



Home Office

Consultation:

Licensing Act 2003: Regulatory easements

This consultation begins on 6 March 2023

This consultation ends on 1 May 2023

About this consultation

- To:** This is a public consultation. Any member of the public can respond. The consultation covers England and Wales where these proposals apply.
- Duration:** From 6 March 2023 to 1 May 2023.
- Enquiries (including requests for the paper in an alternative format) to:** Email: alcohollicensingconsultations@homeoffice.gov.uk
- How to respond:** Please send your response by 1 May 2023.
- Responses can be submitted online through the GOV.UK website:
<https://www.homeofficesurveys.homeoffice.gov.uk/s/KH3QRY/>
- or by post by sending responses to:
- Regulatory Easements Consultation
Alcohol team
5th Floor, Fry Building
Home Office
2 Marsham Street, SW1P 4DF
Email: alcohollicensingconsultations@homeoffice.gov.uk
- After the consultation:** Responses will be analysed and a 'Response to Consultation' document will be published. This will explain the government's final policy intentions. All responses will be treated as public, unless stated otherwise.

Contents

Introduction	2
The proposals	3
Background	4
Questionnaire	5
About you	8
Contact details and how to respond	9
Consultation principles	11

Introduction

1. This paper sets out for consultation proposals on a number of regulatory easements. The consultation is aimed at the hospitality sector, local licensing authorities, the police, licensed premises, members of the public and other interested parties in England and Wales where these proposals apply.
2. This list is not meant to be exhaustive or exclusive and responses are welcome from anyone with an interest in or views on the subject covered by this paper.
3. Copies of this consultation are being sent to:
 - Local Government Association
 - National Association of Licensing Enforcement Officers
 - Institute of Licensing
 - National Organisation of Residents Associations
 - National Police Chiefs Council
 - Night Time Industries Association
 - UK Hospitality
 - Association of Police and Crime Commissioners
 - British Beer and Pub Association
 - Association of Convenience Stores
 - Wine and Spirits Trade Association
 - Alcohol Health Alliance
 - Alcohol Research and Concern
 - Institute of Alcohol Studies
4. An Impact Assessment has been prepared on the proposals outlined in this consultation and has been published, it can be found on the consultation page on GOV.UK.

The proposals

Off-sales

- **Option 1:** Do nothing. This means that the easements provided by the Business and Planning Act 2020 lapse after 30 September 2023 and arrangements revert to those set out in the Licensing Act 2003. Any premises licence holder whose licence only allows on-sales will need to apply for a variation if they additionally wish to provide off-sales.
- **Option 2:** Make permanent the temporary regulatory easements for off-sales under the Business and Planning Act 2020, whereby any on-sales alcohol premise licence automatically covers off-sales as well. This would apply to existing and future premises licence holders.
- **Option 3:** If a venue has both an alcohol premises licence and a pavement licence, the area covered by the pavement licence would be automatically included in the premises licence.

Temporary Events Notices (TENs)

- **Option 4:** Do nothing. This means that the easements provided by the Business and Planning Act 2020 lapse after 31 December 2023. The number of TENs permitted will revert to the numbers set out in the Licensing Act, which is 15 TENs per year for a total of 21 days.
- **Option 5:** Extend the easement for a further twelve months, until 31 December 2024. This would mean that the number of TENs permitted will be 20 (from 15) and the maximum duration will be 26 days (from 21).
- **Option 6:** Make permanent the extension to the number of permitted TENs provided by the Business and Planning Act 2020. This would mean that the number of TENs permitted will be 20 (from 15) and the maximum duration will be 26 days (from 21). This would apply to existing and future premises licence holders.

Background

Off-sales

The Licensing Act 2003 allows premises licence holders to sell alcohol for consumption on site ('on-sales') or for consumption off site ('off-sales') or both. The application form allows the applicant to specify whether they are applying for a licence that covers on-sales, off-sales or both. The holder of an on-sales licence can subsequently apply to their Licensing Authority for a variation if they wish to add off-sales to their licence.

The Business and Planning Act 2020 provided regulatory easements which enabled on-sales premises licence holders to automatically additionally do off-sales, without any need to amend their licence. When pubs and restaurants were initially closed because of the pandemic, they were able to sell alcohol for take-away. Once premises were able to re-open, this additionally automatically enabled them to serve alcohol in the area covered by any pavement licence that they had.

The Government does not believe it would be preferable to return to the pre-2020 position but would welcome views. We are consulting to understand whether there is support for making the regulatory easement permanent so that on-sales premises licence holders can continue to automatically do off-sales; or whether any off-sales should be restricted to the area covered by a pavement licence, with that area automatically deemed to be included in the premises plan.

