



Department
for Culture
Media & Sport

Consultation on a proposal to use a Legislative Reform Order to make changes to entertainment licensing

Licensing Act 2003

October 2013

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Chapter 1: Introduction

A consultation paper issued by the Department for Culture, Media and Sport on behalf of the Parliamentary Under Secretary of State for Sport & Equalities

Summary of Proposals

What is being consulted on?	The Department proposes to amend the Licensing Act 2003 so that certain entertainment activities in defined circumstances no longer require a licence before they can take place. A previous consultation in 2011 had sought views on removing licensing requirements in England and Wales for most entertainment activities. As a result of that consultation, the Government announced a set of deregulatory measures in January 2013 and this consultation relates to the introduction of a range of licensing exemptions for lower risk activities and the conditional relaxation of existing controls on live and recorded music	Chapters 2 and 4-10
How will these proposals be taken forward and when will they be implemented?	We intend that the proposed changes are made through a Legislative Reform Order under the Legislative and Regulatory Reform Act 2006. Subject to the outcome of the consultation, we anticipate that the changes could come into force as early as April 2014.	Chapters 3 and 11-13
Consultation	This consultation is taking place as required by the Legislative and Regulatory Reform Act 2006 and in accordance with the Government's consultation principles. All responses must be received by 17 December 2013	

Purpose of the consultation

- 1.1 This consultation is about deregulatory changes to entertainment licensing that are intended to be implemented via a Legislative Reform Order (LRO). Government policy on deregulating entertainment licensing was announced in January 2013 (see Chapter 2). This consultation sets out in detail how the Government intends to use a LRO to remove unnecessary regulation from smaller scale and neighbourhood

events, thereby freeing up organisers to put on eligible entertainment without having to fill in licensing paperwork and go through a costly process. It covers plans to:

- amend the licensing requirements in respect of live music and recorded music;
- bring in cross-activity licensing exemptions for local authorities, schools, hospitals, nurseries and circuses; and
- remove the licensing requirement for Greco-Roman and freestyle wrestling.

Why are these changes being implemented?

1.2 The Government wishes:

- to remove bureaucracy and cost from community entertainment activities and bolster creativity and community participation;
- to make it easier for schools, community groups and civil society organisations to put on cultural and sporting events by removing them from the entertainment licensing regime; and
- to grow the creative economy and remove burdens from small and medium sized businesses. In particular, the measures in relation to live and recorded music are intended to help pubs, hotels and other hospitality businesses diversify their offer and access new markets.

These changes will either remove controls, or introduce a conditional relaxation of the existing controls, on entertainment activities that the Government considers are “lower risk” in terms of the licensing objectives (see paragraph 2.3), making it easier for such events to take place. The accompanying Impact Assessment (IA) (see Chapter 13) analyses in detail the likely benefits and the associated risks of this deregulation.

Who will be interested in this consultation?

1.3 This consultation is primarily aimed at those with an interest in the detailed implementation of these deregulatory measures. It sets out the detail of what a LRO is intended to deliver, and invites feedback from interested parties about its suitability and workability, as well as gathering evidence on whether a LRO satisfies the pre-conditions set out in the Legislative and Regulatory Reform Act 2006. Based on the policy consultation in 2011, the following parties may have an interest in this consultation:

- Local Government;
- Voluntary and creative sectors;
- Citizens who wish to enjoy or participate in live entertainment;
- Residents;
- Responsible authorities (public bodies that are entitled to make representations to the Licensing Authority in relation to a premises licence); and
- Trade sectors.

In addition, the following organisations, groups and premises may also have an interest as potential beneficiaries:

- Schools and Parent/Teacher Associations;
- Groups using community premises;
- Churches with church halls;
- Local community audiences;
- Village hall management committees;
- Hospitals;
- Nurseries;
- Sixth Form Colleges;
- Tented circuses;
- Musicians;
- Local authority swimming pools and leisure centres;
- Local authority museums & galleries; and
- Pubs and restaurants.

How will implementation be taken forward?

- 1.4 We propose to amend the Licensing Act 2003 (“2003 Act”) by means of a Legislative Reform Order (LRO) under section 1 of the Legislative and Regulatory Reform Act 2006 (LRRRA). This consultation is being conducted in accordance with section 13 of the LRRRA. Views are invited on all aspects of the consultation paper, and to help this, the specific questions running throughout this document are collated in Chapter 14 and set out in the response form at **Annex B**.

How does this sit alongside the Government’s overhauling of the Licensing Act 2003 to tackle alcohol-related issues?

- 1.5 The proposed LRO is concerned with the deregulation of certain entertainment activities between 08:00-23:00, subject in some cases to an audience limit. It does not relate to the licensing of alcohol or late night refreshment. The Home Office has already legislated to overhaul the 2003 Act to give local authorities stronger powers to remove licences from, or refuse to grant licences to, any premises causing problems in relation to the sale (or supply) of alcohol. A number of other measures have been introduced to tackle alcohol related problems. The Government published a response to its alcohol strategy consultation on 17 July and its next steps to deliver the alcohol strategy are available at:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/223773/Alcohol_consultation_response_report_v3.pdf

Chapter 2: Background to the policy

What is entertainment licensing?

- 2.1 Subject to any conditions, definitions and exemptions that may apply, the types of entertainment which may be licensable under the Licensing Act 2003 are as follows:
- a performance of a play;
 - an exhibition of a film;
 - an indoor sporting event;
 - a boxing or wrestling entertainment (both indoors and outdoors);
 - a performance of live music;
 - any playing of recorded music;
 - a performance of dance; and
 - entertainment of a similar description to a performance of live music, any playing of recorded music or a performance of dance.
- 2.2 The 2003 Act may require that some form of authorisation is obtained before one or more of these entertainment activities can lawfully be carried out – typically either a premises licence/club premises certificate or a Temporary Event Notice (TEN) issued by the local licensing authority.

Licensing powers

- 2.3. The 2003 Act has four underlying “licensing objectives”: the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm. Licensing authorities must exercise their functions and make their decisions with a view to promoting those objectives.
- 2.4. In support of these four objectives, an award of a licence or other authorisation may be made subject to conditions. These conditions can be placed on a licence at time of grant – either volunteered by the applicant or imposed by the licensing authority as part of an application to vary a licence – or imposed by the licensing authority as part of a licence review. Conditions play an important part in ensuring a ‘contract’ between a licensing authority and licensee, and help to establish the context in which licensed premises can operate. However, general conditions tend only to apply to regulated activities.
- 2.5. Similarly, licence reviews play an important role in the controls process. Reviews give licensing authorities (and others) powers to address problems, and ensure appropriate local representation in the decision making processes. Reviews can be triggered by complaints from local residents or businesses, or by representations by relevant authorities, such as the police or the licensing authority itself. For a licensee,

a licence review is a very serious issue, and failure to comply with the law could lead to closure of premises, as well as a fine and/or a prison sentence.

Getting to this consultation stage

- 2.6 In “The Plan for Growth” published alongside the Budget in 2011, the Government announced that it intended to reduce the licensing burden for live music performance and bring forward proposals to reduce licensing burdens on other forms of entertainment regulated by the 2003 Act.
- 2.7 In September 2011, the Department issued a policy consultation that sought views on a proposal to remove licensing requirements in England and Wales for “regulated entertainment. This consultation document can be found here:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/72904/consultation_deregulation-scheduleone_2011_vs2.pdf
- 2.8 In launching the consultation, the Government took the view that the 2003 Act had been a missed opportunity to reform the regime for “regulated entertainment”. Rather than enabling entertainment activities, the regime brought in with the 2003 Act had either aped previous licensing regimes or brought events into the licensing regime regardless of the actual threat that an individual event posed to the licensing objectives. The Department was also responding to representations about the difficulties that the 2003 Act had caused to the cultural and voluntary sectors and commercial organisations, in terms of bringing in costly and bureaucratic processes for lower risk events (e.g. school productions, music performances to hospital patients, and brass bands playing in the local park).
- 2.9. The 2011 consultation was predicated on the view that where entertainment activities occur in conjunction with alcohol sale or supply, it is the presence of alcohol that is generally responsible for any increased threat to the licensing objectives. The Department was seeking views as to whether the requirement for small-scale entertainment to be licensed where alcohol is neither sold nor supplied - a significant proportion of activities - was likely to be disproportionate to the risk of harm under the licensing objectives.
- 2.10 The 2011 consultation set out a broad canvas, with a central proposal to remove from the definition of “regulated entertainment” events for audiences of fewer than 5,000 people, where the entertainment was a performance of live music, a play, or dance, an exhibition of a film (provided age classification safeguards could be retained), an indoor sporting event, or any playing of recorded music. The consultation also detailed questions as to risks around four main variables:
- audience size;
 - performance end time limitations;
 - venue; and
 - other controls for individual activities.
- 2.11 The Department received around 1350 responses. The responses provided the Department with evidence that there was support for a proportionate reform of the licensing regime that scaled back the central deregulation proposal in the

consultation, with lower audience limits than proposed, plus performance cut-off times.

Deregulatory measures

- 2.12 After due consideration of the consultation responses, the Department announced a set of deregulatory measures to Parliament on 7th January 2013, and published a consultation response document that can be found here: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/105725/Con_entertainment_dereg_response.pdf
- 2.13 The views expressed by respondents on audience size in relation to public order and public safety are set out in the Department's consultation response (see above). The Department concluded that there was a point of general consensus from the consultation that events should not be deregulated where the audience exceeded 500 people (or 1,000 for indoor sport). Some respondents would have wanted this audience figure to be lower and others would have wanted it to be higher, but the Department considers that it has struck the right balance between quantifying the risk (accepting that an event cannot involve zero risk) and appreciating the burden that a regulatory regime imposes on businesses and community groups who wish to provide lower risk entertainment. By setting the limit at 500 people, there was also a read-across to the 499 audience upper limit for an event authorised by a TEN, which has generally been regarded as an appropriate audience ceiling figure for the light touch process of authorising temporary activities. So by deciding to deregulate for audiences of not more than 500 people, the Department was conscious that it would be removing many temporary activities from the TENs regime. The Department also took the view that, in line with other night-time environmental protection regimes, 23:00 was a suitable end-time, after which deregulation should not apply.
- 2.14 The Department is now engaged in implementing the set of deregulatory measures through changes to legislation in three waves.
- 2.15 The first wave, by secondary legislation under the 2003 Act, was the partial deregulation of plays, dance and indoor sporting events by the Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013 ("2013 Order") that came into force on 27 June 2013. The 2013 Order and related explanatory material can be found here: <http://www.legislation.gov.uk/ukxi/2013/1578/contents/made>
- 2.16 This consultation is about implementing a second wave of deregulatory changes by making a LRO which will amend the 2003 Act using the powers described in Chapter 3. The effect of the LRO will be limited to England and Wales, as the 2003 Act does not extend to Scotland or Northern Ireland.
- 2.17 The Department has also consulted on a third wave, for community film exhibition, that closed on 28 August 2013. The Department is currently analysing the consultation responses. The closed consultation can be found here: <https://www.gov.uk/government/consultations/licensing-act-2003-community-film-exhibition-consultation>

2.18 If, post consultation, a proposal to deregulate the exhibition of film in community premises is included in the Deregulation Bill¹ when it is introduced to Parliament, it is likely that, as set out in the film consultation, an exemption for incidental film would be included in the LRO when the Minister lays the proposals before Parliament. This exemption would apply where an exhibition of film is incidental to an activity that is not in itself regulated entertainment under the 2003 Act. As such, it would be identical to the current exemption for incidental live and recorded music (paragraph 7 of Schedule 1 to the 2003 Act), so the basis on which an activity may be considered ‘incidental’ is already well-established.

