27. The Licensing 2003 Act already recognises the additional burden that large events can cause for local authorities by applying an additional licence fee for events where more than 4,999 people are present.
- 3.28. **This consultation therefore proposes that only events with an audience of fewer than 5,000 people are deregulated from the 2003 Act.**
- 3.29. We would welcome views on this figure in the questions at the end of this chapter. The Association of Chief Police Officers has, for example, suggested that the 500 audience limit which applies to Temporary Event Notices may be a more appropriate starting point.
- 3.30. Similarly, we would welcome views on whether there should be different limits for different types of entertainment – for example whether unamplified music performances should have no audience limit applied at all (as they are self-limiting, due to acoustic reach), and whether outdoor events should be treated differently to those held in a building. Again, questions relating generically to these issues are posed at the end of this chapter.

Time of events

- 3.31. Noise nuisance can be a particular issue of concern for those living near venues. It has been argued that particular controls need to be applied to events held after 11pm. The background to this issue is that 11pm is stipulated in existing noise legislation as the beginning of “night hours” (defined by the World Health Organisation as *the period beginning with 11pm and ending with the following 7am*) in the Noise Act 1996 and the point at which the control powers of the Noise Act begin to apply.
- 3.32. **This consultation does not propose applying an 11pm cut off for the deregulation of regulated entertainment.** This is because existing legal powers in the Noise Act 1996 already make special provision to deal with problems occurring after 11pm for alcohol licensed premises, which will cover the vast majority of venues for entertainment. Noise Act powers work in tandem with the Licensing Act 2003 so that any premises that is not abiding by its licence conditions can be immediately tackled by Local Authority officers, but it should be noted that most Local Authorities do not operate a full nuisance complaints service outside normal working hours.
- 3.33. The Anti-Social Behaviour Act 2003 provides Local Authorities with powers to immediately close noisy premises for up to 24 hours, with consequences of up to three months in prison, a fine up to £20,000, or both. Whilst this is a substantial deterrent we would be grateful for views relating to any potential problems or enforcement or

resourcing issues, including where there may be other issues, such as “out of hours” resourcing.

- 3.34. Additional measures under the Criminal Justice and Public Order Act 1994 cover outdoor night time music events that are not licensed under the 2003 Act. Most currently regulated entertainment does not go beyond 11pm, but to impose a cut off would introduce inflexibility and in effect make it illegal for an unlicensed performance to run 10 minutes over time. This would simply reintroduce the kind of unintended consequences the deregulation seeks to remove whereby illegality has no bearing on the impact of the actual individual activity.
- 3.35. In the recent debate during the Committee stage of the Live Music Bill in the House of Lords, several speakers, expressed their support for a cut off time of midnight for exemptions for small music events.³
- 3.36. The Government is therefore not proposing any time related cut off for entertainment which is to be deregulated from the 2003 Act. However, we welcome views on this issue at the end of this chapter. This includes seeking views on whether any time restrictions should apply and, if so, whether this should be the same for all entertainment activities or just those which are believed to pose a particular risk. It would also be helpful to have views on whether there should be a distinction between indoor and outdoor events.
- 3.37. One alternative option to the current licensing arrangement could be to develop a Code of Practice for entertainment venues. This could help to ensure preventative best practice without the need for regulation. While this would have no statutory sanctions, it would encourage good practice. Would such an approach mitigate risks? Again, we would welcome views.

³ publications.parliament.uk/pa/ld201011/ldhansrd/text/110715-0001.htm#11071554000685

The Role of Licensing Controls: Questions

Q11: Do you agree that events for under 5,000 people should be deregulated across all of the activities listed in Schedule One of the Licensing Act 2003?

Q12: If you believe there should be a different limit – either under or over 5,000, what do you think the limit should be? Please explain why you feel a different limit should apply and what evidence supports your view.

Q13: Do you think there should be different audience limits for different activities listed in Schedule One? If so, please could you outline why you think this is the case. Please could you also suggest the limits you feel should apply to the specific activity in question.

Q14: Do you believe that premises that would no longer have a licence, due to the entertainment deregulation, would pose a significant risk to any of the four original licensing objectives? If so please provide details of the scenario in question.

Q15: Do you think that outdoor events should be treated differently to those held indoors with regard to audience sizes? If so, please could you explain why, and what would this mean in practice.

Q16: Do you think that events held after a certain time should not be deregulated? If so, please could you explain what time you think would be an appropriate cut-off point, and why this should apply.

Q17: Should there be a different cut off time for different types of entertainment and/or for outdoor and indoor events? If so please explain why.

Q18: Are there alternative approaches to a licensing regime that could help tackle any potential risks around the timing of events?

Q19: Do you think that a code of practice would be a good way to mitigate potential risks from noise? If so, what do think such a code should contain and how should it operate?

Q20: Do you agree that laws covering issues such as noise, public safety, fire safety and disorder, can deal with potential risks at deregulated entertainment events? If not, how can those risks be managed in the absence of a licensing regime?

Q21: How do you think the timing / duration of events might change as a result of these proposals? Please provide reasoning and evidence for any your view.

Q22: Are there any other aspects that need to be taken into account when considering the deregulation of Schedule One in respect of the four licensing objectives of the Licensing Act 2003?

Chapter 4: Performance of Live Music

Introduction

4. The Coalition Agreement committed to cutting red tape to encourage the performance of more live music.
 - 4.1. We intend to honour this agreement in two ways. The first is to honour our public commitment to support the Live Music Bill, a Private Member's Bill tabled in 2010 in the House of Lords by Lord Clement Jones, which followed a recommendation for live music deregulation by the Culture, Media and Sport Select Committee in 2009 and a full public consultation on the subject in 2010. Because of this, the Live Music Bill is **not** the subject of this consultation.⁴
 - 4.2. The second is to examine, through this consultation, whether our proposed deregulation is ambitious enough for the vast quantity of talent in England and Wales that would benefit from a wider deregulation than the Live Music Bill will, alone, permit. In examining live music we would be grateful for responses to the generic questions posed in chapter 3, and also to the live music questions based on the consultation proposal below.
 - 4.3. Live music is at the heart of our national and local cultural traditions, and continues to play a very important part in our national and local identity. As well as being exhilarating and inclusive, music can change the way we view ourselves and how others perceive us. Our musical heritage is strongly felt across England and Wales, with a live line of performance from folk and traditional song through many hundreds of years to our present day with internationally famous local music scenes across so many towns and cities.
 - 4.4. In recent years though, whilst music in large venues is thriving, music in small venues has been gradually dwindling. Many pubs – the traditional venue of much live music - have closed, and there has been a downward trend in music provision in secondary venues⁵.

⁴ Lord Clement Jones' Bill was tabled last year, and can be read in full at: services.parliament.uk/bills/2010-11/livemusichl/documents.html

⁵ webarchive.nationalarchives.gov.uk/%2B/culture.gov.uk/reference_library/research_and_statistics/4854.a ^{spx}

Our proposal

- 4.5. **This proposal is to deregulate public performance of live music (both amplified and unamplified) for audiences of fewer than 5,000 people.**
- 4.6. As outlined in Chapter 3, other legislative protections already exist in respect of each of the four licensing objectives, and it is those measures that should be used as controls for music events, rather than an inflexible and burdensome licensing system.

