



Home Office

Guidance on Mandatory Licensing Conditions

For suppliers of alcohol and enforcement
authorities in England and Wales

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Introduction

Overview: Mandatory Licensing Conditions

The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 (“the 2010 Order”) set out five new conditions that apply to all premises in England and Wales authorised to supply alcohol under a premises licence or club premises certificate. The first three of these conditions came into force on 6 April 2010, with the remaining two (which relate to premises applying an age verification policy and making available smaller measures of drinks) coming into force six months later to give premises more time to prepare.

On 28 May 2014, a new mandatory condition, banning the sale of alcohol below the cost of duty plus VAT, came into force. This means there are currently six mandatory licensing conditions.

October 2014 changes

The draft Licensing Act 2003 (Mandatory Licensing Conditions) (Amendment) Order 2014 (“the 2014 Order”) amends the 2010 Order to make provision to replace the mandatory conditions prescribed in the 2010 Order with the conditions prescribed in this order. The conditions will apply to all relevant premises licences and club premises certificates which authorise the supply of alcohol for consumption on the premises, with the exception of the age verification condition, which will **also** apply to licences and certificates which permit the supply of alcohol for consumption off the premises.

This will tighten the existing mandatory licensing conditions relating to irresponsible promotions, the provision of free water, the adoption and application of age verification policies and the provision of small measures at licensed premises.

The condition prohibiting the dispensing of alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability) will cease to be a standalone condition and will instead be a part of the condition relating to irresponsible promotions. The 2014 Order is intended to result in a total of five mandatory conditions applying.

This order also removes the exception for table meals from the prohibition on irresponsible promotions relating to the provision of unlimited or unspecified quantities of alcohol for free or for a discount. However, this will not apply to an activity falling within the existing table meal exception that is available to an individual who holds a ticket or other written invitation in respect of that activity which was purchased by, or given to, that individual on or before 30 September 2014, and the activity takes place on or before 5 April 2015.

Responsibility for ensuring compliance with the mandatory conditions at premises

Responsibility for ensuring compliance with the mandatory conditions prescribed in the 2014 Order will, unless different provision is made in the legislation, fall to a ‘responsible person’. This is defined as:

- (a) in relation to licensed premises:
 - (i) the holder of a premises licence in respect of the premises,
 - (ii) the designated premises supervisor (if any) under such a licence, or

- (iii) any individual aged 18 or over who is authorised for the purposes of section 153 (4) of the Licensing Act 2003 by such a holder or supervisor,
- (b) in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables him to prevent the supply in question.

In respect of the condition governing age verification, there are specific duties relating respectively to the holder of the premises licence or club premises certificate and designated premises supervisor.

Section 1: Irresponsible promotions

The 2014 Order states that the responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotion, as listed below, where that promotion is carried on for the purpose of encouraging the sale of alcohol on the premises.

Drinking games

This includes any game or activity that requires or encourages (or is designed to require or encourage) individuals to drink a quantity of alcohol within a time limit, or to drink as much as possible. This does not include “drinking up time”, shortly before the end of licensed hours.

The application of this prohibition is not subject to a judgment of risk, and so any game or activity that falls within it would be in breach of the condition.

Examples of this type of activity include drinking relay races and drinking challenges based on quantity.

Provision of alcohol free or for a fixed or discounted fee

This prohibits the provision of an unlimited or unspecified quantity of alcohol for free or for a fixed or discounted fee if there is a significant risk that such provision would undermine a licensing objective.

Rewards for consumption of alcohol

The new conditions ban the provision of free or discounted alcohol or any other thing as a prize to encourage or reward the consumption of alcohol over a period of 24 hours or less if there is a significant risk that such provision would undermine a licensing objective.

‘Significant risk’

The application of these prohibitions is subject to an assessment in any case about whether the activity in question would give rise to a significant risk of breaching one or more of the four licensing objectives:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

Factors that may be considered when deciding if a promotion is irresponsible may include:

- Type of promotion:
 - How big is the discount?
 - For how long does the discount apply?
- Potential customers:
 - Is there likely to be a significant increase in the number of customers?
 - What is the profile of the customer base?
- Type of premises:
 - Is it a high-volume vertical drinking establishment or a community pub?
- History of premises:
 - Have previous promotions been handled responsibly?

- Has the licence been reviewed recently?
- Have sufficient security measures been taken for any potential increase in the number of customers?

If there is any doubt as to whether the promotion you are planning to run falls foul of this new mandatory condition, we strongly recommend that you discuss your proposals with your local licensing authority and/or police before running the promotion.