What has been deregulated to date?

2.19 As a result of amendments to the 2003 Act by the Live Music Act 2012 Act (“2012 Act”) and the 2013 Order, no licence is required for the following activities to the extent that they take place between 08:00-23:00 on any day:

- a performance of a play in the presence of any audience of no more than 500 people;
- an indoor sporting event in the presence of any audience of no more than 1,000 people;
- performances of dance in the presence of any audience of no more than 500 people; and
- live music, where the live music comprises:
 - a performance of unamplified live music;
 - a performance of live amplified music in a workplace² with an audience of no more than 200 people; or
 - a performance of live music on alcohol licensed premises which takes place in the presence of an audience of no more than 200 people, at a time when the premises are open for the purpose of being used for the supply of alcohol for consumption.

Further information is available in Chapter 15 of the amended guidance for licensing authorities that was issued in June 2013 by the Home Office under section 182 of the 2003 Act. This can be found here:

<https://www.gov.uk/government/publications/section-182-of-the-licensing-act-2003-amended-guidance>

¹ <http://www.parliament.uk/business/committees/committees-a-z/joint-select/draft-deregulation-bill/>
The Bill is currently subject to pre-legislative scrutiny.

² Other than a workplace which is already licensed under the 2003 Act, or is licensed only for the provision of late night refreshment.

Chapter 3: Legislative Reform Order-making powers

What can be delivered by a Legislative Reform Order?

Section 1

- 3.1 The proposed Legislative Reform Order (LRO) relies only on the power in section 1 of the Legislative and Regulatory Reform Act 2006 (LRRRA). Using that power, a Minister can make a LRO for the purpose of “removing or reducing any burden, or the overall burdens, resulting directly or indirectly for any person from any legislation”.
- 3.2 Section 1(3) of the LRRRA defines a burden as:
- a financial cost;
 - an administrative inconvenience;
 - an obstacle to efficiency, productivity or profitability; or
 - a sanction, criminal or otherwise, which affects the carrying on of any lawful activity.

Preconditions

- 3.3 Each proposal for a LRO must satisfy the preconditions set out in section 3 of the LRRRA. Some of the questions in this document are designed to elicit the information that the Minister will need in order to satisfy the Parliamentary Scrutiny Committees that, among other things, the LRO proposal meets these preconditions. For this reason, we would particularly welcome your views on whether and how each aspect of the proposed changes in this consultation document meets the following preconditions (which are analysed in more detail in Chapter 11):

(i) **Non-legislative solutions** – A LRO may not be made if there are non-legislative solutions which will satisfactorily remedy the difficulty which the LRO is intended to address. An example of a non-legislative solution might be issuing guidance about a legislative regime.

(ii) **Proportionality** – The effect of a provision made by a LRO must be proportionate to its policy objective. A policy objective might be achieved in a number of different ways, some of which may be more onerous than others and may be considered to be a disproportionate means of securing the desired outcome. Before making a LRO, the Minister must consider whether there is an appropriate relationship between the policy aim and the means chosen to achieve it.

(iii) **Fair balance** – Before making a LRO, the Minister must be of the opinion that a fair balance is being struck between the public interest and the interests of any person adversely affected by the LRO. It is possible to make a LRO which will have an adverse effect on the interests of some people if the Minister is satisfied that the overall policy will generate beneficial effects which are in the public interest.

(iv) **Necessary protection** – A Minister may not make a LRO if he or she considers that the proposals would remove any necessary protection. The notion of necessary protection can extend to economic protection, health and safety protection, and the protection of civil liberties, the environment and national cultural heritage.

(v) **Rights and freedoms** – a LRO cannot be made unless the Minister is satisfied that it will not prevent any person from continuing to exercise any right or freedom which they might reasonably expect to continue to exercise. This condition recognises that there are certain rights that it would not be fair to take away from people using a LRO.

(vi) **Constitutional significance** – A Minister may not make a LRO if he or she considers that the provision made by the LRO is of constitutional significance.

3.4 It should be noted that even where the preconditions of section 3 of the LRRRA are met, a LRO cannot:

- Deliver highly controversial proposals;
- Remove burdens which fall solely on Ministers or Departments except where the burden affects the Minister or Department in the exercise of regulatory functions;
- Confer or transfer any function of legislating on anyone other than a Minister, persons or bodies that have statutory functions conferred on or transferred to them by an enactment, or a body or office which has been created by the LRO itself;
- Impose, abolish or vary taxation;
- Create a new criminal offence or increase the penalty for an existing offence so that it is punishable above certain limits;
- Provide authorisations for forcible entry, search or seizure, or compel the giving of evidence;
- Amend or repeal any provision of Part 1 of the LRRRA;
- Amend or repeal any provision of the Human Rights Act 1998;
- Remove burdens arising solely from common law.

Consultation

3.5 The LRRRA requires Departments to consult widely on all LRO proposals. The list of consultees to which this document has been sent is at **Annex A**. Comments are invited from all interested parties, and not just from those to whom the document has been sent. A response form is at **Annex B**.

3.6 A note explaining the Parliamentary process for LROs can be found at **Annex C**. This will help respondents understand when and to whom they are able to put their views.

3.7 This consultation document follows the guidance on the Government's Consultation principles that can be found here:

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

It is an 8 week consultation in view of the earlier policy consultation exercise that was conducted in 2011 (see Chapter 2).

Disclosure

- 3.8 Normal practice will be for details of representations received in response to this consultation document to be disclosed, and for respondents to be identified. While the LRRRA provides for non-disclosure of representations, the Minister will include the names of all respondents in the list submitted to Parliament alongside the draft LRO. The Minister is also obliged to disclose any representations that are requested by, or made to, the relevant Parliamentary Scrutiny Committees. This is a safeguard against attempts to bring improper influence to bear on the Minister. We envisage that, in the normal course of events, this provision will be used rarely and only in exceptional circumstances.
- 3.9 You should note that:
- If you request that your representation is not disclosed, the Minister will not be able to disclose the contents of your representation without your express consent and, if the representation concerns a third party, their consent too. Alternatively, the Minister may disclose the content of your representation but only in such a way as to anonymise it.
 - In all cases where your representation concerns information on a third party, the Minister is not obliged to pass it on to Parliament if he considers that disclosure could adversely affect the interests of that third party and he is unable to obtain the consent of the third party.
- 3.10 Please identify any information which you or any other person involved do not wish to be disclosed. You should note that many facsimile and e-mail messages carry, as a matter of course, a statement that the contents are for the eyes only of the intended recipient. In the context of this consultation such appended statements will not be construed as being requests for non-inclusion in the post consultation review unless accompanied by an additional specific request for confidentiality.

Confidentiality and freedom of information

- 3.11 It is possible that requests for information contained in consultation responses may be made in accordance with access to information regimes (these are primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004). If you do not want your response to be disclosed in response to such requests for information, you should identify the information you wish to be withheld and explain why confidentiality is necessary. Your request will only be acceded to if it is appropriate in all the circumstances. An automatic confidentiality disclaimer generated by your IT system will not of itself be regarded as binding on the Government.

Responding to this consultation

3.12 You can respond to this consultation in the following ways:

Online:

To Regulated_Entertainment_Consultation@Culture.gsi.gov.uk

By post:

You can print out **Annex B** and fill in responses by hand. Please send these to: Ian Jenkins, Entertainment Licensing LRO Consultation Co-ordinator, Department for Culture, Media and Sport, 100 Parliament Street, London SW1A 2BQ

Closing date:

The closing date for responses is **17 December 2013**.

After the consultation:

We will publish an analysis of the responses after the consultation has closed.

Complaints:

If you have any comments or complaints about the consultation process (as opposed to comments on these issues that are part of the consultation) please send them to: Complaints Department (Consultations), Department for Culture, Media and Sport, 100 Parliament Street, London SW1A 2BQ

Chapter 4: Proposals

- 4.1 The Department intends to implement the announced policy position by amending the 2003 Act, so reducing the burden of entertainment licensing for reasons set out in the 2011 consultation. The Department is now consulting on the detail of its announced policy position (summarised in the table below) and invites views on whether the proposal to implement through a LRO satisfies the preconditions set out in the LRRA (Chapter 11).

Chapter	Policy position
	Deregulation will only apply to activities below which are conducted between 08:00-23:00 to minimise any risk of excess noise when the impact of noise disturbance on households is highest.
5	<p>Cross-activity exemptions</p> <p>The following will be exempt from entertainment licensing between 08:00-23:00 with no audience limitations:</p> <ul style="list-style-type: none"> • Entertainment activities held by, or on behalf of, local authorities on their own premises. • Entertainment activities held by, or on behalf of, hospitals and schools on their own premises. • Entertainment activities that are part of nursery provision on non-domestic premises.
6	<p>Live music</p> <p>A performance of live amplified music in alcohol licensed premises or in a workplace will not require specific permission where the entertainment takes place between 08:00-23:00 and the audience consists of up to 500 people. The present audience ceiling is 200 people.</p>
7	<p>Recorded music</p> <p>Any playing of recorded music in alcohol licensed premises will not require specific permission where the entertainment takes place between 08:00-23:00 and the audience consists of up to 500 people.</p>
8	<p>Live and recorded music exemptions</p> <p>The following events will be exempt from entertainment licensing for live and recorded music between 08:00-23:00, where the audience consists of</p>

	<p>up to 500 people:</p> <ul style="list-style-type: none"> • Activities held on local authority premises. • Activities held on hospital and school premises. • Activities held in community premises.
9	<p>Circuses</p> <p>Tented circuses will be exempt from entertainment licensing in respect of performances of live music, the playing of recorded music, indoor sporting events and any performance of a play or dance that takes place between 08:00-23:00, with no audience limitation.</p>
10	<p>Greco-Roman and freestyle wrestling</p> <p>Above wrestling disciplines to be exempt from licensing, with no audience limitations, if these contests take place between 08:00-23:00.</p>

Chapter 5: Cross-activity exemptions

Cross-activity exemptions: local authorities, hospitals, schools and nursery provision

- 5.1 In January 2013, the Department announced that it intended to exempt certain bodies from most forms of entertainment licensing as follows:

Schedule One activities held on their own premises by Local Authorities (to Parish level), Hospitals, Nurseries and Schools (except Higher Education) will be exempt from entertainment licensing between 08:00-23:00, with no audience restrictions.