Audience size

- 4.7. The issues around size and time of events are often raised in relation to events such as large music festivals, which would continue to require a licence under Government proposals if they have capacities of 5,000 people or greater. As explained in chapter 3, the 5,000 limit is already recognised as an audience threshold for larger events in the sporting and entertainment sectors. This limit features also as a capacity boundary for fees in the Licensing Act 2003, recognising intrinsic issues associated with controls for events above that size of audience.
- 4.8. With regard to unamplified music, there is a potential argument that no audience limit is necessary due to the self-limiting possibilities from the event's acoustic reach. So we would thus welcome views on whether unamplified music should simply be deregulated with no restrictions on numbers or on the time of day.

Performance of Live Music: Questions

Q23: Are there any public protection issues specific to the deregulation of the performance of live music that are not covered in chapter 3 of this consultation? If so, how could they be addressed in a proportionate and targeted way?

Q24: Do you think that unamplified music should be fully deregulated with no limits on numbers and time of day/night? If not, please explain why and any evidence of harm.

Q25: Any there any other benefits or problems associated specifically with the proposal to deregulate live music?

Chapter 5: Performance of plays

Introduction

5. The regulation of plays has a long and famous history. The Licensing Act 2003 provided the first amendments to theatre licensing since the Theatres Act 1968, which released playwrights from the strict censorship of the Lord Chamberlain that had been in place since the introduction of the Licensing Act 1737.
- 5.1 It made clear that licensing authorities could not generally refuse a theatre licence on content grounds. The 1968 Act updated other aspects of law which still stand on the statute book – around obscenity, defamation and provocation of a breach of peace.

Venue sizes

- 5.2. Each year, there are an estimated 92,000 performances of plays by voluntary or amateur groups alone, with the vast majority held in small venues or by touring productions. For many of these venues existence is hand to mouth, and individual productions are in constant jeopardy due to the need to recoup staging costs. We believe that deregulation of some of the requirements where alcohol is not sold or supplied offers a real opportunity to help make the staging of plays and performances in smaller venues much easier, as well as enabling greater opportunity for “site specific” theatre (for example, productions set in factories or forests) to flourish.

Regeneration and renewal

- 5.3. The British theatre ecology is wide and varied, with amateur groups and fringe productions playing an important role in feeding into larger venues. The importance of theatre to the UK economy is well documented, with studies such as the Shellard Report (2004) showing a positive annual economic impact of £2.6bn.
- 5.4. We have seen the impact of theatre on small and large scale cultural festivals across the regions –the Edinburgh Festivals are thought to contribute £245m to the local economy. Cultural festivals have a huge regenerative effect and provide a highly positive community self-image.

Educative value

- 5.5. Plays offer an almost unique opportunity to engage children, enhancing self-value, attendance within education, and participatory skills. At present it is not necessary for a school to apply for a licence where parents are admitted for free, but if the school wishes to perform for the wider public or charge a small entry fee to benefit the Parent-Teacher Association (PTA), a licence is required. As with dance and live music, this is one example of how removing the regulatory burden will free up schools

(and similarly community and volunteer groups) to put on low risk productions in the community.

- 5.6. But the educational effect of theatre does not stop at schools. The effects of prison theatre for example have a major role in rehabilitation, and public performance can have a similarly beneficial effect on self-value as seen in other educational forums.

Our proposal

- 5.7. This consultation proposes that we remove theatre from the list of regulated entertainment in Schedule One to the Licensing Act 2003 for audiences of fewer than 5,000 people.
- 5.8. Existing controls from the 1968 Theatres Act on obscenity, defamation and provocation of a breach of peace remain on the statute book, and separate rules on health and safety and children's protection are set out in Chapter 3.

Performance of Plays: Questions

Q26: Are there any public protection issues specific to the deregulation of the performance of plays that are not covered in chapter 3 of this consultation? If so, how could they be addressed in a proportionate and targeted way?

Q27: Are there any health and safety considerations that are unique to outdoor or site specific theatre that are different to indoor theatre that need to be taken into account?

Q28: Licensing authorities often include conditions regarding pyrotechnics and similar HAZMAT handling conditions in their licences. Can this type of restriction only be handled through the licensing regime?

Q29: Any there any other benefits or problems associated specifically with the proposal to deregulate theatre?

Chapter 6: Performance of dance

Introduction

6. The main reasons for licensing performance of dance have historically centred around ensuring audience protection from unsuitable content, health and safety issues related to venues and performers, and generic noise control issues as outlined in Chapter 3.
- 6.1. At present dance in England and Wales is undergoing an explosion of interest across a very wide socio-demographic, with heightened interest in various forms of dance from street dance to ballroom as typified by television shows like *Britain's Got Talent*, *Strictly Come Dancing* and *So You Think You Can Dance?*.
- 6.2. There are multiple benefits from participation in this type of activity. As well as healthier lifestyles, there are social bond benefits in participation and performance. In addition the performance aspect of dance leads to awareness of teamwork and self esteem. As with plays, there is an empowering Big Society effect where local public place and local performance meet.
- 6.3. On many occasions, dance performance will be licensable, creating burdens on amateur dance groups and schools across England and Wales. At present schools are exempt from licensing requirements where parents are admitted for free, but if a school wished to admit the public or charge a small entry fee to benefit the Parent-Teacher Association (PTA), a licence or TEN would be required. This is one simple example of how removing the regulatory burden will free up schools (and similarly community and volunteer groups) to put on low risk productions in the community.

Our proposal

- 6.4. **This consultation proposal is to remove dance from the definition of “regulated entertainment” in Schedule One to the Licensing Act 2003 for events for audiences of fewer than 5,000 people.**
- 6.5. Please note that Chapter 10 outlines that the Government is not proposing any relaxation of adult entertainment that could be classified as a performance of dance.

Performance of Dance: Questions

Q30: Are there any public protection issues specific to the deregulation of the performance of dance that are not covered in chapter 3 of this consultation? If so, how could they be addressed in a proportionate and targeted way?

Q31: Any there any other benefits or problems associated the proposal to deregulate the performance of dance?

Chapter 7: Exhibition of film

Introduction

7. The exhibition of a film (defined as “any exhibition of moving pictures”) for public performance in England and Wales requires a licence.
 - 7.1. Aside from any venue-specific operating conditions, as outlined in Chapter 3, the Licensing Act 2003 stipulates that licences to exhibit film must include as a mandatory condition that exhibitors comply with age classification restrictions on film content.
 - 7.2. Section 20 of the Licensing Act 2003 sets out that that the licensing authority may itself provide the age restriction classification, or may defer to a qualified body under the Video Recordings Act 2004 (currently this is a role designated to the British Board of Film Classification “BBFC”).
 - 7.3. Although licensing authorities use the BBFC ratings almost without exception, occasionally some licensing authorities have chosen to impose their own film classification to reflect local concerns.
 - 7.4. In addition, licensing authorities are able to classify films that have not been given a BBFC rating. This can be because the film is not intended for national distribution - perhaps it is a local film or documentary intended mainly for streaming over the internet - or because a national classification will follow at a later point, as is the case with some film festivals, where a film is previewed before the final cut is made for distribution.

