

**Institute of Alcohol Studies Response to Home Office Consultation:
Enabling targeted, local alternatives to personal licences to sell alcohol**

The Institute of Alcohol Studies (IAS) welcomes the opportunity to respond to the Home Office consultation on enabling targeted, local alternatives to personal licences to sell alcohol, and to provide comment on the areas outlined in the consultation document.

The core aim of the Institute is to serve the public interest on public policy issues linked to alcohol, by advocating for the use of scientific evidence in policy-making to reduce alcohol-related harm. The IAS is a company limited by guarantee, No 05661538 and registered charity, No 1112671. For more information visit www.ias.org.uk.

We do not support the Government's proposal to abolish the current system of personal licences. We believe that doing so may undermine the licensing objectives as well as weakening the needed social awareness that, in view of its health and social impact, alcohol is not an ordinary commodity, and therefore special safeguards are needed in relation to its sale and consumption.

Promoting compliance with the licensing objectives requires a meaningful chain of command in licensed premises. This, in our view, would be weakened by the abolition of personal licences. Designated premises supervisors cannot be present at all times, as experts have noted (Pinsent Masons, 2013)ⁱ, and we are far from convinced that licensing authorities would in practice impose sufficient conditions on premises licences to compensate for the absence of the present personal licence requirement.

The Government's stated reasons for wanting to abolish personal licences seem largely to ignore the original rationale for introducing them. As was stated in the White Paper 'Time for Reform: Proposals for the Modernisation of Our Licensing Laws' (Home Office April 2000):

The argument for licensing people as well as premises is that there needs to be a reasonable assurance that anyone responsible for the sale of alcohol is aware of his or her obligations and is capable of fulfilling them.

This statement, and many subsequent statements by Ministers and parliamentarians in the debates on the bill, recognised that alcohol is not an ordinary commodity, and that its sale and consumption have implications for the public wellbeing that impose special requirements on the vendors. For example, in the House of Commons the then Opposition Conservative spokesman (Oliver Heald) expressed reservations about removing the power to grant licences from the magistrates, and said:

“... we should resist the attempt to remove all powers from licensing justices, especially when it comes to licensing individuals. I was surprised to read, on page 22 of the White Paper, that it is seriously suggested that individuals should be licensed simply on the basis that they have an accredited qualification, without even being interviewed by a local authority. One would not employ people merely because they had a degree; one would want to see them to find out what sort of people they are.”ⁱⁱ

There is therefore some irony in the fact that the present Government is contemplating abolishing the need for any personal licences at all. Indeed, it is doubly ironic as, currently, the Scottish Government appears to be going in the opposite direction and proposing to strengthen the system of personal licences by re-introducing the ‘fit and proper person’ test, which was previously abolished in Scotland as it was in England by Licensing Act 2003 (Scottish Government, 2013).

In our view, it is the Scottish Government’s proposal that has merit. There were always concerns that the original concept of personal licences was inadequate and potentially undermined compliance with the licensing objectives. The abolition of the ‘fit and proper person’ test means that grounds for refusing a licence that were valid before the Licensing Act 2003 came into force are no longer relevant. These include grounds relating to the health, temper or disposition of the applicant. As one of the leading commentaries on the Act points out, this does mean that if an applicant meets the new, very limited criteria – ie s/he is aged 18 or over; possesses an approved licensing qualification; has not forfeited a personal licence within the last five years, and has not been convicted of a relevant offence – s/he “must be granted a (new) personal licence even if he is totally incapable of exercising any control over the premises through mental or physical incapacity (for example, paralysis or brain damage)”.ⁱⁱⁱ

In our view, this clearly suggests that the current system of personal licences should be strengthened rather than abolished.

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References

ⁱ *Abolishing personal licences to sell alcohol would reduce administrative burdens, but proposals unclear, says expert*

Pinsent Masons, Out-Law.com, 2013, access at: <http://www.out-law.com/en/articles/2013/October/abolishing-personal-licences-to-sell-alcohol-would-reduce-administrative-burdens-but-proposals-unclear-says-expert/>

ⁱⁱ House of Commons Debates, Hansard, 10 April 2000: access at: <http://www.publications.parliament.uk/pa/cm199900/cmhansrd/vo000410/debtext/00410-05.htm>

ⁱⁱⁱ *p 379, Alcohol & Entertainment Licensing Law*, Manchester, C; Poppleston, S; Allen, J; 2005 access

at: <http://www.scotland.gov.uk/Publications/2008/09/24132838/7>