We are now consulting on the detail of this deregulatory measure for inclusion in a LRO.

Detail on the activities to be included in these cross-activity exemptions

- 5.2 We envisage that all entertainment activities described in paragraph 2 of Schedule 1 to the 2003 Act will be included in these exemptions. These activities are:
- a performance of a play;
 - an exhibition of a film;
 - an indoor sporting event;
 - a boxing or wrestling entertainment;
 - a performance of live music;
 - any playing of recorded music;
 - a performance of dance;
 - entertainment of a similar description to a performance of live music, any playing of recorded music or a performance of dance.

However, these exemptions will not extend to adult entertainment, to the extent that the 2003 Act plays a part in the current controls process. The background and policy position on adult entertainment was set out in Chapter 11 of the 2011 consultation, and there was a strong consensus in the consultation responses that existing restrictions on sexual entertainment should be maintained.

Detail on institutions to be included in these cross-activity exemptions

- 5.3 We envisage that these exemptions will apply to local authorities, hospitals, schools, and nursery provision. This is because the Department considers that local authorities and other trusted civil society organisations, as well as nurseries who want to put on entertainment for the benefit of the children they look after, should where possible be freed from current entertainment licensing arrangements particularly where alcohol licence considerations do not apply.
- 5.4 The Department considers that a high level of deregulation should apply to local authorities, as they are directly and democratically accountable to the local community. The Department also believes that the same level of deregulation should apply to most hospitals, schools, and nurseries as, in terms of the licensing objectives, they are competent lower risk civil society institutions and providers that are:
- subject to legal duties, inspection and other regulatory regimes (e.g. noise nuisance legislation, fire regulations and health and safety legislation);
 - subject to local scrutiny through being part of the wider community;
 - accountable through their governance structure; and
 - have recognised persons responsible for the day-to-day running and decision-making within individual premises, with whom enforcement agencies or local residents can raise any concerns.
- 5.5 The Department considers that where a local authority, hospital or school organises regulated entertainment on its own premises, those activities should be exempted from licensing requirements (as set out above) between 08:00-23:00, with no limitation on audience size. It is important to note that at these events, a licence to sell or supply alcohol on these premises would still be required, and controls in place in relation to the alcohol licence would remain. However, no authorisation under the 2003 Act would be required to carry on regulated entertainment that falls within the scope of these cross-activity exemptions. The entertainment would be exempt without further condition. Instead, these “trusted bodies” would remain subject to a range of other legal duties described in Chapter 11, while also continuing to work closely as required with local authorities, police and their neighbours on event management. The Department also considers that where a nursery organises regulated entertainment as part of such provision on non-domestic premises for which it is registered, those activities should be exempted.

Local Authorities

- 5.6 We are minded to set out an exemption for local authorities as follows.
- 5.6.1 The Department envisages that entertainment activities organised by, or on behalf of, a local authority on that local authority’s premises will be exempt from entertainment licensing between 08:00-23:00, with no audience restrictions. We are minded to base the definition of ‘local authority’ on the definition given in section 270 of the Local Government Act 1972 (as amended), as follows:
- County councils, County borough councils, district councils, unitary authorities, metropolitan district councils, and London borough councils;

- Statutory parish councils (England) and community councils (Wales), provided that any such a council is not subject to a reorganisation order in relation to abolishing and dissolving that council;
- Greater London Authority;
- City of London (in its capacity as a local authority);
- Transport for London;
- London Fire and Emergency Planning Authority;
- London Legacy Development Corporation;
- Council of the Isles of Scilly;
- National Park Authorities;
- Broads Authority;
- Passenger Transport Executives;
- Port Health Authorities;
- The Under Treasurer of the Middle Temple and the Sub-Treasurer of the Inner Temple, (in their capacities as local authorities); and
- Waste Disposal Authorities.

5.6.2 The inclusion of the phrase “*on behalf of*” is to give local authorities freedom to host events that they sponsor but do not themselves deliver (e.g. an event organised by a cultural trust).

5.6.3 In terms of defining ‘local authority premises’, we mean any non-domestic property (land or building) over which a local authority has, to any extent, control.

5.6.4 We would expect the following types of local authority premises to be covered by this exemption:

- Public parks and other public spaces;
- Town halls and administrative offices;
- Libraries;
- Swimming pools and leisure centres;
- Community halls; and
- Museums and galleries

5.6.5 The Department considers that any entertainment event organised by a local authority body, or under their aegis, on their own premises should be considered to be lower risk in relation to the licensing objectives.

Consultation Question 1

Do you have any comments on how this LRO deregulatory measure will work for local authorities?

Hospitals

5.7 We are minded to set out an exemption for hospitals as follows.

5.7.1 The Department envisages that entertainment activities organised by, or on behalf of, a healthcare organisation on their own hospital premises should be exempt from entertainment licensing between 08:00-23:00, with no audience restrictions. We are minded to base the definition of hospital on that given in section 275 of the National Health Service Act 2006 (as amended), comprising the following:

- (a) any institution for the reception and treatment of persons suffering from illness³;
- (b) any maternity home;
- (c) any institution for the reception and treatment of persons during convalescence or persons requiring medical rehabilitation; and
- (d) any clinics, dispensaries or out-patient departments maintained in connection with an establishment mentioned in (a) to (c) above.

5.7.2 The inclusion of the phrase “*on behalf of*” is to give healthcare organisations freedom to host events that they sponsor but do not themselves deliver (e.g. a charitable event for the hospital).

5.7.3 In terms of defining ‘hospital premises’, we mean any non-domestic land or building over which a hospital has, to any extent, control.

5.7.4 We would expect the following types of ‘hospital premises’ to be covered by this exemption:

- NHS hospitals;
- Independent sector hospitals; and
- Hospices

5.7.5 The Department considers that any entertainment event organised by one of these healthcare organisations, or under their aegis, on their own hospital premises should be considered to be lower risk in relation to the licensing objectives.

Consultation Question 2

Do you have any comments on how this LRO deregulatory measure will work for hospitals?

³ For this purpose, “illness” includes any disorder or disability of the mind and any injury or disability requiring medical or dental treatment or nursing.

Schools

5.8 We are minded to set out an exemption for schools as follows.

5.8.1 The Department envisages that entertainment activities organised by, or on behalf of, the governing body⁴ of a school on school premises will be exempt from entertainment licensing between 08:00-23:00, with no audience restrictions. We are minded to base the definition of ‘school’ on that given in section 4 of the Education Act 1996 (i.e. one providing (a) primary education, (b) secondary education, or (c) both primary and secondary education). The Department also proposes to include sixth form colleges, 16 to 19 Academies and nursery schools within this exemption. The exemption would apply to:

- A ‘maintained school’ within the meaning given in section 20(7) of the School Standards and Framework Act 1998, where that school is maintained by a local authority;
- An ‘Independent School’, within the meaning given in section 463 of the Education Act 1996 and entered on a register of independent schools maintained under section 158 of the Education Act 2002;
- A ‘Pupil Referral Unit’ within the meaning given in section 19 of the Education Act 1996;
- An ‘Academy school’ within the meaning given in section 1A(3) of the Academies Act 2010;
- An ‘Alternative Provision Academy’ within the meaning given in section 1C(3) of the Academies Act 2010;
- A ‘non-maintained special school’ approved under section 342 of the Education Act 1996;
- A ‘16 to 19 Academy’ within the meaning given in section 1B(3) of the Academies Act 2010;
- A designated ‘Sixth Form College’ within the meaning given in section 91 of the Further and Higher Education Act 1992; and
- A ‘maintained nursery school’ within the meaning given in section 22(9) of the School Standards and Framework Act 1998.

5.8.2 The inclusion of the phrase “*on behalf of*” is to give these educational institutions freedom to host events that they sponsor but do not themselves deliver (e.g. PTA events).

5.8.3 In terms of defining ‘school premises’, we mean any non-domestic land or building over which a school (as defined above) has, to any extent, control.

5.8.4 We would expect the following types of ‘school premises’ to be covered by this exemption:

⁴ The proprietor for independent schools; the local authority or management committee for Pupil Referral Units.

- Community schools;
- Foundation schools;
- Voluntary-aided schools;
- Voluntary controlled schools;
- Registered independent schools;
- Pupil referral units;
- Academies and free schools;
- Non-maintained special schools;
- 16 to 19 Academies;
- Sixth form colleges;
- Nursery schools; and
- Children’s homes that qualify as schools

5.8.5 We would expect the following types of premises not to be covered by this exemption:

- General Further Education Colleges (excluding sixth form colleges);
- Higher Education Institutions; and
- Language schools

5.8.6 The Department considers that any entertainment event organised by a school governing body, or under their aegis, on their own premises should be considered to be lower risk in relation to the licensing objectives. The Department considers that only educational institutions that fall within this definition can be considered, with any certainty, to be lower risk civil society institutions, as they are inherently concerned with the protection of young people. The Department decided against expanding the exemption to include General FE colleges and Higher Education Institutions because it considered that this would pose a greater risk to the licensing objectives.

Consultation Question 3

Do you have any comments on how this LRO deregulatory measure will work for schools?

Nurseries (early years and day care provision)

5.9 We are minded to set out a nurseries exemption for early years provision (England) and day care (Wales) (other than that provided by a maintained nursery school) as follows.

5.9.1 The Department envisages that all entertainment activities organised as part of early years provision in England (as defined by section 96(2) of the Childcare Act 2006) or of day care in Wales (as defined by section 19(3) of the Children and Families (Wales) Measure 2010) on non-domestic premises for which the provider is registered

under Part 3 of the Childcare Act 2006 or Part 2 of the Children and Families (Wales) Measure 2010, should be exempt from entertainment licensing between 08:00-23:00, with no audience restrictions. This exemption would include relevant entertainment activities organised on behalf of such a provider.