Current situation - discrepancies

- 7.5. The existing BBFC and local licensing authority classification situation is, in our view, an effective mechanism to ensure child protection from unsuitable content and the Government has no intention of deregulating the exhibition of film unless it is able to continue the classification system which is well understood and is working effectively. However, the Government believes the licensing of film under the 2003 Act is largely unnecessary and disproportionate.
- 7.6. Examples have been where pre-school nurseries have required a licence to show children’s DVDs. There have been cases where pubs or clubs have wished to host a “tribute night” showing, for example, a recording of the 1966 World Cup final, but have been prevented from doing so by not having a licence. The list could extend to many other low risk activities, such as a members clubs wanting to show reruns of Virginia Wade’s Wimbledon victory during Wimbledon fortnight. Similarly if a venue without a licence permission for the exhibition of film wanted to run a film theme night, showing foreign film, or seasonal showing such as “It’s a Wonderful Life” at Christmas time –

they would require a licence or a TEN.

- 7.7. Additionally, where a venue wants to show a live broadcast of a football match there would not be a problem, but showing a broadcast that had been pre-recorded – even by a few minutes – would be classed as a licensable activity.
- 7.8. Besides these practical problems with the legislation as it stands, we have considered the potential benefits to film societies and community based film projects by removing the need for a licence – removing costs and bureaucracy. We would be grateful for your views on this aspect in the questions below.

Our proposal

- 7.9. **This consultation proposal is to remove “exhibition of film” from the definition of “regulated entertainment” in Schedule One to the Licensing Act 2003 for events with audiences of fewer than 5,000 people. But before doing so we would ensure that the age classification safeguards could be retained.**
- 7.10. To do this we would use primary legislation to amend existing legislation before removing the activity from the Licensing Act 2003, so that there are no gaps in child protection. We see no reason to disrupt the arrangement where local licensing authorities are able to make local decisions on classifications, and we see the practical advantages in doing so.

Cinema advertising

- 7.11. A separate consultation will be launched in the near future examining whether there is an ongoing need for both BBFC regulation and industry co-regulation of cinema advertising shown in auditoriums. **This is not the subject of this consultation.**

Exhibition of Film: Questions

Q32: Do you agree with the Government’s position that it should only remove film exhibition from the list of regulated activities if an appropriate age classification system remains in place?

Q33: Do you have any views on how a classification system might work in the absence of a mandatory licence condition?

Q34: If the Government were unable to create the situation outlined in the proposal and above (for example, due to the availability of Parliamentary time) are there any changes to the definition of film that could be helpful to remove unintended consequences, as outlined earlier in this document - such as showing children’s DVDs to pre-school nurseries, or to ensure more parity with live broadcasts?

Q35: Are there any other issues that should be considered in relation to deregulating the exhibition of film from licensing requirements?

Chapter 8: Indoor sport

Introduction

8. Indoor sport held before a public audience is also regulated by the Licensing Act 2003, unlike outdoor sport (excluding Boxing and Wrestling). It is unclear why indoor sport should be subject to this additional level of regulation. Sport in outdoor venues, including those with moveable roofs, is regulated by a different regime and does not require a licence under the 2003 Act.

8.1. Indoor sport is defined as: a sporting event which takes place wholly inside a building in front of spectators. Sport includes any game in which physical skill is the predominant factor, and any form of physical recreation which is also engaged in for purposes of competition or display. This includes activities such as gymnastics, netball, ice hockey and swimming as well as acrobatic displays at a circus or, where there is an audience, darts and snooker.

Outdoor sport

8.2. Football is obviously one of the key spectator sports in England and Wales, and in the past has a history of crowd management problems. Football is regulated by the Safety of Sports Grounds Act 1975, modified by the Safety of Sports Grounds (Accommodation of Spectators) Order 1996, which makes use of a capacity spectator threshold of 5,000 before the specific designations need to be put in place for Premiership or Football League grounds. A higher limit, of 10,000, applies to other sports grounds.

Indoor sport

8.3. The Government believes that the different approaches to outdoor and indoor sports are not justified and that indoor sport should be brought more in line with the arrangements for outdoor events.

8.4. This consultation therefore seeks views on the removal of indoor sport, for venues with under 5,000 spectators. Deregulating indoor sports with a capacity of below 5,000 spectators would put sports such as snooker, gymnastics and swimming on a par with football, which is often seen as a greater risk due to incidents of public disorder.

Indoor Sport: Questions

Q36: Are there any public protection issues specific to the deregulation of the indoor sport that are not covered in chapter 3 of this consultation? If yes, please outline the specific nature of the sport and the risk involved and the extent to which other interventions can address those risks.

Q37: Are there any other issues that should be considered in relation to deregulating the indoor sport from licensing requirements?

Chapter 9: Boxing and Wrestling

Introduction

9. Public exhibition of boxing and wrestling and events of a similar nature are classed as regulated entertainment under Schedule One of the Licensing Act 2003.
- 9.1. Boxing and wrestling have historically been subject to licensing controls to ensure there is a safe environment for spectators with regard to crowd control and certain health and safety aspects connected with the physical activity on display. In addition, the licence requirement has provided additional safeguards for participants.
- 9.2. **This consultation proposes that boxing exhibitions, and events of a similar nature, should in general continue to be licensed.** However, we would welcome views as to whether boxing and wrestling events that are organised by the governing bodies of the sport recognised by the Sports Councils should continue to require licences under the 2003 Act. In addition, we would welcome views on whether the definition of boxing and wrestling should be refined to ensure it includes, for example, martial arts and cage fighting.

Boxing and Wrestling, and Events of a Similar Nature: Questions

Q38: Do you agree with our proposal that boxing and wrestling should continue to be regarded as “regulated entertainment”, requiring a licence from a local licensing authority, as now?

Q39: Do you think there is a case for deregulating boxing matches or wrestling entertainments that are governed by a recognised sport governing body? If so please list the instances that you suggest should be considered.

Q40. Do you think that licensing requirements should be specifically extended to ensure that it covers public performance or exhibition of any other events of a similar nature, such as martial arts and cage fighting? If so, please outline the risks that are associated with these events, and explain why these cannot be dealt with via other interventions

Chapter 10: Recorded Music and Entertainment Facilities

Background: recorded music

10. The playing of recorded music to an audience is licensable under the Licensing Act 2003, where music is more than merely incidental to another activity that is not, in itself, regulated entertainment. For example, recorded music playing in a hotel lobby or a shop is not likely to be thought to be the primary reason for attendance at that location and does not require a licence – but a performance of a set by a famous DJ is likely to be currently licensable in pursuance of the four licensing objectives of the Licensing Act 2003
- 10.1. We see no reason why recorded music needs to be licensed. If live music should be deregulated, as is our proposal, then we feel that the same principles should apply to recorded music, with the same controls and sanctions available to ensure that good practice is followed.
- 10.2. Please note that this is not the same issue as a requirement to pay the Performing Rights Society or similar organisation for use of their artists' intellectual copyright – the proposal is simply to deregulate from a licensing regime in pursuance of the four licensing objectives of the Licensing Act 2003.

Our proposal

- 10.3. **We propose to remove the need for a special licence for the playing of recorded music to audiences of fewer than 5,000 people.** In the case of premises licensed to sell alcohol, we feel that this proposal is very sound. The possibility of a licence review, which can lead to the removal of an alcohol licence, a heavy fine, or even a sentence of up to six months imprisonment for the licence holder, provides a compelling reason for licensed premises to comply.
- 10.4. Where recorded music is played in other situations (such as a disco in a village hall with no alcohol licence) local management arrangements are likely to provide a common sense solution to any potential problems, coupled with the protections available in the Environmental Protection Act 1990. Nonetheless we welcome views on the subject below.
- 10.5. We have also received representations on the subject of “raves” and whether this proposal would open up loopholes in the law with regard to illegal raves, and again, we pose questions below to ensure that this proposals does not open up any gaps in the law.

