

Research Briefing

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Alcohol licensing: mandatory conditions



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Summary

[The Licensing Act 2003 \(Mandatory Licensing Conditions\) \(Amendment\) Order 2014](#) came into force on 1 October 2014. It revised mandatory conditions originally introduced in April 2010. The 2014 Order means there are mandatory conditions to:

- ban irresponsible promotions.
- ensure free potable water for customers.
- ensure that small measures of beers, wine and spirits are offered and that customers are made aware of them.
- ensure that all those who sell or supply alcohol have an age verification policy in place requiring them to ask anyone who looks under 18 for proof of age.

The Home Office has published [guidance on the conditions](#) (PDF) (September 2014).

A mandatory condition banning the sale of alcohol below the “permitted price”, defined as alcohol duty plus VAT, came into force in May 2014. The Home Office has published [guidance on this condition](#) (PDF)(March 2017).

This Briefing refers to the law in England and Wales.

1 Background

When the [Licensing Act 2003](#) came into force in November 2005, it included two mandatory conditions that would apply when a premises licence authorised the supply of alcohol:

The first condition is that no supply of alcohol may be made under the premises licence -

(a) at a time when there is no designated premises supervisor in respect of the premises licence, or

(b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.¹

The [designated premises supervisor](#) (DPS) is the person with day-to-day responsibility for the running of a business and acts as the main contact for the licensing authority and the police.

Alcohol industry social responsibility standards

To coincide with the implementation of the Act, the alcohol industry launched a set of social responsibility standards.² These were designed to cover all forms of sales and marketing activity. Adherence to the standards was voluntary.

In February 2008, the Home Office commissioned a review of the effectiveness of the standards in reducing alcohol related harm. Although it found examples of good practice, the review concluded that the standards were having “negligible impact in either reducing bad practice or promoting good practice on the ground”:

They lack focus, they are a confusing mix of regulatory and voluntary provisions, and they are not cross referenced to the Licensing Act. In driving responsible practice they are ineffective because of a lack of consistent monitoring and enforcement...³

¹ [Section 19 of the 2003 Act](#)

² Advertising Association and others, Social responsibility standards for the production and sale of alcoholic drinks in the UK, November 2005

³ Home Office/KPMG, Review of the social responsibility standards for the production and sale of alcoholic drinks, vol 1, April 2008, p10

Consultation on a new alcohol retailing code (July 2008)

In July 2008, the Government consulted on plans to work with the alcohol industry to develop a new alcohol retailing code, with a view to making this mandatory.⁴ The Government’s “preferred option” following the consultation was to introduce an enabling power so that the Home Secretary could draw up a code of practice for the alcohol industry which would “permit the imposition of some mandatory licensing conditions”.⁵

1.1 Mandatory conditions introduced (April 2010)

Schedule 4 of the Policing and Crime Act 2009 amended the 2003 Act to give the Home Secretary the power to impose up to nine mandatory licensing conditions in relation to the sale and supply of alcohol.⁶

In May 2009, concurrently with the passage of the Policing and Crime Bill through Parliament, the Home Office launched a consultation on a new code of practice for alcohol retailers, including the proposed new mandatory licensing conditions.⁷ The Government’s response of January 2010 confirmed that five mandatory conditions would be introduced.⁸

Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010

The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 introduced five conditions that would apply to all licensed premises and those with a club premises certificate. The Order:

- banned irresponsible promotions.⁹
- banned the dispensing of alcohol directly into the mouth.
- ensured that customers had access to free tap water.
- required an age verification policy to be in place to prevent underage sales.

⁴ Department of Health, [Safe, sensible, social: consultation on further action](#) (PDF), July 2008. The Department of Health published its [Safe, sensible, social: consultation on further action – consultation report](#) (PDF) in December 2008 (accessed 28 February 2024)

⁵ Home Office, Impact assessment of a code of practice for the alcohol industry, November 2008, p7

⁶ For background see: Library Paper (RP 09/04), [Policing and Crime Bill 2008-09](#) (PDF) (15 January 2009) and Library Paper (RP 09/39), [Policing and Crime Bill Committee Stage Report](#) (PDF) (29 April 2009)

⁷ Home Office, Safe. Sensible. Social. Selling alcohol responsibly: a consultation on the new code of practice for alcohol retailers, May 2009

⁸ Home Office, Safe. Sensible. Social: Selling alcohol responsibly: Government response to the consultation on the code of practice for alcohol retailers, January 2010, p3

⁹ The activities counting as “irresponsible promotions” are set out in the schedule to the Order.

- ensured that customers had the opportunity to choose small measures of beers, ciders, spirits and wine.

Reviewing the conditions

In November 2012, the Government published a consultation on its alcohol strategy.¹⁰ This sought views on, among other things, the mandatory conditions. The Government's July 2013 analysis of the consultation responses found that most respondents thought the mandatory conditions were effective in promoting the licensing objectives.¹¹

The Government's next steps for delivering its alcohol strategy were set out in a July 2013 document and included plans to make the mandatory licensing conditions more effective, particularly those regulating irresponsible sales and promotions.¹² The document also announced that the Government would ban the sale of alcohol below cost price.

¹⁰ Home Office, [A consultation on delivering the Government's policies to cut alcohol fuelled crime and anti-social behaviour](#) (PDF), November 2012 (accessed 28 February 2024)

¹¹ Home Office, [Analysis of responses to the consultation on delivering the Government's policies to cut alcohol fuelled crime and anti-social behaviour](#) (PDF), July 2013, p19 (accessed 28 February 2024)

¹² Home Office, [Next steps following the consultation on delivering the Government's alcohol strategy](#) (PDF), July 2013, p9 (accessed 28 February 2024)

2

Revised mandatory conditions introduced (October 2014)

The mandatory conditions put in place by the 2010 Order were replaced, from October 2014, by those set out in the [Licensing Act 2003 \(Mandatory Licensing Conditions\) \(Amendment\) Order 2014](#) (SI 2014/2440).