- 5.9.2 The intention is remove any requirement for a licence for an activity provided as part of early years provision in England or day care in Wales on non-domestic premises (e.g. a film exhibited to young children). This exemption would apply to private and voluntary nurseries, pre-schools, and children’s centres registered for early years provision in England or day care in Wales, that provide regular care and education in premises that are not someone’s home.
- 5.9.3 We would expect the following would fall outside this exemption:
- Activities not organised as part of early years provision (England) or day care (Wales);
 - Activities on premises where the provider is not registered – such as where childcare is for short or infrequent periods of time (e.g. crèches, some school holiday provision);
 - Any out-of-school provision for children where the provider is not registered (e.g. organisations such as scouts, religious activities, educational tuition); and
 - Childcare on domestic premises
- 5.9.4 The Department considers that entertainment activities provided as part of provision for children by a registered provider, on non-domestic premises are lower risk with regard to the licensing objectives.

Consultation Question 4

Do you have any comments on how this LRO deregulatory measure will work for any person offering early years and day care provision?

Cross-cutting questions

Consultation Question 5

Do you agree that all local authorities and every hospital, school and nursery provider specified above, regardless of size, resources and capability should be included in these exemptions? If not, which bodies would you exclude from these exemptions and why?

Consultation Question 6

Are you aware of any local authority body, hospital, school (including children’s residential provision) or nursery provider that, in terms of the licensing objectives, ought to be included in these cross-activity exemptions and currently would not be?

Chapter 6: Live music

Live music entertainment in alcohol licensed premises and other workplaces

- 6.1 In January 2013, the Department announced that it intended to raise the audience threshold for the deregulation introduced by the Live Music Act 2012. It said:

We have listened to calls in the consultation to retain controls so that amplified music is not deregulated in all circumstances. We have noted also the various calls for a higher audience threshold than the 200 audience limit in the Live Music Act 2012, and noted also the widespread support for the 2012 Act's use of Reviews under the Licensing Act as a deterrent for noise and public order problems. We will therefore launch a Legislative Reform Order this year to raise the Live Music Act's audience threshold for permitted music performance from 200 to 500 in on-licensed premises and workplaces so that more small businesses and premises can benefit in these controlled circumstances.

- 6.2 In the 2011 consultation, the need to encourage more live music performances was the focus of most of the responses received. Since then, the Live Music Act 2012 (the 2012 Act) – which the Department understands is largely viewed as a success for small venues – has come into force (October 2012), deregulating in part the performance of live amplified and unamplified music as follows:

- The 2012 Act removed the licensing requirement for **unamplified live music** taking place between 08:00-23:00 in all venues, subject to the right of a licensing authority, when that performance takes place on premises authorised to supply alcohol for consumption on those premises, to impose conditions relating to live music following a review of a premises licence or club premises certificate;
- It also removed the licensing requirement for **amplified live music** taking place between 08:00-23:00 before audiences of no more than 200 persons on **premises authorised to supply alcohol** for consumption on those premises and which are open for the purposes of that supply of alcohol, and suspended any existing conditions on the premises licence or club premises certificate relating to live music. However, the licensing authority has power to impose conditions about live music following a review of that premises licence or club premises certificate, and where that power is exercised, performances of live music on those premises will become licensable once again; and
- It also removed the licensing requirement for **amplified live music** taking place between 08:00-23:00 before audiences of no more than 200 persons in **workplaces** not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment).

A workplace means any premises, or part of premises, which are not domestic premises and are made available to any person as a place of work.

- 6.3 The Department intends to utilise a LRO to raise the audience ceiling for permitted live music performance from the current level of 200 to 500. This would, in controlled circumstances, enable greater numbers of small businesses and premises to benefit and give performers further opportunities to perform in front of audiences in venues across the country. The status of licence conditions relating to live music entertainment, post the Live Music Act 2012, will remain as set out in the amended guidance for licensing authorities issued by the Home Office under section 182 of the 2003 Act (see paragraph 2.19) to ensure that appropriate action can be taken should the need arise.
- 6.4. The Department considers that extending the audience threshold to 500 will not give rise to significant additional risk to the licensing objectives. It is expected that premises that want to put on performances of live music and have the capacity to do so for audiences of up to 500 people will already be using the opportunity to deregulate for audiences up to 200 people. This measure will simply raise the audience limit threshold to allow more people into such venues. Raising the audience limit to not more than 500 people is also in line with the partial deregulation of plays and dance under the 2013 Order (see paragraph 2.19).

Live music in premises used primarily for the supply of alcohol

- 6.5 The effect of an increase in the audience cap from 200 to 500 people would be that a performance of live music on alcohol on-licensed premises - reflecting the amendments made to the 2003 Act by the Live Music Act 2012 - would **not** be licensable to the extent that:
- (a) at the time the live music takes place, the premises are open for the purposes of being used for the supply of alcohol for consumption on the premises;
 - (b) the live music takes place in the presence of an audience of no more than 500 persons; and
 - (c) the live music takes place between 08.00-23.00 on the same day, or where the Secretary of State makes an order relaxing opening hours for special occasions⁵, between the hours specified in that order.

Additionally, where live music takes place under these circumstances, then the effect of all existing licence conditions that relate to the performance of live music is suspended. However, on a review of a premises licence or club premises certificate, the effect of any such conditions may be reactivated by a licensing authority, and new conditions relating to live music may also be added by a licensing authority on review as if any such performance of live music was licensable. Thereafter, an authorisation under the 2003 Act will be required for any performance of live music on those premises.

⁵ Section 172 of the 2003 Act (to date, this has been done for the royal wedding and the Diamond Jubilee).

Live music in workplaces

- 6.6 For workplaces, the effect of an increase in the audience cap from 200 to 500 people would be that a performance of live music at a workplace - reflecting the amendments made to the 2003 Act by the Live Music Act 2012 - would **not** be licensable to the extent that:
- (a) the place where the performance is provided is not licensed under the 2003 Act (or is licensed only for the provision of late night refreshment), but is a workplace as defined in regulation 2(1) of the Workplace (Health, Safety and Welfare) Regulations 1992,
 - (b) the live music performance takes place in the presence of an audience of no more than 500 persons; and
 - (c) the live music takes place between 08:00-23:00 on the same day.

Consultation Question 7

Do you have any comments on how this LRO deregulatory measure will work for live music, taking into account experience since the Live Music Act 2012 came into force?

Chapter 7: Recorded music

Recorded music entertainment in alcohol licensed premises

- 7.1 In January 2013, the Department announced a deregulatory measure for the playing of recorded music. It said:

We will launch a Legislative Reform Order to.....suspend regulation for the recorded music activity in on-licensed premises between 08:00-23:00, which like live music in the same premises will be subject to licensing Reviews and the ever present potential for licence controls and sanctions under the 2003 Act.

- 7.2 As set out in Chapter 6, the Live Music Act 2012 partially deregulated live music entertainment, so that in certain circumstances, live music is no longer a licensable activity. There is a read-across between live music performance and recorded music events, such as discos and DJ events (where a performance of live music and the playing of recorded music often meet) and we see no reason why deregulation of the playing of recorded music should not be contemplated in appropriate venues and circumstances.
- 7.3 The Department listened carefully to the views expressed by the police and others in response to the 2011 consultation:

“Most residents were very opposed to recorded music deregulation either totally, or outside of a controlled environment. The view from the police and local authorities was that recorded music activities should not be completely deregulated to audiences of any size, based on experience of this type of unlicensed activity and the likelihood of provoking public order incidents and public nuisance problems.

The police also had serious concerns about “raves” (unlicensed music events, often in conjunction with excessive alcohol or drug consumption). The police were concerned about the overall public order and public safety aspects of these events if deregulated, including any draw on policing resources, and the overall difficulty in halting such an event when it is in progress.

The public safety element was also echoed by local authorities and other blue light services, who gave examples of unregulated events which had proved problematic and which could have ended disastrously. ACPO were of the view that more of these problem events would be likely to occur if licensing for recorded music events were removed, noting also the increased portability of equipment suited to purpose and unprohibitive costs.

The police also stated concerns about recorded music activities held outside of a licensing framework in respect of gang violence, drug, knife and gun crime and other local disturbance. There were additional concerns, particularly in relation to recorded music events, about “bring your own” or “pre-loading” for events and also the effect of “dry discos” for the under 18s, which the police stated were often far from “dry” and which can cause disorder problems.”

For the above reasons, the Department envisages (compared with live music) a more limited deregulation of the licensing regime for the playing of recorded music that would be applicable only to premises used primarily for the supply of alcohol.

- 7.4 The Department intends to introduce a LRO to remove the licensing requirement for the playing of recorded music between 08:00-23:00 before audiences of no more than 500. This deregulation would be limited to premises authorised to be used for the supply of alcohol for consumption on those premises, at times when those premises are open for the purposes of that supply of alcohol and would suspend any existing conditions on the premises licence or club premises certificate relating to recorded music. Such premises would be subject to the licensing authority having the power to impose conditions about recorded music following a review of a premises licence or club premises certificate, and where that power is exercised, performances of recorded music on those premises would become licensable once again.
- 7.5. This would, in controlled circumstances, enable greater numbers of small businesses and premises to play recorded music, but on the basis (as applies post the Live Music Act 2012) that licensing authorities can take action should the need arise.
- 7.6 The Department considers that setting the audience threshold at 500 is appropriate and will not pose a significant risk to the licensing objectives (see Chapter 11). This measure will also allow such audiences to enjoy recorded music up to the new audience limit of not more than 500 people, something which is in line with the partial deregulation of plays and dance under the 2013 Order.

Detailed policy

- 7.7 The effect of the Department’s proposal would be that the playing of recorded music on alcohol on-licensed premises would **not** be licensable to the extent that:
- (a) at the time of the playing of recorded music, the premises are open for the purposes of being used for the supply of alcohol for consumption on the premises;
 - (b) the recorded music takes place in the presence of an audience of no more than 500 persons; and

- (c) the recorded music takes place between 08:00-23:00 on the same day, or where the Secretary of State makes an order relaxing opening hours for special occasions, between the hours specified in that order.

Additionally, where recorded music takes place under these circumstances, then the effect of all existing licence conditions that relate to the playing of recorded music is suspended. However, on a review of a premises licence or club premises certificate, the effect of any such conditions may be reactivated by a licensing authority, and new conditions relating to recorded music may also be added by a licensing authority on review as if any such playing of recorded music was licensable. Thereafter, an authorisation under the 2003 Act will be required for any playing of recorded music on those premises.

- 7.8. Given the public order, public safety, and public nuisance concerns expressed during the 2011 consultation, the Department considers that the potential sanction of a licence review is fundamental to ensuring that this limited deregulation for the playing of recorded music does not pose significant risks to the licensing objectives. This sanction has been bolstered by recent changes to the legislation so that licensing authorities themselves can instigate a review, as well as local residents, businesses and the police. For a licensee, a licence review can be a very serious issue, and failure to comply with the law could lead to closure of the premises, as well as a fine and/or a prison sentence.