Entertainment facilities

10.6. The definition of “entertainment facilities” in the Licensing Act 2003 has proved to be a thorny issue.

10.7. Entertainment facilities are defined in the Licensing Act 2003 in the following manner:

“entertainment facilities” means facilities for enabling persons to take part in entertainment of a description falling within sub-paragraph (2) for the purpose, or for purposes which include the purpose, of being entertained.

(2)The descriptions of entertainment are—

- (a) making music,
- (b) dancing,
- (c) entertainment of a similar description to that falling within paragraph (a) or (b).

10.8. The intention of the principle of “entertainment facilities” in the Licensing Act 2003 was to ensure that as well as ensuring that the activities classified as “regulated entertainment” were properly considered by licensing authorities, any key equipment and its effects were similarly reviewed.

10.9. This consultation proposes to remove the need for consideration of entertainment facilities in any eventuality. This would cover, karaoke, musical instruments, dance floors and other equipment needed in support of making music or dancing. We would be grateful for views on this proposal.

Recorded Music and Entertainment Facilities: Questions

Q41: Do you think that, using the protections outlined in Chapter 3, recorded music should be deregulated for audiences of fewer than 5,000 people? If not, please state reasons and evidence of harm.

Q42: If you feel that a different audience limit should apply, please state the limit that you think suitable and the reasons why this limit is the right one.

Q43: Are there circumstances where you think recorded music should continue to require a licence? If so, please could you give specific details and the harm that could be caused by removing the requirement?

Q44: Any there any other benefits or problems associated specifically with the proposal to deregulate recorded music?

Q45: Are there any specific instances where Entertainment Facilities need to be regulated by the Licensing Act, as in the current licensing regime? If so, please provide details.

Chapter 11: Clearing up unintended consequences: clear laws and clear guidance

Introduction

11. There is a great deal of evidence that licensing authorities and event's organisers find parts of the Licensing Act 2003 very difficult to interpret. The 2003 Act is a voluminous and highly complex piece of legislation, and this has led to different interpretations across licensing authorities. In this chapter we would be grateful for views on this issue, and on how best to ensure greater clarity around entertainment licensing, notwithstanding the proposals to remove most regulated entertainment set out earlier in this document.

Clear laws and clear guidance

11.1. Where it is possible to clear up any problematic issues with regard to regulated entertainment we would like to take the opportunity to do so via this consultation.

Unintended consequences: Questions

Q46: Are there any definitions within Schedule One to the Act that are particularly difficult to interpret, or that are otherwise unclear, that you would like to see changed or clarified?

Q47: Paragraph 1.5 outlines some of the representations that DCMS has received over problems with the regulated entertainment aspects of the Licensing Act 2003. Are you aware of any other issues that we need to take into account?

Adult entertainment

11.2. **We see no reason to deregulate adult entertainment and this consultation is not seeking views on this issue.**

11.3. Although adult entertainment is not specified in Schedule One to the Licensing Act 2003 as a licensable activity, the Act does play a part in the current controls process.

11.4. The Policing and Crime Act 2009 amended the Local Government (Miscellaneous Provisions) Act 1982 to make provision for the regulation of "sexual entertainment venues". As a result, venues that hold **regular** performance of adult entertainment,

such as lap dance, table dancing or striptease require a separate permission from the local authority.

- 11.5. The Licensing Act 2003 does though play a part in controlling performance of this nature that is held **infrequently**. Specifically, a venue is a sexual entertainment venue where live performance or live display of nudity is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).
- 11.6. However, this does not apply when the venues has not been used on more than eleven occasions for such activities in the previous 12 months. In those instances, the activity is regulated under the 2003 Act as a performance of dance. In deregulating dance, the Government would ensure that there was no change in how sex entertainment is regulated.

Adult Entertainment: Question

Q48: Do you agree with our proposal that deregulation of dance should not extend to sex entertainment? Please provide details.

Annex A: Summary list of questions

Proposal Impacts: Questions

Q1: Do you agree that the proposals outlined in this consultation will lead to more performances, and would benefit community and voluntary organisations? If yes, please can you estimate the amount of extra events that you or your organisation or that you think others would put on?

Q2: If you are replying as an individual, do you think this proposal would help you participate in, or attend, extra community or voluntary performance?

Q3: Do you agree with our estimates of savings to businesses, charitable and voluntary organisations as outlined in the impact assessment? If you do not, please outline the areas of difference and any figures that you think need to be taken into account (see paragraph 57 of the Impact Assessment).

Q4: Do you agree with our estimates of potential savings and costs to local authorities, police and others as outlined in the impact assessment? If you do not, please outline the areas of difference and any figures you think need to be taken into account.

Q5: Would you expect any change in the number of noise complaints as a result of these proposals? If you do, please provide a rationale and evidence, taking into account the continuation of licensing authority controls on alcohol licensed premises and for late night refreshment

Q6: The Impact Assessment for these proposals makes a number of assumptions around the number of extra events, and likely attendance that would arise, if the deregulation proposals are implemented. If you disagree with the assumptions, as per paragraphs 79 and 80 of the Impact Assessment, please provide estimates of what you think the correct ranges should be and explain how those figures have been estimated.

Q7: Can you provide any additional evidence to inform the Impact Assessment, in particular in respect of the impacts that have not been monetised?

Q8: Are there any impacts that have not been identified in the Impact Assessment?

Q9: Would any of the different options explored in this consultation have noticeable implications for costs, burdens and savings set out in the impact assessment? If so, please give figures and details of evidence behind your assumptions.

Q10: Do you agree that premises that continue to hold a licence after the reforms would be able to host entertainment activities that were formerly regulated without the need to go through a Minor or Full Variation process?

The Role of Licensing Controls: Questions

Q11: Do you agree that events for under 5,000 people should be deregulated across all of the activities listed in Schedule One of the Licensing Act 2003?

Q12: If you believe there should be a different limit – either under or over 5,000, what do you think the limit should be? Please explain why you feel a different limit should apply and what evidence supports your view.

Q13: Do you think there should be different audience limits for different activities listed in Schedule One? If so, please could you outline why you think this is the case. Please could you also suggest the limits you feel should apply to the specific activity in question.

Q14: Do you believe that premises that would no longer have a licence, due to the entertainment deregulation, would pose a significant risk to any of the four original licensing objectives? If so please provide details of the scenario in question.

Q15: Do you think that outdoor events should be treated differently to those held indoors with regard to audience sizes? If so, please could you explain why, and what would this mean in practice.

Q16: Do you think that events held after a certain time should not be deregulated? If so, please could you explain what time you think would be an appropriate cut-off point, and why this should apply.

Q17: Should there be a different cut off time for different types of entertainment and/or for outdoor and indoor events? If so please explain why.

Q18: Are there alternative approaches to a licensing regime that could help tackle any potential risks around the timing of events?

Q19: Do you think that a code of practice would be a good way to mitigate potential risks from noise? If so, what do think such a code should contain and how should it operate?

Q20: Do you agree that laws covering issues such as noise, public safety, fire safety and disorder, can deal with potential risks at deregulated entertainment events? If not, how can those risks be managed in the absence of a licensing regime?