A “responsible person” must ensure compliance with the mandatory conditions. In relation to licensed premises this means:

- the holder of a premises licence in respect of the premises;
- the designated premises supervisor (if any) under such a licence; or
- any individual aged 18 or over who is authorised for the purposes of section 153(4) of the Licensing Act 2003 by such a holder or supervisor.

Where a club premises certificate is in force, a “responsible person” means a member or officer of a club who is present and able to prevent the supply of alcohol. In relation to age verification, the premises licence/club certificate holder and the DPS have specific duties (see the section below on age verification).

The four mandatory conditions are summarised below.

2.1

Irresponsible promotions

The 2010 Order required “all reasonable steps” to be taken to prevent irresponsible drinks promotions – where the promotions, as defined in the Order, carried a “significant risk” of undermining one or more of the licensing objectives. The 2014 Order states that the responsible person “must ensure” that irresponsible promotions do not take place. In addition, the following activities are banned:

- drinking games or other activities that require or encourage (or are designed to require or encourage) individuals to drink a quantity of alcohol within a time limit, or to drink as much as possible. This does not include “drinking up time”.
- selling or supplying alcohol in association with promotional material on, or in the vicinity of, the premises which can be reasonably considered to condone, encourage or glamorise antisocial behaviour or refer to drunkenness favourably.

- dispensing alcohol directly by one person into the mouth of another – this was a standalone condition under the 2010 Order.

The following promotions are prohibited where there is a “significant risk” to the licensing objectives:

- providing alcohol free or for a fixed or discounted fee.
- providing free or discounted alcohol or any other thing as a prize to encourage or reward the consumption of alcohol over a period of 24 hours or less.

On what counts as “significant risk”, Home Office guidance states that the following factors may be considered:

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

Where there is any doubt, the guidance recommends that advice should be obtained from the licensing authority and/or police.¹³

2.2 Potable water

Free potable drinking water must be provided on request where it is “reasonably available”. The 2010 Order had only referred to the provision of free tap water.

The Home Office guidance explains that what is meant by “reasonably available” is a question of fact:

for example, it may not be reasonable to expect free water to be available in premises for which the water supply had temporarily been lost because of a broken mains supply and where no alternative (for example, bottled water) is available.¹⁴

¹³ Home Office, [Guidance on mandatory licensing conditions: for suppliers of alcohol and enforcement authorities in England and Wales](#) (PDF), September 2014, pp5-6 (accessed 28 February 2024)

¹⁴ As above, p7

2.3

Age verification

The premises licence holder or club premises certificate holder must ensure that an age verification policy applies to the premises selling or supplying alcohol. This must, as a minimum, require individuals who appear to the person serving alcohol to be under the age of 18 to produce identification bearing their photograph, date of birth and either a holographic mark *or* ultraviolet feature. The addition of the latter feature means that the definition of identification documents that can be used has been widened (some foreign passports and ID cards do not include the holographic mark previously required).¹⁵

The DPS has a legal responsibility for ensuring that the sale of alcohol is in accordance with the age verification policy that the premises licence holder is required to have.

Acceptable forms of identification include photo card driving licences; passports; military identification; and proof of age cards bearing the [PASS hologram](#). Other forms of identification that include the required features are acceptable.¹⁶ An example of an age verification policy is given in Annex A to Home Office guidance.¹⁷

The age verification condition applies to companies that sell alcohol online or by mail order.¹⁸

Age verification consultation (January to March 2024)

On 25 January 2024, [the Government launched a consultation on the use of digital identities and technology to help establish if someone is old enough to buy alcohol](#). The consultation, which closes on 30 March 2024, [is seeking views on three options](#):

1. Do nothing: only traditional identity documents which contain a holographic image or ultraviolet feature are acceptable for age verification for alcohol sales.
2. Alongside traditional identity documents, also allow digital identities to be used for age verification for alcohol sales. And / or
3. Alongside traditional identity documents, also allow age estimation and other technology to be used for age verification for alcohol sales.

¹⁵ [Explanatory Memorandum to the Licensing Act 2003 \(Mandatory Licensing Conditions\) \(Amendment\) Order 2014](#) (PDF), p3 (accessed 28 February 2024)

¹⁶ Home Office, [Guidance on mandatory licensing conditions: for suppliers of alcohol and enforcement authorities in England and Wales](#) (PDF), p8

¹⁷ As above, Annex A

¹⁸ As above, p8

2.4

Smaller measures

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

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

The 2014 Order requires that measures must be displayed in a menu, price list, or other printed material. Where a customer doesn't specify a measure, they must be made aware of the range of measures available, either verbally or by ensuring that they have seen the printed material. This process does not need to be repeated as long as the customer continues to be aware of the measures available.¹⁹

¹⁹ As above, p9

3

Mandatory condition banning the sale of alcohol below cost price (May 2014)

The [Licensing Act 2003 \(Mandatory Conditions\) Order 2014](#) (SI 2014/1252) came into force on 28 May 2014. The Order bans the sale of alcohol below the “permitted price”. A Schedule to the Order defines the “permitted price” as the level of alcohol duty plus VAT.

Enforcement of the ban is the responsibility of licensing authorities, trading standards and the police.

The Home Office has published [guidance for alcohol suppliers and enforcement authorities](#) (PDF) (March 2017). This states that non-compliance with the ban could result in up to six months’ imprisonment and/or a fine. It could also result in a licence being reviewed or the service of a closure notice on a premises.

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