Consultation Question 8

Do you have any comments on how this LRO deregulatory measure will work for recorded music in on-licensed premises?

Chapter 8: Live and recorded music exemptions

Live and recorded music exemptions between 08:00-23:00 for audiences up to 500 on Local Authority, hospital, school, nursery and community premises

8.1 In January 2013, the Department announced an exemption for the performance of live music and the playing of recorded music in certain circumstances. It said:

Live and recorded music activities held on premises owned by Local Authorities (including parish councils) with the specific permission of that authority; Hospitals; Nurseries; Schools (except Higher education) with the specific permission of those organisations, will be exempt from licensing requirements for audiences of up to 500 people.

Community Premises (such as Church halls, Village halls and community centres) will be exempt from licensing requirements for live and recorded music for audiences of up to 500 people.”

Local Authorities, hospitals and schools

8.2 As set out in Chapter 5, the Department considers that local authorities and other trusted civil society organisations should, where appropriate, be freed from current entertainment licensing arrangements. Hence the exemptions described in Chapter 5 would apply where:

- a performance of live music or playing of recorded music took place between 08:00-23:00, and that performance was organised by, or on behalf of, a local authority, hospital or school on their own premises;
- a performance of live music or playing of recorded music took place between 08:00-23:00 as part of nursery provision, on non-domestic premises in respect of which the provider is registered.

8.3 The Department also wishes to encourage performances of live music and recorded music to be held on local authority, hospital or school premises, where specific permission is given. The premises of local authorities and such institutions are defined in paragraphs 5.6.3, 5.7.3 and 5.8.3. The difference to the exemption in this Chapter, compared to that described in Chapter 5, is that the music performance activity does **not** need to have been organised by, or on behalf of, the local authority,

hospital or school. In this Chapter, local authorities, hospitals and schools are able to permit the 'hiring out' of their own premises for music entertainment by any party.

- 8.4. The Department intends to utilise a LRO to remove the licensing requirement for live and recorded music activities between 08:00-23:00 before audiences of no more than 500 people on local authority, hospital and school premises, where the relevant body for those premises has given its specific permission. The Department considers that music entertainment held in such circumstances is lower risk in relation to the licensing objectives.

Nurseries

- 8.5 As set out in Chapter 5, the deregulatory measure for nursery (early years and day care) provision is differently drawn and concerned with entertainment activities organised as part of this provision on any non-domestic premises for which the provider is registered. In some cases (such as where a nursery has sole use of a purpose-built building), it may be appropriate to extend the exemption described above to enable that person or body to permit music entertainment by any other person, without that entertainment having to form part of early years provision in England or day care in Wales. In many cases, however, the nursery provider will be one of a number of users of particular premises (e.g. a hotel) and will not itself be able to give permission. We would welcome views on whether, on reflection, it is appropriate and feasible to include nursery (early years and day care) premises in this exemption, recognising also that many such providers may occupy 'community premises' and so music entertainment will be covered by the proposed community premises exemption set out below.

Consultation Question 9

Do you have any views on whether, or not, there should a LRO deregulatory measure for live and recorded music on nursery premises?

Community premises

- 8.6 The Department intends to introduce a LRO to remove the licensing requirement for live and recorded music activities between 08:00-23:00 and before audiences of no more than 500 people on community premises that are **not** licensed for the supply of alcohol on those premises and where the relevant person or body for those premises has given specific permission for such activities to take place on those premises. The Department considers that such music entertainment held on community premises is a lower risk activity with respect to the licensing objectives, taking into account that, where applicable, community premises will still need to possess a licence for the sale or supply of alcohol.

8.7 Under the Licensing Act 2003, 'community premises' are defined as:

'premises that are or form part of (a) a church hall, chapel hall, or other similar building, or (b) a village hall, parish hall, community hall or other similar building'.

The Department considers that, with such an exemption, community premises could be encouraged to host more live and recorded music activities, so creating positive social value, particularly in rural areas where there may be under-provision. From a 'community premises' standpoint, if this and other deregulatory policy proposals are enacted, a performance of a play, an exhibition of a film (where qualifying), a performance of live music, the playing of recorded music and a performance of dance will all have been deregulated for community premises for audiences of no more than 500 people. The Department considers that this will lead to a more straightforward regulatory regime for those that run community premises and those who participate in (and enjoy) live and recorded music – all without undue risk to the licensing objectives.

8.8. Where a community premises is authorised to be used for the supply of alcohol for consumption on those premises, then the deregulatory measures for live and recorded music set out in Chapters 6 and 7 could apply.

Consultation Question 10

Do you have any comments on how this LRO deregulatory measure will work for live and recorded music on local authority, hospital, school or community premises?

Chapter 9: Circuses

Tented circus exemption between 08:00-23:00, for most licensable activities

- 9.1 In January 2013, the Department announced a deregulatory measure for circuses. It said:

Circuses will be exempt from regulation for live and recorded music, plays, dance and indoor sport between 08:00-23:00 with no audience restrictions.

- 9.2 Until the 2003 Act, circuses in England and Wales were traditionally regarded as falling within historic licensing exemptions applying to fairs and travelling showmen (although this may not have been the case strictly in law). A level of uncertainty has continued with the 2003 Act, in terms of whether a touring circus constitutes regulated entertainment under Schedule One. Some licensing authorities treat travelling circuses as exempt, echoing the historic exemption, while others reach a contrary view, as circus acts can include types of entertainment regulated by the 2003 Act. For example, clown performances are usually scripted and should be treated as the “performance of a play”, while high wire/trapeze is sometimes regarded by licensing authorities as indoor sport.
- 9.3 The Department considers that it is appropriate to put circus entertainment on a clearer statutory footing, to assist both licensing authorities and circus operators in England and Wales. Regulation needs to be fairly applied to circuses, at a time when performances of a play, performances of live music, the playing of recorded music, indoor sporting events and performances of dance have either been deregulated or are being considered for deregulation in appropriate circumstances. We see little evidence to suggest that the absence of a comprehensive licensing requirement for circuses has caused significant public protection issues that warrant circuses being brought wholesale into the licensing regime.
- 9.4 There are compliance issues as to how circuses can legitimately meet the obligations of the 2003 Act. When required by individual licensing authorities, travelling circuses obtain TENs to ensure compliance with the 2003 Act. The nature of a travelling circus is to move around the country, sometimes at very short notice; e.g. if the anticipated pitch proves to be waterlogged on arrival. However, the number of TENs is currently limited to five per person, or fifty if a member of the circus has a personal licence (which is unlikely, as this would involve the passing of an exam which is mainly to do with the sale of alcohol, and so not applicable to a circus business). The mobile nature of travelling circuses also does not fit easily within the premises licence regime, as a separate premises licence would be required for each pitch, including

any pitch being returned to after a year's absence. The unintended result is that touring tented circuses face a higher regulatory burden from licensing than do fixed premises.

- 9.5 The Department intends to introduce a LRO to exempt tented circus from licensing requirements for the performance of a play, an indoor sporting event, a performance of live music, the playing of recorded music, and a performance of dance between 08:00-23:00hrs, with no audience restrictions. Circuses will need to have a premises licence or a TEN if they wish to put on an exhibition of film or a boxing or wrestling entertainment. As touring tented circuses are rarely licensed to sell alcohol, this measure will effectively ensure that most circuses do not require a premises licence or other authorisation under the 2003 Act. This would be consistent with recent amendments to the 2003 Act⁶ and the other measures described in this document, putting circuses on a par with other small venues that provide entertainment but not alcohol.
- 9.6 Circuses will continue to need to comply with other regulatory regimes, such as the Welfare of Wild Animals in Travelling Circuses (England) Regulations 2012, which apply to the small minority of circuses that still use wild animals, as well as health and safety legislation. The Government sees no contradiction between deregulating circus as a form of regulated entertainment, while seeking a ban on the use of wild animals in circuses. The Government wishes to see the circus tradition continue to prosper, but not with the inclusion of wild animals.
- 9.7 The Department is not proposing an audience ceiling for the circus exemption. There seems no reason to do so when, for example, fun-fairs operate outside the licensing regime. Nevertheless, we would welcome evidence that this is appropriate.
- 9.8 Non-tented circuses are likely to be covered by a premises licence, or be exempt from the need to obtain a premises licence by virtue of the 2012 Act and the 2013 Order.

Consultation Question 11

Do you have any comments on how this LRO deregulatory measure will work for circuses?

⁶ The Live Music Act 2012, and the Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013.

Chapter 10: Greco-Roman and freestyle wrestling

Olympic wrestling disciplines exemption, 08:00-23:00, with no audience restriction

- 10.1 In January 2013, the Department announced an exemption for the Greco-Roman and freestyle wrestling disciplines. It said:

Boxing and wrestling will remain regulated, with the exception of the Olympic sports of Greco-Roman and freestyle wrestling.

- 10.2 The responses to the 2011 consultation indicated that there was support from the sports sector to deregulate the Olympic sports of Greco-Roman and freestyle wrestling, overseen by British Wrestling, the National Governing Body.
- 10.3 Greco-Roman wrestling and freestyle wrestling are ancient combat sports where a competitor seeks to gain control over his opponent through the use of throws, locks, and clinching techniques. In the Greco-Roman discipline, competitors are not allowed to attack their opponent's legs, or use their own legs to trip, lift or execute other moves. In the freestyle discipline, the use of legs for these purposes is permitted.
- 10.4 The Department considers that the traditional Olympic sports of Greco-Roman and freestyle wrestling should benefit from an exemption between the hours of 08:00-23:00, as these contests are predominantly between amateurs and held in sports halls, schools, clubs etc. as exhibitions, with only rare international tournaments (like London 2012) having a paying audience. We believe that an exemption is justified as these two wrestling disciplines do not pose undue risk to the licensing objectives. While an exemption would apply to these two disciplines, all other amateur disciplines of wrestling, as well as professional wrestling entertainment would remain licensable.
- 10.5 The 2013 Order clarified that that "a boxing or wrestling entertainment" cannot also be an "indoor sporting event" that may be subject to deregulation. It also clarified that any contest which combines boxing or wrestling with one or more martial arts is considered a licensable boxing or wrestling entertainment.

10.6 We currently intend to define these two wrestling disciplines in a LRO as follows:

“freestyle wrestling” is a contest, exhibition or display involving two wrestlers, each of whom uses his or her entire body to attempt to pin the other’s shoulders to the ground; and

“Greco-Roman wrestling” is a contest, exhibition or display involving two wrestlers, each of whom uses his or her upper body to attempt to pin the other’s shoulders to the ground.