Q21: How do you think the timing / duration of events might change as a result of these proposals? Please provide reasoning and evidence for any your view.

Q22: Are there any other aspects that need to be taken into account when considering the deregulation of Schedule One in respect of the four licensing objectives of the Licensing Act 2003?

Performance of Live Music: Questions

Q23: Are there any public protection issues specific to the deregulation of the performance of live music that are not covered in chapter 3 of this consultation? If so, how could they be addressed in a proportionate and targeted way?

Q24: Do you think that unamplified music should be fully deregulated with no limits on numbers and time of day/night? If not, please explain why and any evidence of harm.

Q25: Any there any other benefits or problems associated specifically with the proposal to deregulate live music?

Performance of Plays: Questions

Q26: Are there any public protection issues specific to the deregulation of the performance of plays that are not covered in chapter 3 of this consultation? If so, how could they be addressed in a proportionate and targeted way?

Q27: Are there any health and safety considerations that are unique to outdoor or site specific theatre that are different to indoor theatre that need to be taken into account?

Q28: Licensing authorities often include conditions regarding pyrotechnics and similar HAZMAT handling conditions in their licences. Can this type of restriction only be handled through the licensing regime?

Q29: Any there any other benefits or problems associated specifically with the proposal to deregulate theatre?

Performance of Dance: Questions

Q30: Are there any public protection issues specific to the deregulation of the performance of dance that are not covered in chapter 3 of this consultation? If so, how could they be addressed in a proportionate and targeted way?

Q31: Any there any other benefits or problems associated the proposal to deregulate the performance of dance?

Exhibition of Film: Questions

Q32: Do you agree with the Government's position that it should only remove film exhibition from the list of regulated activities if an appropriate age classification system remains in place?

Q33: Do you have any views on how a classification system might work in the absence of a mandatory licence condition?

Q34: If the Government were unable to create the situation outlined in the proposal and above (for example, due to the availability of Parliamentary time) are there any changes to the definition of film that could be helpful to remove unintended consequences, as outlined earlier in this document - such as showing children's DVDs to pre-school nurseries, or to ensure more parity with live broadcasts?

Q35: Are there any other issues that should be considered in relation to deregulating the exhibition of film from licensing requirements?

Indoor Sport: Questions

Q36: Are there any public protection issues specific to the deregulation of the indoor sport that are not covered in chapter 3 of this consultation? If yes, please outline the specific nature of the sport and the risk involved and the extent to which other interventions can address those risks.

Q37: Are there any other issues that should be considered in relation to deregulating the indoor sport from licensing requirements?

Boxing and Wrestling, and Events of a Similar Nature: Questions

Q38: Do you agree with our proposal that boxing and wrestling should continue to be regarded as "regulated entertainment", requiring a licence from a local licensing authority, as now?

Q39: Do you think there is a case for deregulating boxing matches or wrestling entertainments that are governed by a recognised sport governing body? If so please list the instances that you suggest should be considered.

Q40. Do you think that licensing requirements should be specifically extended to ensure that it covers public performance or exhibition of any other events of a similar nature, such as martial arts and cage fighting? If so, please outline the risks that are associated with these events, and explain why these cannot be dealt with via other interventions.

Recorded Music and Entertainment Facilities: Questions

Q41: Do you think that, using the protections outlined in Chapter 3, recorded music should be deregulated for audiences of fewer than 5,000 people? If not, please state reasons and evidence of harm.

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Q45: Are there any specific instances where Entertainment Facilities need to be regulated by the Licensing Act, as in the current licensing regime? If so, please provide details.

Unintended consequences: Questions

Q46: Are there any definitions within Schedule One to the Act that are particularly difficult to interpret, or that are otherwise unclear, that you would like to see changed or clarified?

Q47: Paragraph 1.5 outlines some of the representations that DCMS has received over problems with the regulated entertainment aspects of the Licensing Act 2003. Are you aware of any other issues that we need to take into account?

Adult Entertainment: Question

Q48: Do you agree with our proposal that deregulation of dance should not extend to sex entertainment? Please provide details.

Annex B: How to Respond

You can respond to the consultation in the following ways:

Online

regulated entertainment consultation at culture.gsi.gov.uk

By post

You can print out the summary list of questions above and fill in responses by hand. Please send these to:

Nigel Wakelin
Regulated Entertainment Consultation Co-ordinator
Department for Culture, Media and Sport
2-4 Cockspur Street
London
SW1Y 5DH

Closing date

The closing date for responses is **3 December, 2011**.

After the consultation

We will post a summary of answers on the DCMS website (culture.gov.uk) after the end of the consultation together with an analysis of responses. We will publish the Government's response in due course.

Freedom of Information

We are required to release information to comply with the Environmental Information Regulations 2004 and Freedom of Information Act 2000. We will not allow any unwarranted breach of confidentiality, nor will we contravene our obligations under the Data Protection Act 1998, but please note that we will not treat any confidentiality disclaimer generated by your IT system in e-mail responses as a request not to release information.

Compliance with the Code of Practice on Consultation

This consultation complies with the Code.

Complaints

If you have any comments or complaints about the consultation process (as opposed to comments on these issues that are part of the consultation) please send them to:

Complaints Department (Consultations)
Department for Culture, Media and Sport
2-4 Cockspur Street
London
SW1Y 5DH

Annex C: List of Consultees

Anyone can respond to this consultation. This list of consultees indicates those organisations that we will contact to suggest that they may wish to respond.

Agents' Association
Action with Communities in Rural England
Alcohol Concern
Amateur Boxing Association
Arts Council England
Arts Council of Wales
Association of British Insurers
Association of Chief Police Officers
Association of Circus Proprietors of Great Britain
Association of Festival Organisers (AFO)
Association of Independent Festivals
Association of Independent Music (AIM)
Association of Inland Navigation Authorities
Association of Licensed Multiple Retailers
Association of School and College Leaders
Association of Show and Agricultural Organisations
BII (British Institute of Innkeeping)
BPI (The British Recorded Music Industry)
British Arts Festivals Association
British Association of Concert Halls
British Beer and Pub Association
British Board of Film Classification (BBFC)
British Boxing Board of Control
British Film Institute (BFI)
British Holiday and Home Parks Association
British Hospitality and Restaurant Association
British Marine Federation
British Retail Consortium
British Wrestling Association
Business in Sport and Leisure
Cadw
Campaign for Real Ale
Carnival Village
Charity Commission
Chartered Institute of Environmental Health
Chief Fire Officers' Association
Children's Society
Cinema Advertising Association
Cinema Exhibition Association
Circus Arts Forum

Commission for Rural Communities
Committee of Registered Clubs Associations
Community Matters
Dance UK
English Folk Dance and Song Society
English Heritage
Equity
Federation of Licensed Victuallers
Federation of Licensed Victuallers (Wales)
Federation of Private Residents' Association
Federation of Small Businesses
Film Distributors' Association
Fire Officers Association
Football Licensing Authority (FLA)
Foundation for Community Dance
Guild of Master Victuallers
Health and Safety Executive (HSE)
Historic Houses Association
Independent Street Arts Network
Independent Theatre Council (ITC)
Institute of Licensing
International Live Music Conference
Jazz Services
Justices Clerk Society
Lap Dancing Association
Licensing Act Active Residents Network
Local Government Regulation (LGR)
Local Government Association (LGA)
Magistrates Association
Making Music (the National Federation of Music Societies)
Maritime and Coastguard Agency
Metropolitan Police
Musicians Union
National Arenas Association
National Association of Head Teachers
National Association of Local Councils
National Association of Local Government Arts Officers
National Campaign for the Arts
National Confederation of Parent Teacher Associations
National Farmers' Retail & Markets Association
National Governors' Association
National Neighbourhood Watch Association
National Operatic and Dramatic Association
National Organisation of Residents Associations
National Rural Touring Forum
National Village Halls Forum
Noctis
Noise Abatement Society
Open all Hours
Parliamentary Performers Alliance
Passenger Boat Association