Promotional posters

The 2014 Order prohibits the sale or supply of alcohol in association with promotional material on, or in the vicinity of, the premises which can be reasonably considered to condone, encourage or glamorise antisocial behaviour or refer to drunkenness favourably.

This includes all posters and flyers that may be used to publicise a promotion or event.

Dispensing alcohol directly into the mouth

The 2014 Order prohibits activities that involve alcohol being poured directly into the mouth of a customer by a member of staff. This includes activities such as the “dentist’s chair”.

This prohibition does not apply where a person is not able to drink without assistance because of a disability.

Section 2: Potable water

The 2014 Order provides that the responsible person must ensure that free potable water is provided on request for customers where it is reasonably available.

Many premises already offer free tap water. This condition means that responsible persons at all premises must ensure customers are provided with potable (drinking) water for free if they ask for it. It does not need to come from a tap. This helps people to space out their drinks and not become intoxicated quickly, which reduces the risk of crime and disorder occurring.

What is meant by “reasonably available” is a question of fact; for example, it may not be reasonable to expect free water to be available in premises for which the water supply had temporarily been lost because of a broken mains supply and where no alternative (for example, bottled water) is available.

In this section, the term ‘customer’ has its plain English definition.

Section 3: Age verification

Age Verification Policy

The premises licence holder or club premises certificate holder must ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

This must as a minimum require individuals who appear to the person serving alcohol to be under the age of 18 years of age to produce on request (before being served alcohol) appropriate identification.

Where there is a designated premises supervisor, they have responsibility for ensuring that the sale of alcohol is carried on in accordance with the age verification policy in place.

This condition does not exclude best practice schemes such as Challenge 21 or Challenge 25 which require individuals who appear to be under an age which is greater than 18 to provide ID.

The condition does apply to companies that sell alcohol remotely (for example, online or by mail order). Since the condition requires that identification is produced on request, before alcohol is served, photo ID should be shown at or before the point of service.

An example age verification policy is available at Annex A. Please note, the model policy is intended to provide an example of a policy that meets the new mandatory condition. While responsible persons can fill in this model for their own premises in order to meet the condition, it is also acceptable for them to instead use a different age verification policy, as long as it meets the criteria set out in the legislation

Acceptable identification

Identification which is accepted as proof of age must bear the holder's photograph, date of birth, and either a holographic mark or ultraviolet feature. Examples of acceptable ID include photo card driving licences, passports, military identification or proof of age cards bearing the PASS hologram, although other forms of ID which meet the criteria laid out above are also acceptable.

Section 4: Small measures

Provision of small measures

The responsible person must ensure that the following drinks if sold or supplied for consumption on the premises are available in the following measures:

- beer or cider - half pint
- gin, rum, vodka or whisky - 25ml or 35ml
- still wine in a glass - 125ml

Making customers aware

As well as making the drinks available in the above measures, the responsible person must also make their availability clear on menus, price lists or other printed material, and ensure that these are available to customers on the premises (for example, at the bar).

Where a customer orders a drink listed above but does not specify the alcohol measure, the customer should be made aware of the range of measures available. This can be either verbally or by ensuring they have seen the printed materials on which their availability is listed. If the responsible person is satisfied that the customer has been made, and continues to be, aware of the range of measures available, the responsible person does not need to repeat that information in relation to each sale.

The above condition does not apply if the alcohol in question is sold or supplied having been made up in advance ready for sale or supply in a securely closed container. For example, if beer is only available in pre-sealed bottles the condition to make it available in ½ pints does not apply.

Annex A – Model Age Verification Policy

Premises Age Verification Policy

This policy applies in relation to the sale or supply of alcohol on the following premises

Name and address of premises

.....
.....
.....

Name of premises licence holder

.....

Name of designated premises supervisor

.....

1. This policy applies in relation to the sale or supply of alcohol on these premises.
2. For this policy the responsible person is one of the following:
 - the holder of the premises licence;
 - the designated premises supervisor;
 - a person aged 18 or over who is authorised to allow the sale or supply of alcohol by an under 18; OR
 - a member or officer of a club present on the club premises in a capacity which enables him or her to prevent the supply in question
3. Staff serving alcohol on the premises must require any individuals who appear to the responsible person to be under the age of 18 years of age to produce on request, before being served alcohol, identification bearing their photograph, date of birth, and a holographic mark.
4. Examples of appropriate identification include:
 - A passport
 - A photo card driving licence
 - A proof of age card bearing the PASS hologram
 - A military identification card
5. The premises licence holder or club premises certificate holder will ensure that staff are made aware of the existence and content of this policy.

Signed.....

PREMISES LICENCE HOLDER / CLUB PREMISES CERTIFICATE HOLDER