Consultation Question 12

Do you have any comments on how this LRO deregulatory measure will work for Greco-Roman and freestyle Wrestling?

Chapter 11: Analysis against requirements of the Legislative and Regulatory Reform Act 2006

- 11.1 As explained in Chapter 3, the proposals must satisfy the preconditions set out in section 3 of LRRRA. Therefore, we would welcome your views on the Department's analysis of how the proposal (Chapters 5-10) to amend the 2003 Act meets these preconditions, as set out below. A full analysis of the policy is given in the accompanying Impact Assessment (see Chapter 13).

(i) Non legislative solutions

- 11.2 There are powers in the 2003 Act that allow Ministers to make a Statutory Instrument (SI) to add, delete or modify the description of activities listed in Schedule 1 to that Act. The Department used these powers to make the 2013 Order, which made amendments to the 2003 Act so as to deregulate plays, dance and indoor sport in certain circumstances. However, the powers in the 2003 Act are not broad enough to allow Ministers to introduce new exemptions, or amend existing exemptions, using a similar order. As such, the changes proposed in this consultation document to the 2003 Act will require primary legislation, unless they can be made by way of a LRO. For this reason, the Department considers that there is no non-legislative solution which would achieve the aim of introducing qualifications to the licensing requirement for the activities described in Chapters 5-10.

Consultation Question 13
On non-legislative solutions, do you agree with our assessment in this regard?

(ii) Proportionality

- 11.3. The Department believes that local authority premises, hospitals, schools, nurseries, community premises and alcohol licensed premises (such as pubs) can play a vital role in ensuring a thriving local community and cultural life through being able, should they so wish, to offer a wide variety of live entertainment. The Department wishes to remove unnecessary burdens arising from the 2003 Act for the lower risk entertainment activities set out in this consultation, as these hamper cultural and community creativity and prevent small businesses from diversifying due to time and trouble involved in cost-consuming licensing administration. This could lead to an increase in attendance at live entertainment providing significant enjoyment and social benefit for the general population. To the fullest extent possible, the Department has

used the existing powers of the 2003 Act (i.e. the 2013 Order) to pursue this policy objective.

- 11.4 The Department's set of deregulatory measures seek to maximise freedoms for civil society organisations, charities and business, while retaining the existing licensing controls under the 2003 Act in relation to activities and events that pose a greater threat to the licensing objectives. Hence the Department's policy is to dismantle unnecessary regulation, but to leave in place regulation around alcohol licensing, and the existing licensing framework for regulated entertainment that is outside of the proposed deregulation due to the nature of the activity (boxing, wrestling (except for the Olympic disciplines), mixed martial arts, cage fighting and sexual entertainment), the size of the audience, or the hours of operation. The Department believes that it has balanced freedoms and risk in a precise and targeted manner that will bring proportionality back to entertainment licensing. The expected costs and benefits, and the impact of the policy, are set out in the accompanying Impact Assessment (Annex D). For these reasons, the Department considers that a LRO is the most proportionate way to achieve the policy objective of removing the burdens imposed by the 2003 Act for the lower risk activities described in Chapters 5-10.

Consultation Question 14

On proportionality, do you agree with our assessment in this regard?

(iii) Fair balance

- 11.5 The balance that has had to be struck with the new policy is between those people who welcome the deregulation and those people who do not. We have kept in mind that in the 2011 consultation, most responses (for and against) were focussed on the live and recorded music activities.
- 11.6 The Department recognises that striking the right balance on music entertainment is a key issue. A Government commitment to remove red tape from live music entertainment was included in the Coalition programme, as in recent years music in small venues had been gradually declining to the detriment of both national and local cultural identity. The 2012 Act implemented a partial deregulation for the smallest venues, and feedback to date suggests that it has led to a welcome increase in live music events, but not to a rise in complaints over noise nuisance and public order. The Department intends to fulfil the pledge made in the Coalition agreement by, in the light of experience, raising the audience limit to 500 to bring it into line with the deregulated audience limits for most other entertainment activities and the audience cut-off point for the lighter touch regime that applies to temporary events. The Department considers that this more ambitious audience limit will achieve a fair balance between promoting creativity and the sustainability of live music entertainment and protecting local communities from unwarranted noise nuisance.
- 11.7 With recorded music, we want to retain the controls of the licensing regime where the risks to the licensing objectives are higher. The equipment needed for a recorded music event is usually more portable and easier to set up than for a live music event, and recorded music events have in the past been more prone to noise and public

order problems from unscrupulous operators. The policy is therefore to deregulate the playing of recorded music only in premises: already subject to the licensing regime by virtue of an alcohol licence; or where the recorded music is on local authority, school, hospital or community premises; or where the playing of recorded music is part of nursery years provision. The Department considers that the playing of recorded music in all such circumstances is of a lower order of risk.

- 11.8. The qualitative risk assessment for noise problems forms part of the overall Impact Assessment set out in Annex D.⁷ The Department has carefully considered what controls would remain post-deregulation, should there be noise nuisance in relation to live and recorded music from alcohol licensed premises. The Environmental Protection Act 1990 provides protection to the general public from potential noise nuisance arising from those activities to be deregulated. It is for environmental health officers to decide the appropriate response where noise-related issues arise, whether through informal discussion with premises managers, or action under the statutory nuisance regime; this local authority role will not be affected by the proposed changes. While increased numbers of entertainment performances have the potential to raise local noise levels, current evidence suggests that entertainment complaints are relatively small compared to other sources of noise and hence the impact of this limited deregulation is likely to be small. So while the risk of increased noise nuisance cannot be entirely ruled out, it is the Department's view that the licensing regime is more appropriate to events with times, audience sizes, and premises that will not be part of the deregulation where risks are greater. Furthermore, major problems with entertainment noise nuisance can still be dealt with by local authorities under the statutory nuisance regime. However, as recorded music was a key area of concern in the 2011 consultation, we have included in the Chapter 7 exemption the sanction of a licence review to ensure that instances of public and noise nuisance can be tackled should they result from this limited deregulation for the playing of recorded music.
- 11.9 For these reasons, the Department considers that a LRO would strike a fair balance between the wider public interest and potential impacts on individual citizens.

Consultation Question 15

On fair balance, do you agree with our assessment in this regard?

(iv) Necessary protection

- 11.10 The Department considers that the deregulation of any activities as a result of these proposals would have little or no adverse effect on the licensing objectives: that is, the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm. This is because any person who organises or is otherwise responsible for those deregulated activities will continue to be subject to a

⁷We are aware of some emerging evidence. H. Notley et al, "The UK National Noise Attitude Survey 2012 – the sample, analysis and some results", *Internoise 2013*. Once published, the findings will be taken into account in a revision of the Impact Assessment.

range of legal duties which will ensure that significant and necessary protections would remain in place in the event that no licence is required in respect of those activities.

- 11.11 Importantly, any event at which alcohol is sold will require a premises licence. In other places, Local Authorities can implement 'Designated Public Place Orders' (DPPOs – also known as Alcohol Control Areas) to give the Police discretionary powers to require a person to stop drinking and to confiscate containers of alcohol in public places. Night-time regulated entertainment (23:00-08:00hrs) will continue to require a licence, as will entertainment above a relevant audience limit, as the Department recognises that, generally speaking, the larger the audience, the higher the risk to the licensing objectives.
- 11.12 As set out in the qualitative risk assessment in the accompanying Impact Assessment (Annex D), there is no reason to expect significant deterioration in performance against the licensing objectives. This is because the new policy position has taken into account comments made during consultation by local authorities and the police, paring down circumstances in which the lower risk activities recommended for deregulation could have any kind of potential for deleterious effect.
- 11.13 Key safeguards will continue to remain in place. A performance of dancing will remain licensable (even if the performance takes place before an audience of 500 or fewer, between 8am and 11pm) if it is sufficiently sexual in nature as to be "relevant entertainment" within the meaning of paragraph 2A of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.
- 11.14 The police already have considerable powers under the Criminal Justice and Public Order Act 1994 to remove persons attending or preparing for a rave and seize and remove sound equipment or vehicles.
- 11.15 The Health and Safety at Work etc. Act (1974) places a duty of care on employers and other people with some degree of control over events to ensure, so far as is reasonably practicable, the health and safety of their employees and anyone else who may be harmed by work activities (e.g. the audience attending an event). Local Authorities or, where appropriate, the Health and Safety Executive are responsible for the enforcement of health and safety, and are able to impose standards of safety at events. HSE produces guidance to event organisers explaining how to comply with health and safety law.
- 11.16 There are also additional duties imposed on event organisers and premises owners by, for example, the Electricity at Work Regulations 1989, the Workplace (Health, Safety and Welfare) Regulations 1992, the Management of Health and Safety at Work Regulations 1999 and the Regulatory Reform (Fire Safety) Order 2005.
- 11.17. The Department takes the view that a LRO that deregulates entertainment under the licensing regime does not remove any necessary protections, as a broad range of other legal duties exist and would continue to apply to any person with a degree of responsibility for, or control over, the entertainment activities as described in Chapters 5-10.

Consultation Question 16

On necessary protection, do you agree with our assessment in this regard?

(v) Rights and freedoms

- 11.18 The Department does not consider that it is preventing any person from continuing to exercise any rights or freedoms which that person might reasonably expect to continue to exercise.

Consultation Question 17

On rights and freedoms, do you agree with our assessment in this regard?

(vi) Constitutional significance

- 11.19 The Department considers that these proposals are not of constitutional significance. Responsibility for entertainment licensing has not been devolved to Wales, but the Welsh Assembly Government has been kept informed of these proposals.

Consultation Question 18

On constitutional significance, do you agree with our assessment in this regard?

Chapter 12: Parliamentary procedure

Parliamentary procedure

12.1 The Minister must recommend one of three alternative procedures for Parliamentary scrutiny dependent on the nature, aims and importance of the LRO. The negative resolution procedure is the least onerous and therefore may be suitable for LROs delivering small regulatory reform. The super-affirmative procedure is the most onerous involving the most in-depth Parliamentary scrutiny. Although the Minister makes the recommendation, Parliamentary Scrutiny Committees have the final say about which procedure will apply.

(i) **Negative Resolution Procedure** – This allows Parliament 40 days to scrutinise a draft LRO after which the Minister can make the LRO if neither House of Parliament has resolved during that period that the LRO should not be made.

(ii) **Affirmative Resolution Procedure** – This allows Parliament 40 days to scrutinise a draft LRO after which, if it is approved by a resolution of each House of Parliament, the Minister can make the LRO.