Paterson's Licensing Acts
Police Federation
Police Superintendents' Association
Production Services Association
Rotary International in GB and Ireland
Society of Local Council Clerks
Society of London Theatres/ Theatrical Management Association (SLT/TMA)
Sports Council for Wales
Sport England
Sports and Recreation Alliance
The Theatres Trust
Tourism for All
Trading Standards Institute
UK Centre for Carnival Arts
UK Live Music Group
UK Music
UK Sport
Voluntary Arts Network
Welsh Local Government Association
Welsh Music Foundation
Welsh Council for Voluntary Action



department for
**culture, media
and sport**

2-4 Cockspur Street
London SW1Y 5DH
culture.gov.uk

Appendix 3

Summary of Questions & Responses - Consultation for the deregulation of Schedule 1 of the Licensing Act 2003 (Regulated Entertainment)

Proposal Impacts: Questions

Q1: Do you agree that the proposals outlined in this consultation will lead to more performances, and would benefit community and voluntary organisations? If yes, please can you estimate the amount of extra events that you or your organisation or that you think others would put on?

No

Community premises such as village halls, schools etc, tend to hold licences that permit a wide range of regulated entertainment activities already and are already exempt from licence fees. Therefore, it is not envisaged to impact significantly on this sector.

However those public houses and other commercial premises that failed to vary their licences when converting during the transitional period or when applying for a new licence can use the minor variation process for the minimum sum of only £89.

Many pubs that took advantage of the new regime already trade as entertainment venues, after benefiting from the new freedoms of the Licensing Act.

Q2: If you are replying as an individual, do you think this proposal would help you participate in, or attend, extra community or voluntary performance?

N/A

Q3: Do you agree with our estimates of savings to businesses, charitable and voluntary organisations as outlined in the impact assessment? If you do not, please outline the areas of difference and any figures that you think need to be taken into account (see paragraph 57 of the Impact Assessment).

No.

Variation applications involve an advertisement and 7 copies of an application form. An administrative cost of £950 seems excessive, especially given the increased use of electronic application.

Further for those premises that already hold a licence the Minor Variation process has greatly reduced the costs to add additional regulated entertainment.

Q4: Do you agree with our estimates of potential savings and costs to local authorities, police and others as outlined in the impact assessment? If you do not, please outline the areas of difference and any figures you think need to be taken into account.

No.

Most community premises already benefit from free premises licences for regulated entertainment. The other commercial premises mostly sell alcohol and therefore will

still be subjected to the full licence fees.

Environmental Health (Pollution) will still be consulted where there is the provision of alcohol and therefore we will still consider the impact on the Prevention of Public Nuisance licensing objective in relation to the provision of 'Late Night Refreshment' and the impact of persons on the premises and those leaving.

Q5: Would you expect any change in the number of noise complaints as a result of these proposals? If you do, please provide a rationale and evidence, taking into account the continuation of licensing authority controls on alcohol licensed premises and for late night refreshment.

Yes, I would expect a change and an increase in the number of noise complaints.

The positive impact of licences on the number of complaints has been underestimated. It is submitted that complaints will increase by 50% instead of the suggested maximum of 10%.

Outside pop concerts with attendance figures of <5000 that will not be regulated are likely to cause severe public nuisance and indefinite numbers of complaints especially if the Local Authority is not notified, i.e. if there is no alcohol provision or where there is a very limited licensable area, but there is also provision for several thousand to attend and listen to the music provided.

With specific mention to a live music event in the New Forest that did not have regulated entertainment provision on their premises licence and operated in the belief that they didn't need to vary their licence. The concert was undertaken without any apparent provision to control environmental noise and therefore created several complaints. The following year, there were several objections to the event; however, it was brought under the control of the Licensing Act 2003, operated under several licensing conditions, with the result that we only had one apparently vexatious complaint. The attendance was planned for a maximum of 2500 persons but this would have had severe public nuisance implications had it not been controlled.

Another proposed live music (spiritual) event within the New Forest was at the pre-application stage. The applicants were advised that it was likely to be turned down as they were likely to cause a severe public nuisance to a camp site nearby and therefore they withdrew their application. The event organiser then decided to apply for a Temporary Event Notice with the pretence that there would be a small licensable area for under 500; however, the area just outside this could hold several thousand people (<5000) which was turned down by the Police as there was a lack of a sterile route for the emergency services, plus the event appeared to have a small licensed area but the event was primarily a music event and this was outside the area that as being applied for un the TEN's. If the Police had missed this TEN, then it would have gone ahead and a serve public nuisance would have been caused.

Another event within the New Forest was an application for Jousting events to be held 7 days a week within an agricultural Building that was deemed unsuitable by the Environmental Health Officer. The licence was objected to and refused at the subsequent hearing. The decision was appealed but was withdrawn half way through the appeal at the Magistrates' Court. This event was in a building that had inherent holes throughout the building and had virtually nonexistent acoustic attenuating properties. The event would have gone ahead if it had not been regulated and the persons living in residential properties in the vicinity would have probably been

exposed to severe public nuisance until the complaint was investigated and Abatement Notice served. The problem would have been from people cheering and occasional amplified music. The applicant would have had the benefit of the defence of Best Practicable Means and therefore would probably not had to acoustically insulate the building to provide adequate attenuation to totally attenuate the public nuisance and the persons living in the vicinity would have had to continue to endure public nuisance.

Q6: The Impact Assessment for these proposals makes a number of assumptions around the number of extra events, and likely attendance that would arise, if the deregulation proposals are implemented. If you disagree with the assumptions, as per paragraphs 79 and 80 of the Impact Assessment, please provide estimates of what you think the correct ranges should be and explain how those figures have been estimated.

Applying for an outside pop concert is quite time consuming for the applicant and quite onerous, (but nevertheless essential to control complaints of public nuisance) therefore the number of concerts of <5000 will no doubt increase, especially in the New forest that has large open spaces in which to plan such events, but are still likely to cause severe public nuisance.

It is submitted that the number of Boxing and Wrestling events will have a minimal impact on policing compared to the increase in music festivals across the country. Boxing and Wrestling events are very insular and do not usually breach the licensing objectives.

Why these particular sports have been selected for special treatment both when the original Act was drafted and now as part of this consultation is not entirely clear, but is probably concerned with the pugilistic nature of the event and the atmosphere which this may generate.

Would however this special treatment be extended to include other contact sports such as martial arts etc?

Q7: Can you provide any additional evidence to inform the Impact Assessment, in particular in respect of the impacts that have not been monetised?

The cost of Appeals of Environmental Protection Act 1990 Section 80 Abatement Notices.

Q8: Are there any impacts that have not been identified in the Impact Assessment?

