



House of Commons  
Regulatory Reform Committee

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**Draft Legislative  
Reform (Minor  
Variations to Premises  
Licences and Club  
Premises Certificates)  
Order 2009**

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**Fifth Report of Session 2008–09**

*Report, together with formal minutes and  
written evidence*

*Ordered by the House of Commons  
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## The Regulatory Reform Committee

The Regulatory Reform Committee (previously the Deregulation and Regulatory Reform Committee) is appointed to consider and report to the House on draft Legislative Reform Orders under the Legislative and Regulatory Reform Act 2006. Its full remit is set out in S.O. No. 141, which was approved on 4 July 2007.

### Current membership

Andrew Miller (*Labour, Ellesmere Port & Neston*) (Chairman)  
Gordon Banks (*Labour, Ochil and South Perthshire*)  
Lorely Burt (*Liberal Democrat, Solihull*)  
Mr Quentin Davies (*Labour, Grantham and Stamford*)  
Mr James Gray (*Conservative, North Wiltshire*)  
John Hemming (*Liberal Democrat, Birmingham, Yardley*)  
Mrs Sharon Hodgson (*Labour, Gateshead East & Washington West*)  
Mr Stewart Jackson (*Conservative, Peterborough*)  
Judy Mallaber (*Labour, Amber Valley*)  
Dr Doug Naysmith (*Labour/Co-operative, Bristol North West*)  
Mr Mark Prisk (*Conservative, Hertford and Stortford*)  
Mr Jamie Reed (*Labour, Copeland*)  
Mr Anthony Steen (*Conservative, Totnes*)  
Phil Wilson (*Labour, Sedgefield*)

### Criteria against which the Committee considers each draft legislative reform order

Paragraph (3) of Standing Order No.141 requires us to consider any draft legislative reform order against the following criteria:

... whether the draft legislative reform order —

- (a) appears to make an inappropriate use of delegated legislation;
- (b) serves the purpose of removing or reducing a burden, or the overall burdens, resulting directly or indirectly for any person from any legislation (in respect of a draft Order under section 1 of the Act);
- (c) serves the purpose of securing that regulatory functions are exercised so as to comply with the regulatory principles, as set out in section 2(3) of the Act (in respect of a draft Order under section 2 of the Act);
- (d) secures a policy objective which could not be satisfactorily secured by non-legislative means;
- (e) has an effect which is proportionate to the policy objective;
- (f) strikes a fair balance between the public interest and the interests of any person adversely affected by it;
- (g) does not remove any necessary protection;
- (h) does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise;
- (i) is not of constitutional significance;
- (j) makes the law more accessible or more easily understood (in the case of provisions restating enactments);
- (k) has been the subject of, and takes appropriate account of, adequate consultation;
- (l) gives rise to an issue under such criteria for consideration of statutory instruments laid down in paragraph (1) of Standing Order No 151 (Statutory Instruments (Joint Committee)) as are relevant;
- (m) appears to be incompatible with any obligation resulting from membership of the European Union.

## **Publications**

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at [www.parliament.uk/regrefcom](http://www.parliament.uk/regrefcom). A list of Reports of the Committee in the present Session of Parliament is at the back of this volume.

## **Committee staff**

The current staff of the Committee are John Whatley (Clerk), Neil Caulfield (Inquiry Manager) and Liz Booth (Committee Assistant).

All correspondence should be addressed to the Clerk of the Regulatory Reform Committee, Delegated Legislation Office, House of Commons, 7 Millbank, London SW1P 3JA. The telephone number for general enquiries is 020 7219 2837; the Committee's email address is [regrefcom@parliament.uk](mailto:regrefcom@parliament.uk).



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## Summary

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We are content that the revised version of the draft Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009 laid before Parliament on 26 March 2009 properly takes into account the comments made in our report on the earlier draft Order.

**We recommend that the revised draft Order be approved.**



# 1 Report

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1. The draft Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009 was laid before Parliament on 8 December 2008 by the Department for Culture, Media and Sport (DCMS). The purpose of the Order was to introduce an expedited process for dealing with minor changes to the licences of licensed premises. The envisaged minor changes cover small alterations to the physical layout of premises, for example, as well as allowing for some rearrangement of licensing hours. However, they do not include increases in the hours during which alcohol is supplied, nor changes to alcohol provision between the hours of 11pm and 7am.