(iii) **Super-Affirmative Resolution Procedure** – This is a two-stage procedure:

- At the first stage, the draft LRO is laid before Parliament for a 60-day period. The Minister is obliged to have regard to any representations, any resolution of either House of Parliament and any recommendations of a committee of either House of Parliament charged with reporting on the draft LRO made during this 60-day period.
- After the expiry of the 60-day period, if the Minister wishes to make the LRO without material changes, he must lay a statement before Parliament stating whether any representations were made and, if so, providing details of those representations. The Minister may thereafter make the LRO if it is approved by a resolution of each House of Parliament.
- If the Minister does wish to make material changes to the draft LRO after the expiry of the 60-day period, he must thereafter lay the revised draft LRO with a statement giving details of any representations made during the scrutiny period and of the revisions proposed. The Minister may thereafter make the LRO if the revised draft is approved by a resolution of each House of Parliament.

- 12.2 Under each procedure, the Parliamentary Scrutiny Committees have the power to recommend that the Minister should not make the LRO. If one of the Parliamentary Committees makes such a recommendation, a Minister may only proceed with it if the recommendation is overturned by a resolution of the relevant House.
- 12.3 The Department believes that the affirmative resolution procedure should apply to this LRO. Its purpose is to implement a deregulatory policy for entertainment licensing that has been carefully considered and revised as a result of a full and open public consultation in 2011, to which over 1,350 responses were received. As was announced to Parliament on 7 January 2013, deregulation is being brought forward after many years of calls to Government to reduce unnecessary regulation arising from the Licensing Act 2003 for lower-risk activities that hamper cultural and community creativity and prevent small businesses from diversifying. The Department considers that proportionate deregulation is non-contentious given the pivotal role that cultural entertainment and sport play in community life. When conducted on appropriate premises by responsible persons and bodies in defined and limited circumstances, the entertainment activities set out in this consultation are appropriate for deregulation because of the lower risk they pose and because organisers will be bound by duties imposed by other legislation⁸, such as:
- Anti-Social Behaviour Act 2003
 - Criminal Justice and Public Order Act 1994
 - Environmental Protection Act 1990
 - Health and Safety at Work etc. Act 1974
 - Regulatory Reform (Fire Safety) Order 2005
 - Children Act 1989
 - Children and Young Persons Act 1963
 - Local Government (Miscellaneous Provisions) Act 1982
 - Electricity at Work Regulations 1989
 - Workplace (Health, Safety and Welfare) Regulations 1992
 - Management of Health and Safety at Work Regulations 1999

and where there is also the sale or supply of alcohol, the 2003 Licensing Act itself.

- 12.4. Further information on the Parliamentary procedure is set out at **Annex C**.

Consultation Question 19
Do you agree that the Affirmative Parliamentary procedure should apply to the scrutiny of these proposals?

⁸ We are not suggesting that all such legislation applies to all persons involved in the provision of entertainment, but that the duties imposed by these instruments target objectives (e.g. noise nuisance, the protection of children, criminal behaviour and public safety) which overlap with the licensing objectives that underpin the duties imposed by the Licensing Act 2003.

Chapter 13: Estimated impact of implementation

Impact Assessment

- 13.1 The Department has considered the impact of implementation of these deregulation measures and has completed an Impact Assessment (IA) that accompanies this consultation as a separate document (Annex D). The IA has been validated by the independent Regulatory Policy Committee (RPC), the body charged with reviewing the evidence and analysis supporting all IAs. It analyses in detail the likely costs and benefits (monetised as far as possible) and the associated risks that the policy might have on public, private or civil society organisations, following HM Treasury Green Book appraisal and evaluation techniques.
- 13.2 The scope of the accompanying IA considers the announced policy position in its entirety and not only the specific measures intended for implementation through a LRO. This is due to the fact that the implementation of the announced policy position is in two stages. The first stage, which provided for the partial deregulation of plays, dance and indoor sporting events through 2013 Order, is now complete. In the second stage, the intention is to implement the remaining deregulatory measures by way of a LRO, and this is the subject of this consultation. The IA for this consultation is the one validated by the RPC and therefore provides an assessment of both stages of implementation. This consultation document briefly summarises the full IA, but also provides an estimate of the impact arising from the implementation of the LRO alone. The IA will be updated to reflect any changes that are made as a result of responses to this consultation.

Original cost and benefits from the IA covering both stages of implementation

- 13.3 The impact on society as a whole is described by the net present value (NPV), which is the sum of total benefits and total costs that can be reasonably monetised and discounted over a ten year appraisal period. The IA shows that the combined implementation of the 2013 Order and the LRO would result in a net benefit of £16.8m, supporting the case for a deregulation of disproportionate controls on lower risk entertainment activities. The yearly impact on businesses and civil society is measured by the equivalent annual net cost to business (EANCB). The IA shows that deregulation can be expected to reduce burdens on business by around £-1.4m each year.
- 13.4 Deregulation is expected to bring about a range of benefits. The impacts outlined above only take account of the administrative savings that will arise from less stringent licensing requirements. Wider benefits that might be expected are summarised below:

- (a) **Societal Benefits** – Removal of regulatory barriers through both cost savings in fees and administrative burdens is likely to encourage the staging of additional cultural and sporting activities. For the individual, increased attendance may have a positive impact on wellbeing. From a social standpoint, culture is generally thought to have a positive impact on social groups by acting as a focal point around which communities can come together.
- (b) **Business Benefits** – Economically, more performances and increased attendance will drive increased revenues, investment, and employment. Removal of unnecessary entertainment regulation leads to savings for businesses and civil society, as the administrative burden is reduced.
- (c) **Local Government Benefits** – Local authorities attain cost savings as a layer of regulatory administration is removed. In many cases this benefit is offset by the reduction in fee income from applicants, but where applicants are fee exempt (such as schools and village halls) the policy will result in cost savings.

13.5 The likelihood of costs arising from the policy measures is limited. However there are potential risks to be considered and the IA provides a qualitative risk assessment by activity. The risk assessment makes it clear that there is no reason to expect deterioration in performance against three of the licensing objectives and that on the fourth, public nuisance, the impact is anticipated to be minimal. In addition, high risk activities will remain licensable and only those lower risk activities which meet controls relating to audience size and timing would be deregulated. In all cases, significant protections will continue to remain in place under other statutory regimes, including health and safety and noise nuisance legislation.

New costs and benefits figures arising from the LRO only

- 13.6 The LRO proposal contains greater policy detail than the policy measures considered in the IA. These details do not contain any material changes that would prompt development of a new IA. Nevertheless, for the purposes of the LRO consultation, it is useful to provide an estimate of the scale of net benefits flowing from this second stage of implementation for the purposes of the LRO consultation. Using the same methodology and model as in the IA, the NPV and EANCB is calculated by removing the benefits that may arise from deregulating plays, dance, and indoor sporting events. On this basis, the best NPV estimate becomes £11.1m while the EANCB becomes an estimated £-0.9m each year.
- 13.7 The same qualitative costs and benefits apply in the second stage as they apply to assessment of both stages, although in the second stage these costs and benefits will naturally be smaller since the first stage has already been completed.

Consultation Question 20

Do you have views on the expected impact as set out in the accompanying Impact Assessment?

Chapter 14: Questions for respondents

- Q1 Do you have any comments on how this LRO deregulatory measure will work for local authorities?
- Q2 Do you have any comments on how this LRO deregulatory measure will work for hospitals?
- Q3 Do you have any comments on how this LRO deregulatory measure will work for schools?
- Q4 Do you have any comments on how this LRO deregulatory measure will work for any person offering early years and day care provision?
- Q5 Do you agree that all local authorities and every hospital, school and nursery provider specified above, regardless of size, resources and capability should be included in these exemptions? If not, which bodies would you exclude from these exemptions and why?
- Q6 Are you aware of any local authority body, hospital, school, (including children's residential provision) or nursery provider that, in terms of the licensing objectives, ought to be included in these cross-activity exemptions and currently would not be?
- Q7 Do you have any comments on how this LRO deregulatory measure will work for live music, taking into account experience since the Live Music Act 2012 came into force?
- Q8 Do you have any comments on how this LRO deregulatory measure will work for recorded music in on-licensed premises?
- Q9 Do you have any views on whether, or not, there should a LRO deregulatory measure for live and recorded music on nursery premises?
- Q10 Do you have any comments on how this LRO deregulatory measure will work for live and recorded music on local authority, hospital, school, or community premises?
- Q11 Do you have any comments on how this LRO deregulatory measure will work for circuses?
- Q12 Do you have any comments on how this LRO deregulatory measure will work for Greco-Roman and freestyle Wrestling?
- Q13 On non-legislative solutions, do you agree with our assessment in this regard?

- Q14 On proportionality, do you agree with our assessment in this regard?
- Q15 On fair balance, do you agree with our assessment in this regard?
- Q16 On necessary protection, do you agree with our assessment in this regard?
- Q17 On rights and freedoms, do you agree with our assessment in this regard?
- Q18 On constitutional significance, do you agree with our assessment in this regard?
- Q19 Do you agree that the Affirmative Parliamentary procedure should apply to the scrutiny of these proposals?
- Q20 Do you have views on the expected benefits as set out in the accompanying Impact Assessment?

Annex A: List of consultees

This list indicates those organisations and sectors that may wish to respond to the consultation. However, anyone can respond to this consultation and we welcome all responses.