Enforcement of problem premises will no doubt fall back on the Environmental Protection act 1990 Sections 79 and 80. Premises will have a defence of Best Practicable Means whereas this defence is not available under the Licensing Act 2003.

Q9: Would any of the different options explored in this consultation have noticeable implications for costs, burdens and savings set out in the impact assessment? If so, please give figures and details of evidence behind your assumptions.

This office has had many conversations with premises licence holders/designated premises supervisors/premises managers wanting to add music on their licences. When we have explained the option of using the minor variation process, cost being £89 in total, they have reported that the brewery or pub co. will charge them £350 for this option and about £1000 to make a full variation.

Q10: Do you agree that premises that continue to hold a licence after the reforms would be able to host entertainment activities that were formerly regulated without the need to go through a Minor or Full Variation process?

If entertainment is deregulated they would not need permission to stage the entertainment and so a variation process will not apply.

The Role of Licensing Controls: Questions

Q11: Do you agree that events for under 5,000 people should be deregulated across all of the activities listed in Schedule One of the Licensing Act 2003?

No

Especially NOT for outside pop concerts.

The proposal seems to make a point that the figure of 5,000 is the watershed as to whether regulated entertainment should be licensed or not. It is believed that this benchmarking figure originally stems from sports ground legislation giving the impression that this level is based on safety considerations when in fact it was purely a football administrative concern. In fact previous legislation required certification by the local authority for any covered structure where the capacity exceeded 500 persons. The figure of 5,000 persons seems far too high, even the previous historical figure of 500, in our opinion, is still a high number for events held indoors.

Q12: If you believe there should be a different limit – either under or over 5,000, what do you think the limit should be? Please explain why you feel a different limit should apply and what evidence supports your view.

In this respect, the current limit of 500 persons and the requirement of TENS whereby 12 events in a year can be held is a fair balance. Whilst 500 persons at musical events can create disturbances and disorder, TENS impose some sort of restriction on frequency, and a requirement to notify the Police.

In addition, the exemptions for incidental music, background music, as well as for small premises, currently provides the right balance in this respect but should not be further diluted.

- i) All outside music events should be licensed if several events (i.e. more than the 12 events allowed under existing TEN provisions) are to be held at one site; or*
- ii) Outside events licensed if > 499 for one-off events.*

Q13: Do you think there should there be different audience limits for different activities listed in Schedule One? If so, please could you outline why you think

this is the case. Please could you also suggest the limits you feel should apply to the specific activity in question?

There is evidence to suggest that certain activities are less likely to cause a nuisance than others – however the administrative confusion that could arise from different limits for different activities would be unduly high and unnecessarily bureaucratic. It is far better to have a set standard figure and allow experts to give the necessary amount of scrutiny required according to its individual merits of the proposed event.

Q14: Do you believe that premises that would no longer have a licence, due to the entertainment deregulation, would pose a significant risk to any of the four original licensing objectives? If so please provide details of the scenario in question.

- i) *Jousting events in unsuitable buildings*
- ii) *Outside pop concerts*

Apart from the obvious increase in noise nuisance complaints, history has shown that the mixture of alcohol and music causes its own unique public safety and crime and disorder problems.

The proposal will lead to a loss of opportunity for regulatory services to provide guidance and where necessary regulate before an event occurs. This is most effective before an event when advice and guidance given to event organisers can effectively avoid risks to health and safety. There is the likelihood that regulators will have to invest resources in identifying prospective event organisers to give them advice about their legal duties.

Q15: Do you think that outdoor events should be treated differently to those held indoors with regard to audience sizes? If so, please could you explain why, and what would this mean in practice.

If the proposals do come into force then please consider limitations of 499 for indoor events & 999 for outdoor events involving activities previously known as 'regulated entertainment'.

OR strictly - 499 across the board.

Q16: Do you think that events held after a certain time should not be deregulated? If so, please could you explain what time you think would be an appropriate cut-off point, and why this should apply?

No

Event timings should be site specific and regulated at a local level.

It is counter-intuitive for the Government to re-balance the Licensing Act 2003 through the new provisions contained within the Police Reform and Social Responsibility Act 2011 in favour of local communities, giving local people more say with regards to problem or perceived problem premises whilst proposing to de-regulate most forms of regulated entertainment.

Q17: Should there be a different cut off time for different types of entertainment and/or for outdoor and indoor events? If so please explain why.

Yes

However, these should be site specific and regulated at local level. There are too many variables to be able to regulate nationally. Nevertheless, they should still be regulated locally.

No.

It is very difficult to make distinctions between inside and outdoors as some premises can not retain sound, whilst it may be possible to control noise outside in certain remote locations not near to residents.

Q18: Are there alternative approaches to a licensing regime that could help tackle any potential risks around the timing of events?

Temporary Event Notices already address this, allowing some control on the length and frequency of events

Q19: Do you think that a code of practice would be a good way to mitigate potential risks from noise? If so, what do think such a code should contain and how should it operate?

There is currently a 'Code of Practice' for Environmental Noise from Pop Concerts; however, this is not an 'Approved' Code of Practice.

A code of practice would have to be granted full 'legality' to be effective. However, the need for such a code recognises there is a need to regulate the potential for public nuisance caused by music.

A code would also risk the end of judging each application on its own merits and, in effect, prevent more than is currently permitted by way of licence.

Q20: Do you agree that laws covering issues such as noise, public safety, fire safety and disorder, can deal with potential risks at deregulated entertainment events? If not, how can those risks be managed in the absence of a licensing regime?

It is difficult to imagine how that situation could effectively be managed without replacing it with something that closely resembles a licence.

Food and Health and safety laws do adequately cover specific risks but from experience, laws alone are not sufficient to prevent incidents. There is the likelihood that regulators will have to invest resources in identifying prospective event organisers to give them advice about their legal duties in these areas. This is additional work where the licensing arrangements at present serve to provide advance notice of events.

They can be if adequate notice is given to the Local Authority so that they can organise resources.

With regards to noise, there is the additional burden of a defence of 'Best Practicable Means' (BPM). This was a factor with an Abatement Notice served on a public house

in Langley for noise from patrons in the external areas of the public house. The notice was appealed and the Magistrate decided that a statutory nuisance existed but the pub had taken BPM and therefore the nuisance still continues.

Q21: How do you think the timing / duration of events might change as a result of these proposals? Please provide reasoning and evidence for any your view.

One of the main controls of the licensing regime is imposing terminal hours on music. Pubs and clubs will undoubtedly play music longer and later.

Some unsuitable buildings will also be used for what is now known as 'Regulated Entertainment'.

Q22: Are there any other aspects that need to be taken into account when considering the deregulation of Schedule One in respect of the four licensing objectives of the Licensing Act 2003?

Public Nuisance: - the proposals appear to suggest that upon deregulation licensing conditions that address public nuisance (noise) will continue within the operating schedule of the licence or certificate, implying that some sort of applicable sanction can be imposed for non licensable activities. Likewise some conditions relate to limitation the number of occasions that events can be held, once again restrictions imposed for non licensable activities.

How would the licensing authority, responsible authorities and other persons judge which conditions are still relevant and enforceable and those that are not?

Are licences altered to reflect this proposal by default or by a proper process?

This could become very confusing to all parties involved of affected by these proposals.

