

# Licensing Act 2003 : House of Lords Select Committee Report

## Introduction

The report from the House of Lords Select Committee (“the Committee”) concerning the Licensing Act 2003 (“the 2003 Act”) has just been published. The remit of the Committee was to conduct a post-legislative scrutiny of the 2003 Act, which came into force in August 2005.

The Committee put out a call to evidence and heard from stakeholders from a wide range of sectors in some way impacted by the 2003 Act, including Public Health, the Police, Council officers and Councillors, the Home Office, live music representative groups, the late night food and drink sectors, pubs and night clubs, supermarkets and (last but not least) licensing lawyers.

## Recommendations

We set out below the main recommendations of the Committee.

- **Minimum Pricing:** assuming that minimum pricing is brought into force in Scotland, if such a policy is successful, the Committee recommends that it is adopted in England and Wales.
- **Integration of power:** the Committee recommends that the functions of licensing committees and sub-committees be transferred to the planning committees. The Committee propose that this be trialled in a few pilot areas but the debate and consultation on transferring the powers starts now.
- **Licensing fees:** the Committee recommends that licensing authorities be given the power to set licensing fees locally.

- **Appeals:** the Committee urges local authorities to publicise the reasons which have led them to settle an appeal and should hesitate to settle where residents have expected to rely on such decision. Furthermore, the Committee recommends that appeals be referred to the planning inspectorate and not the Magistrates Court, following the same process as planning appeals.
- **TENs:** the Committee recommends that the licensing authority also be given the opportunity to object to a TEN application.
- **Early Morning Restriction Orders:** the Committee recommends that, in due course, the measures be repealed as no such orders have been introduced.
- **Late Night Levy:** the Committee recommends that the levy be repealed as they believe it has failed to achieve its objectives. However, the Committee recognises that the Government may wish to retain it and should they do so, recommends that the funds collected from the levy be divided 50/50 between the police.

## What happens next?

We are told that the recommendations carry “considerable weight”. This does not mean that the Government must accept them or indeed do anything about them now or in the future.

We anticipate that the Government may accept the less controversial proposals, particularly those that do not require primary legislation. The

Government will provide a point by point response to the proposals we believe within two months of the publication of the Report.

There will be a debate in the House of Lords about the Government's response which we understand is likely to take place in October.

### **What should you do?**

It is important that if you are likely to be impacted by the Committee's proposals that you make your opinions known. For example, you may support a particular proposal and oppose another. We would welcome responses from clients and contacts and will be pleased to assist in any submissions that you wish to make.

### **What will we do?**

We will be considering the Committee's proposals in detail and will contact clients who we believe are most likely to be impacted should the proposals be adopted.

**For further information, please contact:**



**Robert Botkai | Partner,  
Head of Commercial Real Estate & Licensing**

T: 020 7593 5004

E: [rbotkai@wslaw.co.uk](mailto:rbotkai@wslaw.co.uk)