2. In our previous report on the proposed Order, we said: “Whilst in most respects we are satisfied with the Order, we believe that an amendment to provide an added safeguard for local communities should be introduced. Accordingly we recommend that when a minor variation is being considered it should be a requirement that a notice describing the proposed variation be attached to the outside of the premises concerned for a minimum of two weeks. This would allow for licensing authorities to be contacted if the matter raised any concerns.” We therefore recommended that the procedure to be applied to the draft Order be upgraded from negative to super-affirmative to allow for amendment to be made. We note that the Delegated Powers and Regulatory Reform Committee of the House of Lords took a similar view.<sup>1</sup>

3. In accordance with the super-affirmative procedure,<sup>2</sup> a revised draft Order was laid before Parliament on 26 March 2009, along with a statement of proposed revisions. The Department has accepted our recommendation and now proposes to require that a notice of intended application be posted outside of relevant premises for ten days after making of an application. In addition, it also proposes a formal right for interested parties to make representations concerning applications and a requirement for the licensing authority to take such representations into account, although without any opportunity for a hearing. Further, proposed minor variations will be required to be entered onto the publicly available register of premises’ licensing details.<sup>3</sup>

4. We commend the Department for conducting an additional consultation in a short time period. We note the observations that were made in that consultation—in particular about the likelihood of interested parties confusing the expedited with the full application procedure and having unrealistic expectations around the outcome of the representations process. However, if the expedited application route is, as intended, confined to licence changes that are properly to be considered “minor”, we believe that that situation should be manageable. The recommendations that we made in relation to regular review of guidance, which have been accepted (see paragraph 6 below), should assist in that regard.

5. We note also the observation in the statement of proposed revisions that the ten-day notice period will effectively introduce a minimum processing period of ten days for

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1 See <http://www.publications.parliament.uk/pa/ld200809/ldselect/lddelreg/21/21.pdf>

2 Section 18(7) of the Legislative and Regulatory Reform Act 2006

3 Section 8, Licensing Act 2003

applications.<sup>4</sup> However, we do not consider that a delay of ten working days will cause serious inconvenience to applicants in the broad scheme of things. We further note that the savings from the expedited application process are estimated to be of the order of 5% less than anticipated as a result of slightly reduced take-up, and that the application fee has been increased from £73 to £89 to ensure recovery of the costs of considering representations. Given that the Department estimated the cost of full applications to be upwards of several hundred pounds, we consider the small decrease in savings and the small increase in application cost to be proportionate to the benefit conferred by the modifications we have suggested.

6. We are pleased that the Department has accepted our recommendations on regular review of guidance to assist licensing officers in having the correct steer on the nature of what is a “minor variation”, on reviews of the ease of use of the licence review procedure, and on inclusion of the licensing objectives on the application form.

7. Finally, we note that a number of technical drafting changes proposed by the Lords Committee have also been accepted, subject to retention of the Department’s proposed wording in one instance, namely the words “*sold by retail*” in new section 41A(3)(e)(ii). We agree that that provides extra clarity.

**8. For the reasons given, we are content with the proposed amendments and recommend that the revised draft Order be approved and made in accordance with section 18(8) of the Legislative and Regulatory Reform Act 2006.**

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4 See paragraph 14 of the statement of proposed revisions

# Formal Minutes relating to the report

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**Tuesday 31 March 2009**

Members present:

Andrew Miller, in the Chair

Lorely Burt  
John Hemming

Phil Wilson

Draft Report (Draft Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009), proposed by the Chairman, brought up and read.

*Ordered*, That the Chairman's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 8 read and agreed to.

Summary agreed to.

*Resolved*, That the Report be the Fifth Report of the Committee to the House.

*Ordered*, That the Chairman make the Report to the House.

[Adjourned till Tuesday 28 April at 10.00 am

## List of Reports from the Committee during the current Parliament

### Session 2008-09

First	Draft Legislative Reform (Insolvency) (Advertising Requirements) Order 2009	HC 181
Second	Draft Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009	HC 209
Third	Draft Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls &c.) Order 2009	HC 210

### Session 2007-08

First	Draft Legislative Reform (Local Authority Consent Requirements) (England and Wales) Order 2007	HC 135
Second	Draft Legislative Reform (Health and Safety Executive) Order 2008	HC 398
Third	Draft Legislative Reform (Consumer Credit) Order 2008	HC 939
Fourth	Draft Legislative Reform (Local Authority Consent Requirements) (England and Wales) Order 2008	HC 940
Fifth	Getting Results: the Better Regulation Executive and the Impact of the Regulatory Reform Agenda	HC 474-I and II
Sixth	Draft Legislative Reform (Lloyd's) Order 2008	HC 1090