

## **Amendments to Licensing Act 2003 by Immigration Act 2016**

**Submitted by:** Head of Environmental Health/Licensing Administration Team Manager

**Portfolio:** Finance & Resources

**Wards Affected:** All

### **Purpose of the Report**

To notify the Committee that a number of amendments have been made to the Licensing Act 2003 following the implementation of the Immigration Act 2016.

### **Recommendations**

That Members note the amendments to the Licensing Act 2003.

## 1. **Background**

1.1 The Immigration Act 2016 received Royal Assent on 12<sup>th</sup> May 2016 with the provisions amending the Licensing Act 2003 coming into force on 6<sup>th</sup> April 2017.

1.2 The amendments to the Licensing Act 2003 are as follows:

- An “Entitlement to Work” test introduced for Personal Licence Holders and individual Premises Licence Holders, where the Premises Licence permits the sale of alcohol or late night refreshment;
- Applicants for Personal Licences must produce evidence of their entitlement to work in the United Kingdom;
- Where the applicant has committed immigration offences, the Licensing Authority to advise the Secretary of State (Home Office Immigration Enforcement (“HOIE”) as it would the Police on conviction of a “Relevant Offence”;
- Applicants for Premises Licences, made by individuals, will likewise have to produce evidence of their entitlement to work in the United Kingdom, along with their nationality and date of birth;
- Individual applicants for a transfer of a Premises Licence must provide evidence of their entitlement to work in the United Kingdom, along with their nationality and date of birth;
- Applicants to become a Designated Premises Supervisor must provide their place of birth, date of birth and nationality and confirm on their consent to become the Designated Premises Supervisor that they are entitled to work in the United Kingdom;
- The Secretary of State (HOIE) is a Responsible Authority;
- Applications for the transfer of a Premises Licence also need to be served on the Secretary of State (HOIE), as well as the Police and Licensing Authority;
- If an individual holding a Premises Licence ceases to be entitled to work in the United Kingdom on or after 6<sup>th</sup> April 2017, the Premises Licence lapses immediately, and will lapse completely unless transferred or an Interim Authority lodged within 28 days;
- A Personal Licence will lapse when an individual is no longer entitled to work in the United Kingdom on or after 6<sup>th</sup> April 2017;

- Applications for transfers or new Premises Licences must not be signed by PA, since they contain a declaration of the individual's entitlement to work in the United Kingdom;
- Immigration Officers can now enter licensed premises as if they were a Police Constable, if premises are being used for the sale of alcohol or late night refreshment, to see if an offence under The Immigration Act 2016 has been committed.

2. **Proposal**

- 2.1 That Members note the amendments to the Licensing Act 2003.

3. **Reasons for Preferred Solution**

- 3.1 The Act has received Royal Assent and the Licensing Authority must work within the provisions laid down in the legislation.

4. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

- 4.1 Creating a cleaner, safer and sustainable Borough  
 4.2 Creating a healthy and active community

5. **Legal and Statutory Implications**

- 5.1 The Council must consult with HOIE on the applications stated at 1.2 of the report.  
 5.2 The Council has a duty to check that applicants for premises licences and personal licences have an entitlement to work in the UK, and not grant a licence unless satisfied that the criteria set down by the legislation has been met.

6. **Financial and Resource Implications**

- 6.1 The requirement to carry out the entitlement to work checks has led to a small increase in the time officers spend dealing with prospective licence holders and applicants.  
 6.2 The provision allowing Immigration Officers to enter licensed premises has led to an increase in the number of multi-agency enforcement visits being carried. In turn that has led to an increased number of premises licence transfer applications being received following checks being carried out on who the responsible person/s are at specific premises, that we have not been notified at the time the ownership changed hands (i.e. late night takeaways that change hands but do not notify the Council's licensing department).

7. **Earlier Committee Resolutions**

- 7.1 N/A

8. **Background Papers**

Licensing Act 2003  
 Immigration Act 2016