ACEVO
Action with Communities in Rural England
Agents' Association
Alcohol Concern
Arts Council England
Arts Council of Wales
Arts Development UK
Association of British Insurers
Association of Chief Police Officers
Association of Circus Proprietors of Great Britain
Association of Festival Organisers (AFO)
Association of Independent Festivals
Association of Independent Music (AIM)
Association of Inland Navigation Authorities
Association of Licensed Multiple Retailers
Association of School and College Leaders
Association of Show and Agricultural Organisations
BII (British Institute of Innkeeping)
BPI (The British Recorded Music Industry)
British Association of Concert Halls
British Beer and Pub Association
British Board of Film Classification (BBFC)
British Boxing Board of Control
British Federation of Film Societies
British Film Institute (BFI)
British Holiday and Home Parks Association
British Hospitality and Restaurant Association
British Marine Federation
British Retail Consortium
British Wrestling Association
Business in Sport and Leisure
Cadw
Carnival Village
Charity Commission
Chartered Institute of Environmental Health
Chief Fire Officers' Association
Children's Society

Cinema Advertising Association
Cinema Exhibition Association
Circus Arts Forum
Commission for Rural Communities
Committee of Registered Clubs Associations
Community Matters
Dance UK
Eden Project 'Big Lunch'
English Folk Dance and Song Society
English Heritage
Environmental Protection UK
Equity
Federation of Licensed Victuallers
Federation of Licensed Victuallers (Wales)
Federation of Private Residents' Association
Federation of Small Businesses
Film Agency for Wales
Film Distributors' Association
Fire Officers Association
Freedom and Autonomy for Schools
Guild of Master Victuallers
Health and Safety Executive (HSE)
Historic Houses Association
Independent Academies Association
Independent Schools Council
Independent Street Arts Network
Independent Cinema Office
Independent Theatre Council (ITC)
Institute of Acoustics
Institute of Licensing
International Live Music Conference
Justices Clerk Society
Lap Dancing Association
Licensing Act Active Residents Network
Local Government Association (LGA)
Local Government Regulation (LGR)
Magistrates Association
Making Music
Maritime and Coastguard Agency
Metropolitan Police
Musicians Union
National Arenas Association
National Association for Voluntary and Community Action
National Association of Head Teachers
National Association of Independent Schools and Non-Maintained Special Schools
National Association of Licensing and Enforcement Officers
National Association of Local Councils
National Campaign for the Arts
National Confederation of Parent Teacher Associations
National Farmers' Retail & Markets Association
National Governors' Association

Consultation on a proposal to use a Legislative Reform Order to make changes to entertainment licensing

National Neighbourhood Watch Association
National Operatic and Dramatic Association
National Organisation for Pupil Referral Units and Alternative Providers
National Organisation of Residents Associations
National Parks England
National Rural Touring Forum
National Village Halls Forum
NCVO
NHS Confederation
Noise Abatement Society
Parliamentary Performers Alliance
Paterson's Licensing Acts
Police Federation
Police Superintendents' Association
Production Services Association
Rotary International in GB and Ireland
Society of Local Council Clerks
Society of London Theatres/ Theatrical Management Association (SLT/TMA)
Sport England
Sports and Recreation Alliance
Sport Wales
SSAT (The Schools Network) Ltd
Streets Alive
Superact
The Theatres Trust
Tourism for All
Trading Standards Institute
UK Centre for Carnival Arts
UK Live Music Group
UK Music
UK Noise Association
UK Sport
Voluntary Arts Network
Welsh Council for Voluntary Action
Welsh Local Government Association
Welsh Music Foundation

Annex B: Response form

Send this Response Form to:

Ian Jenkins
Entertainment Licensing LRO Consultation Co-ordinator
Department for Culture, Media and Sport,
100 Parliament Street, London SW1A 2BQ

Or e-mail Regulated_Entertainment_Consultation@Culture.gsi.gov.uk

Respondent details:

Name:

Organisation:

Address:

Questions

Q1	Do you have any comments on how this LRO deregulatory measure will work for local authorities?

Q2	Do you have any comments on how this LRO deregulatory measure will work for hospitals?

Q3	Do you have any comments on how this LRO deregulatory measure will work for schools?

Q4	Do you have any comments on how this LRO deregulatory measure will work for any person offering early years and day care provision?

Q5	Do you agree that all local authorities and every hospital, school and nursery provider specified above, regardless of size, resources and capability should be included in these exemptions? If not, which bodies would you exclude from these exemptions and why?

Q6	Are you aware of any local authority body, hospital, school, (including children's residential provision) or nursery provider that, in terms of the licensing objectives, ought to be included in these cross-activity exemptions and currently would not be?

Q7	Do you have any comments on how this LRO deregulatory measure will work for live music, taking into account experience since the Live Music Act 2012 came into force?

Q8	Do you have any comments on how this LRO deregulatory measure will work for recorded music in on-licensed premises?

Q9	Do you have any views on whether, or not, there should a LRO deregulatory measure for live and recorded music on nursery premises?

Q10	Do you have any comments on how this LRO deregulatory measure will work for live and recorded music on local authority, hospital, school, or community premises?

Q11	Do you have any comments on how this LRO deregulatory measure will work for circuses?

Q12	Do you have any comments on how this LRO deregulatory measure will work for Greco-Roman and freestyle Wrestling?

Q13	On non-legislative solutions, do you agree with our assessment in this regard?

Q14	On proportionality, do you agree with our assessment in this regard?

Q15	On fair balance, do you agree with our assessment in this regard?

Q16	On necessary protection, do you agree with our assessment in this regard?

Q17	On rights and freedoms, do you agree with our assessment in this regard?

Q18	On constitutional significance, do you agree with our assessment in this regard?

Q19	Do you agree that the Affirmative Parliamentary procedure should apply to the scrutiny of these proposals?

Q20	Do you have views on the expected benefits as set out in the accompanying Impact Assessment?

Annex C: Parliamentary consideration

Introduction

1. Reforming the current licensing regime set out in the Licensing Act 2003 (2003 Act) will require changes to primary legislation. The Minister proposes to achieve these changes by making a Legislative Reform Order (LRO) under the Legislative and Regulatory Reform Act 2006 (LRRRA).

Legislative reform proposals

2. This consultation document on proposals to amend the 2003 Act has been produced because any use of the LRRRA requires thorough and effective consultation with interested parties. In undertaking this, the Minister is expected to seek out actively the views of those concerned, including those who may be adversely affected, and then to demonstrate to the Parliamentary Scrutiny Committees that he has addressed those concerns.
3. Following the consultation exercise and the preparation of the draft LRO, when the Minister lays proposals before Parliament under section 14 of the LRRRA, he must also lay before Parliament an Explanatory Document which must:
 - i) State under which power or powers in the LRRRA the provisions contained in the draft LRO are being made;
 - ii) Introduce and give reasons for the provisions in the draft LRO;
 - iii) Explain why the Minister considers that:
 - The policy objectives of the LRO cannot be satisfactorily achieved by non-legislative solutions;
 - The effect of the provisions in the LRO are proportionate to the policy objective;
 - The provisions contained in the LRO strike a fair balance between the public interest and the interests of any person adversely affected by it;
 - The provisions do not remove any necessary protection;
 - The provisions do not prevent anyone from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise; and
 - The provisions in the proposal are not of constitutional significance.

- iv) Include, so far as appropriate, an assessment of the extent to which the provision made by the LRO would remove or reduce any burden or burdens;
 - v) Give details of any consultation undertaken, any representations received as a result of the consultation and the changes (if any) made as a result of those representations.
4. On the day the Minister lays the proposals and explanatory document, the period for Parliamentary consideration begins. This lasts 40 days under the affirmative resolution procedure and 60 days under the super-affirmative resolution procedure. If you want a copy of the proposals and the explanatory document laid before Parliament, please contact
Regulated_Entertainment_Consultation@Culture.gsi.gov.uk

Parliamentary scrutiny

5. Both Houses of Parliament scrutinise legislative reform proposals and draft LROs. This is done by the Regulatory Reform Committee in the House of Commons and the Delegated Powers and Regulatory Reform Committee in the House of Lords.
6. Standing Orders for the Regulatory Reform Committee in the Commons stipulate that the Committee considers whether proposals:
- (i) appear to make an inappropriate use of delegated legislation;
 - (ii) serve 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 LRO under section 1 of the LRRRA);
 - (iii) serve 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 LRO under section 2 of the LRRRA);
 - (iv) secure a policy objective which could not be satisfactorily secured by non-legislative means;
 - (v) have an effect which is proportionate to the policy objective;
 - (vi) strike a fair balance between the public interest and the interests of any person adversely affected by it;
 - (vii) do not remove any necessary protection;
 - (viii) do not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise;
 - (ix) are not of constitutional significance;
 - (x) make the law more accessible or more easily understood (in the case of provisions restating enactments);

(xi) have been the subject of, and takes appropriate account of, adequate consultation;

(xii) give 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, such as defective drafting or failure of the Government to provide information where it was required for elucidation; and

(xiii) appear to be incompatible with any obligation resulting from membership of the European Union.

7. The Committee in the House of Lords will consider each proposal in terms of similar criteria, although these are not laid down in Standing Orders.
8. Each Committee might take oral or written evidence to help it decide these matters, and each Committee would then be expected to report.
9. Copies of Committee Reports, as Parliamentary papers, can be obtained through HMSO. They are also made available on the Parliament website.
10. Under affirmative resolution procedure, each of the Scrutiny Committees is given 40 days to scrutinise a LRO, after which the Minister can make the order if it is not vetoed by either or both of the Committees and it is approved by a resolution of each House of Parliament.
11. Under super-affirmative procedure each of the Scrutiny Committees is given 60 days to scrutinise the LRO. If, after the 60 day period, the Minister wishes to make the order with no changes, he may do so only after he has laid a statement in Parliament giving details of any representations made and the LRO is approved by a resolution of each House of Parliament. If the Minister wishes to make changes to the draft LRO, he must lay the revised LRO before Parliament together with a statement giving details of any representations made during the scrutiny period and of the proposed revisions to the LRO. The Minister may only make the LRO if it has been approved by a resolution of each House of Parliament and has not been vetoed by either or both relevant Committees.

How to make your views known

12. Responding to this consultation document is your first and main opportunity to make your views known to the relevant Government as part of the consultation process. You should send your views to the person named in paragraph 3.12 and Annex B of this consultation document.
13. When the Minister lays proposals before Parliament you are also welcome to put your views before either or both of the Scrutiny Committees. In the first instance, this should be in writing. The Committees will normally decide on the basis of written submissions whether to take oral evidence.
14. Your submission should be as concise as possible, and should focus on one or more of the criteria listed in paragraph 6 above.

15. The Scrutiny Committees appointed to scrutinise Legislative Reform Orders can be contacted at:

Regulatory Reform Committee

House of Commons
7 Millbank
London SW1P 3JA
Tel: 020 7219 2830
Mail to: regrefcom@parliament.uk

Delegated Powers and Regulatory Reform Committee

House of Lords
London SW1A 0PW
Tel: 020 7219 3103
Mail to: DPRR@parliament.uk

Non-disclosure of responses

16. Section 14(3) of the LRRRA provides what should happen when someone responding to the consultation exercise on a proposed LRO requests that their response should not be disclosed.
17. The name of the person who has made representations will always be disclosed to Parliament. If you ask for your representation not to be disclosed to any extent, the Minister should not disclose (to the relevant extent) the content of that representation without your express consent and, if the representation relates to a third party, their consent too. Alternatively, the Minister may disclose the content of the representation in such a way as to preserve your anonymity and that of any third party involved.

Information about third parties

18. If you give information about a third party which the Minister believes may be damaging to the interests of that third party, the Minister does not have to pass on such information to Parliament if he does not believe it is true or he is unable to obtain the consent of the third party to disclose. This applies whether or not you ask for your representation not to be disclosed.
19. The Scrutiny Committees may, however, be given access on request to all representations as originally submitted, as a safeguard against improper influence being brought to bear on Ministers in their formulation of LROs.



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