Draft Order laid before Parliament under section 14(1) of the Legislative and Regulatory Reform Act 2006; draft to lie for forty days, pursuant to section 16(3) of that Act, during which period either House of Parliament may resolve that the Order not be made; or, during the first thirty days a committee of either House may recommend that the Order not be made, which recommendation may be rejected by resolution of that House in the same Session.

DRAFT STATUTORY INSTRUMENTS

2009 No. XXXX

LICENSES AND LICENSING
REGULATORY REFORM

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

Made - - - - 2009

Coming into force in accordance with article 1(1)

The Secretary of State for Culture, Media and Sport makes the following Order in exercise of the powers conferred by section 1 of the Legislative and Regulatory Reform Act 2006(**1**) ("the Act").

He considers that the conditions referred to in section 3(2) of the Act are, where relevant, satisfied in relation to each provision made in the Order.

He has consulted in accordance with section 13(1) of the Act.

He has laid a draft of the Order and an explanatory document before Parliament in accordance with section 14(1) of the Act.

Pursuant to section 15 of the Act, the negative resolution procedure (within the meaning of Part 1 of the Act) applies in relation to the Order.

Neither House of Parliament resolved, within the 40-day period referred to in section 16(3) of the Act, that he should not make the Order.

Citation, commencement and extent

1.—(1) This Order may be cited as the Legislative Reform (Minor Variations to Premises Licenses and Club Premises Certificates) Order 2009 and comes into force on the twenty-first day after the day on which it is made.

(2) This Order extends to England and Wales only.

(**1**) 2006 c. 51; section 1(6) was amended by SI 2007/1388

Premises licences: amendment of the Licensing Act 2003

2.—(1) The Licensing Act 2003(**2**) is amended as follows.

(2) After section 41, insert—

"Variation of Licences: minor variations

Application for minor variation of premises licence

41A.—(1) Subject to subsection (3), the holder of a premises licence may apply under this section (instead of under section 34) to the relevant licensing authority for variation of the licence.

(2) Subsection (1) is subject to regulations under—

(a) section 54 (form etc. of applications etc.);

(b) section 55 (fees to accompany applications etc.).

(3) An application may not be made under this section to vary a premises licence so as to—

(a) extend the period for which it has effect,

(b) vary substantially the premises to which it relates,]

(c) specify an individual as the premises supervisor,

(d) add the sale by retail or supply of alcohol as an activity authorised by the licence,

(e) authorise—

(i) the sale by retail or supply of alcohol at any time between 11pm and 7am, or

(ii) an increase in the amount of time on any day during which alcohol may be sold by retail or supplied, or

(f) include the alternative licence condition referred to in section 41D(3).

Determination of application under section 41A

41B.—(1) This section applies where the relevant licensing authority receives an application made under section 41A.

(2) In determining the application the authority must—

(a) consult such of the responsible authorities as it considers appropriate, and

(b) take into account any comments made by those authorities in relation to the application.

(3) If the authority considers that—

(a) the variation proposed in the application could not have an adverse effect on the promotion of any of the licensing objectives, or

(b) if more than one variation is proposed, none of them, whether considered separately or together could have such an effect,

it must grant the application.

(4) In any other case the authority must reject the application.

(**2**) 2003 c. 17. The Licensing Act 2003 is further amended by the Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls &c.) Order 2009 (S.I. 2009/ ... ...) which, inter alia, inserts section 41D into that Act.

(5) A determination under this section must be made within the period of fifteen working days beginning on the first working day after the day on which the authority receives the application.

(6) If at the expiry of the period referred to in subsection (5) the authority has not determined the application—

(a) the application is rejected, and

(b) the authority must forthwith return the fee that accompanied the application.

(7) But nothing in subsection (6) prevents the authority, with the agreement of the applicant, from treating—

(a) an application rejected by virtue of that subsection ("the first application") as a new application made under section 41A,

(b) the prescribed fee that accompanied the first application as the prescribed fee accompanying a new application, or

(c) both.

(8) A new application of the kind referred to in subsection (7)(a) is to be treated as having been made on the date of the agreement referred to in that provision, or on such other date as is specified in the agreement.

(9) Any fee owed to an applicant under subsection (6) may be recovered as a debt due to the applicant.

Supplementary provision about determinations under section 41B

41C.—(1) Where an application is granted under section 41B, the relevant licensing authority must forthwith give a notice to that effect to the applicant.

(2) The notice under subsection (1) must specify—

(a) any variation of the premises licence which is to have effect as a result of the grant of the application, and

(b) the time at which that variation takes effect.

(3) The time referred to in subsection (2)(b) is the time specified in the application or, if that time is before the applicant is given the notice referred to in subsection (2), such later time as the authority specifies in the notice.

(4) Where an application is rejected under section 41B, the relevant licensing authority must forthwith give a notice to that effect to the applicant.

(5) The notice under subsection (4) must include a statement by the authority of the reasons for its decision.".

Club premises certificates: amendment of the Licensing Act 2003

3.—(1) The Licensing Act 2003 is amended as follows.

(2) After section 86, insert—