If De-regulation were to occur then if the overall licensing objectives were kept, then it would be satisfying to know that the Responsible Authority would have the ability to call a premises licence in for Review and the hearing panel apply conditions to control the particular problem if one or more of the licensing objectives were undermined.

Performance of Live Music: Questions

Q23: Are there any public protection issues specific to the deregulation of the performance of live music that is not covered in chapter 3 of this consultation? If so, how could they be addressed in a proportionate and targeted way?

Deregulation will take away public accountability which is at the heart of the Licensing Act 2003. Problems associated with music events are often more contentious than selling alcohol

If there are no employees at a music event, it becomes very difficult to enforce health and safety legislation in the absence of a licence.

Once an Abatement Notice has been served under Section 80 of the Environmental Protection Act 1990, if that notice was to abate a statutory nuisance, then that notice would last for in perpetuity or until the person(s) or company/body served with the

notice ceased to be at that address. If there was a gap of over 6 months and complaints re-commenced, then the Local authority would normally be required to remind that person/company/body that the Abatement Notice was still in effect.

Q24: Do you think that unamplified music should be fully deregulated with no limits on numbers and time of day/night? If not, please explain why and any evidence of harm.

Again, events such as jousting within an unsuitable building have the potential to public nuisance from persons cheering etc. A public address system would be used and this also has the potential to cause public nuisance. Public safety might also be a factor if the local authority were not aware of an event.

Outside live unamplified music events are likely to be small due to the acoustic reach and therefore could potentially be de-regulated with regards to public nuisance, but nevertheless, might still have highway safety implications.

Q25: Any there any other benefits or problems associated specifically with the proposal to deregulate live music?

More events are likely to take place, potentially resulting in additional noise complaints and increase in out of hours resources to investigate noise complaints.

Performance of Plays: Questions

Q26: Are there any public protection issues specific to the deregulation of the performance of plays that are not covered in chapter 3 of this consultation? If so, how could they be addressed in a proportionate and targeted way?

Q27: Are there any health and safety considerations that are unique to outdoor or site specific theatre that are different to indoor theatre that need to be taken into account?

An outdoor venue will have specific hazards that do not affect indoor venues. The first being extremes of weather. Wet weather is usually worse with increased dangers involving electrics and where vehicles have to move through mud. Structures are usually temporary and have to be constructed by competent persons and be suitable for the site e.g. sloping ground. The temporary nature of such sites means access and egress arrangements have to be effectively planned as they will be untested. The electrical supply can be generated on site in which case it will have a temporary distribution system that has to be correctly installed and tested before use.

Q28: Licensing authorities often include conditions regarding pyrotechnics and similar HAZMAT handling conditions in their licences. Can this type of restriction only be handled through the licensing regime?

Q29: Any there any other benefits or problems associated specifically with the proposal to deregulate theatre?

Only an open air theatre.

Performance of Dance: Questions

Q30: Are there any public protection issues specific to the deregulation of the performance of dance that is not covered in chapter 3 of this consultation? If so, how could they be addressed in a proportionate and targeted way?

A modern trend are silent discos where participants listen to music whilst wearing headphones and therefore there would appear to be no environmental noise issues in relation to music but still a public safety issue in terms of hearing loss and persons leaving premises causing public nuisance on their way home or to another late night venue.

Q31: Any there any other benefits or problems associated the proposal to deregulate the performance of dance?

Exhibition of Film: Questions

Q32: Do you agree with the Government's position that it should only remove film exhibition from the list of regulated activities if an appropriate age classification system remains in place?

Q33: Do you have any views on how a classification system might work in the absence of a mandatory licence condition?

Q34: If the Government were unable to create the situation outlined in the proposal and above (for example, due to the availability of Parliamentary time) are there any changes to the definition of film that could be helpful to remove unintended consequences, as outlined earlier in this document - such as showing children's DVDs to pre-school nurseries, or to ensure more parity with live broadcasts?

Q35: Are there any other issues that should be considered in relation to deregulating the exhibition of film from licensing requirements?

In principle, no, but if controls are needed to be kept in place then surely a licence which also addresses certain other objectives is the best way of achieving that.

Indoor Sport: Questions

As per Question 5. Jousting indoors.

Public nuisance from persons cheering – unsuitable building and applicant would have a defence of Best Practicable Means (BPM) that a nuisance could continue if it was impracticable to totally insulate the building.

Highway safety.

Q37: Are there any other issues that should be considered in relation to deregulating the indoor sport from licensing requirements?

Boxing and Wrestling, and Events of a Similar Nature: Questions

Q38: Do you agree with our proposal that boxing and wrestling should continue to be regarded as "regulated entertainment", requiring a licence from

a local licensing authority, as now?

Q39: Do you think there is a case for deregulating boxing matches or wrestling entertainments that are governed by a recognised sport governing body? If so please list the instances that you suggest should be considered.

Q40. Do you think that licensing requirements should be specifically extended to ensure that it covers public performance or exhibition of any other events of a similar nature, such as martial arts and cage fighting? If so, please outline the risks that are associated with these events, and explain why these cannot be dealt with via other interventions.

Recorded Music and Entertainment Facilities: Questions

Q41: Do you think that, using the protections outlined in Chapter 3, recorded music should be deregulated for audiences of fewer than 5,000 people? If not, please state reasons and evidence of harm.

As per Q12:

- i) All outside music events should be licensed if several events (i.e. more than the 12 events allowed under existing TEN provisions) are to be held at one site; or*
- ii) Outside events licensed if > 499 for one-off events.*

Q42: If you feel that a different audience limit should apply, please state the limit that you think suitable and the reasons why this limit is the right one.

No. Same audience limit

Q43: Are there circumstances where you think recorded music should continue to require a licence? If so, please could you give specific details and the harm that could be caused by removing the requirement?

As per Q's 12 and 41

- i) All outside music events should be licensed if several events (i.e. more than the 12 events allowed under existing TEN provisions) are to be held at one site; or*
- ii) Outside events licensed if > 499 for one-off events.*

Severe public nuisance and public safety issues could be a problem if events as per i) and ii) above are not regulated.

Q44: Any there any other benefits or problems associated specifically with the proposal to deregulate recorded music?

Q45: Are there any specific instances where Entertainment Facilities need to be regulated by the Licensing Act, as in the current licensing regime? If so, please provide details.

Bearing in mind the Council's request not to de-regulate live and recorded music, it would be important to clarify in the Section 182 Guidance that karaoke would be a licensable activity.

Unintended Consequences: Questions

Q46: Are there any definitions within Schedule One to the Act that are particularly difficult to interpret, or that are otherwise unclear, that you would like to see changed or clarified?

It would appear that some licensing authorities have difficulties understanding those activities that could be considered as being incidental or when music is background despite the descriptions contained within the Act, the Guidance and opinion of experienced licensing practitioners. This is probably the reason why some organisers have made complaints about the hurdles they face in holding community events.

Q47: Paragraph 1.5 outlines some of the representations that DCMS has received over problems with the regulated entertainment aspects of the Licensing Act 2003. Are you aware of any other issues that we need to take into account?

If certain events organisers have specific problems or concerns with these authorities then these matters should be addressed between these parties or via some sort of trouble-shooter (licensing ombudsman!) and not by a radical overhaul of legislation that general works and is a great improvement of what was in existence prior.

Adult Entertainment: Question

Q48: Do you agree with our proposal that deregulation of dance should not extend to sex entertainment? Please provide details.

Agree