Temporary Events Notices (TENS)

The Licensing Act 2003 allows licensable activities to be carried out on a one-off basis without the need for a premises licence or any other authorisation, by means of a temporary event notice. Licensable activities include the sale of alcohol, the provision of late night refreshment and regulated entertainment. A temporary event notice can be used by a licensed premises to extend its hours beyond its usual closing time or to carry out licensable activities it is not usually able to do. It can also be used for one-off events that are being organised on non-licensed premises (for example a wedding party in a village hall).

Provisions in the Business and Planning Act temporarily increased the annual number of Temporary Event Notices (TENS) that a licensed premise user can have in respect of a premises from 15 to 20 per year. It also increased the maximum number of days on which temporary events may be held at such premises from 21 to 26 per year.

We are consulting to understand whether there is support for making permanent the regulatory easement or whether to return to the allowance set out in the Licensing Act.

Questionnaire

We would welcome responses to the following questions set out in this consultation paper.

Off-sales

Q1: Do you agree that when the regulatory easement ends on 30 September 2023, there should be no automatic extension of an on-sales premises licence; anyone wishing to do off-sales should apply to their Licensing Authority for a variation to their on-sales licence?

Yes

No

Q2: Should any such amendment to an on-sales licence be treated initially as a minor variation?

Yes

No

Q3: Should all variation applications automatically be sent to responsible authorities?

Yes

No

Q4: Should any such amendment to an on-sales licence always be a major variation?

Yes

No

Q5: Should all new applications for premises licences specify on-sales and off-sales or should they automatically include both?

On and off-sales listed separately

Automatically include both on and off-sales

Licensing Act: Regulatory Easements

Q6: If a premises licence holder also holds a pavement licence for the same venue, should the area covered by the pavement licence be automatically deemed to be included in the area covered by the premises licence?

Yes

No

Q7: Do you agree that the regulatory easement should be made permanent, meaning that any on-sales premises licence holder is automatically able to do off-sales without any need to amend their licence?

Yes

No

Q8: If you answered yes to Q7, should it apply to off-sales, take-away or both?

Yes

No

Q9: Are you aware of any change in the level of crime and / or anti-social behaviour as a result of the off-sales easement?

Yes

No

Please give reasons for any of your answers to the above questions about off-sales.

Temporary Events Notices

Q10: Do you agree that when the regulatory easement ends on 31 December 2023, the annual allowance should return to the level set out in the Licensing Act which is 15 TENS per year?

Yes

No

Q11: Should the annual allowance set out in the Business and Planning Act be extended for a further 12 months to 31 December 2024?

Yes

No

Q12: Do you agree that when the regulatory easement ends on 31 December 2023, the annual allowance of 20 TENS should permanently remain at the level set out in the Business and Planning Act 2020?

Yes

No

Q13: Do you agree that when the regulatory easement ends on 31 December 2023, the annual allowance of 26 days should permanently remain at the level set out in the Business and Planning Act 2020?

Yes

No

Q14: Are you aware of any change in the level of crime and / or anti-social behaviour as a result of the TENS regulatory easement?

Yes

No

Please give reasons for any of your answers to the above questions about TENS.

Thank you for participating in this consultation.

About you

Please use this section to tell us about yourself

Full name	
Job title or capacity in which you are responding to this consultation exercise (for example, member of the public)	
Date	
Company name/organisation (if applicable)	
Address	
Postcode	
Email address	
If you are a premises licence holder, what rateable value band does the premises fall into?	
If you would like us to acknowledge receipt of your response, please tick this box	<input type="checkbox"/> (please tick box)
Address to which the acknowledgement should be sent, if different from above	

If you are a representative of a group, please tell us the name of the group and give a summary of the people or organisations that you represent.

Contact details and how to respond

Please complete the consultation online at:

<https://www.homeofficesurveys.homeoffice.gov.uk/s/KH3QRY/> or send your response by

1 May to:

Regulatory Easements Consultation

Alcohol Team, 5th Floor Fry Building

Home Office

2 Marsham Street

London, SW1P 4DF

Email: alcohollicensingconsultations@homeoffice.gov.uk

i. Complaints or comments

If you have any complaints or comments about the consultation process you should contact the Home Office at the above address.

ii. Extra copies

Further paper copies of this consultation can be obtained from this address and it is also available online.

iii. Publication of response

A paper summarising the responses to this consultation will be published. The response paper will be available online.

iv. Representative groups

Representative groups are asked to give a summary of the people and organisations they represent when they respond.

v. Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information

Licensing Act: Regulatory Easements

we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Home Office.

The Home Office will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Consultation principles

The principles that government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles.

<https://www.gov.uk/government/publications/consultation-principles-guidance>



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