

## **DEREGULATION ACT 2015**

---

### **EXPLANATORY NOTES**

#### **COMMENTARY ON SECTIONS**

##### ***Schedule 17: Part to be inserted as Part 5A of the Licensing Act 2003***

798. This Schedule contains the new Part 5A of the Licensing Act 2003, which sets out the framework for the new Part 5A notice.
799. New section 110A provides that a sale by retail of alcohol is permitted by a Part 5A notice provided that the community event conditions (set out in or under section 110B) or the ancillary business sales conditions (set out in or under section 110C) and the conditions in subsections (2) to (5) are met. These provide that the sale must take place on premises specified in a Part 5A notice that complies with new section 110D, no counter notice must have been given under new section 110J, the sale must take place during the period of 36 months starting on the date on which the Part 5A notice takes effect and the sale of alcohol must take place between 7am and 11pm.
800. New section 110B prescribes the community event conditions in subsections (2) to (6) (additional conditions may be prescribed in regulations made under subsection (7)). These provide that a sale of alcohol at community events must be made by or on behalf of a body that is of a prescribed description, does not trade for profit and meets any prescribed criteria. The sale must be ancillary to an event that is taking place on the premises, during the course of the event and for consumption during the course of that event; and the event must be organised by the body by or on whose behalf the sale is made, advertised in advance and must meet any other prescribed criteria. The maximum number of persons at such an event, at the time of the sale, is 300. Prescribed matters will be set out in regulations subject to the affirmative resolution procedure.
801. New section 110C prescribes the ancillary business sales conditions in subsections (2) to (5) (additional conditions may be prescribed in regulations made under subsection (6)). These provide that a sale of alcohol must be made by or on behalf of a body that is of a prescribed description and meets prescribed criteria. The sale must take place on premises that are managed by the body and are premises of a prescribed description and which meet prescribed criteria. The sale must be ancillary to the provision of goods or services provided to a person on the premises where the sale takes place. Subject to prescribed exceptions, the alcohol must be sold for consumption on the premises. Prescribed matters will be set out in regulations subject to the affirmative resolution procedure.
802. New section 110D provides that a Part 5A notice is valid if it satisfies the conditions set out in subsections (2) to (10). These are that the Part 5A notice:
- a) must specify whether the community event conditions (under new section 110B) or the ancillary business sales conditions (under new section 110C) are met;
  - b) must specify, in relation to ancillary business sales, the premises to which it relates or, in relation to community event sales, no more than three sets of community

*These notes refer to the Deregulation Act 2015 (c.20)  
which received Royal Assent on 26 March 2015*

premises (defined in section 193 of the 2003 Act) to which it relates, each of which must be wholly or partly in the area of the same licensing authority;

- c) must be given by a person who is aged 18 years or over and is concerned in the management of the body by or on whose behalf the sale of alcohol on the premises would take place;
- d) must be given to the relevant licensing authority (defined in new section 110N) and accompanied by the prescribed fee;
- e) must be copied by the person giving it to each relevant person (defined in subsection (11)), unless the notice is given to the relevant licensing authority by means of a relevant electronic facility (defined in section 193 of the 2003 Act);
- f) must specify the date when it takes effect which must be at least 10 working days but no more than 3 months after the day on which the notice is given to the relevant licensing authority; and
- g) contain any other information prescribed in regulations (which are subject to the affirmative resolution procedure).

803. New section 110E provides for special restrictions on the giving of a Part 5A notice. This section applies where a Part 5A notice is given on behalf of a body and a counter notice (under new section 110J) is given in relation to that notice. It prevents, in relation to any premises specified in the notice, a further Part 5A notice being given in respect of those premises by the body, or by any other body that is an associate of it, within the period of 12 months of the counter notice being given. This restriction does not apply if the counter notice is revoked under new section 110K or quashed by a court. Subsection (4) provides that for the purposes of this new section a body is an associate of another body if it would be an associate of the other body for the purposes of section 32(4) to (6) of the Estate Agents Act 1979.
804. New section 110F provides that the date on which the Part 5A notice takes effect will be the date specified under new section 110D(8), but this does not apply if a counter notice is given under new section 110J.
805. New section 110G sets out the requirements (in subsections (2) to (5)) on a licensing authority that receives a Part 5A notice. These requirements are that:
- a) the authority must give written acknowledgement of the receipt of a notice to the person who gave it;
  - b) the acknowledgement must be given before the end of the first working day following the day on which it was received, or if the day it was received was not a working day, before the end of the second working day following the day it was received;
  - c) if the authority considers that the Part 5A notice does not comply with the conditions under new section 110D, it must as soon as possible give to the person who gave the notice written notification of the reasons for its opinion.
806. If, by the time the licensing authority is required to give written acknowledgement the person who gave the Part 5A notice has been given a counter notice, the requirement for the licensing authority to give acknowledgement does not apply.
807. New section 110H provides (at subsection (1)) that where a Part 5A notice is lost etc., the person who gave the notice may apply to the licensing authority for a replacement copy. This must be accompanied by any prescribed fee (subsection (2)) and, where such an application is made, the licensing authority must issue a replacement copy (certified as a true copy) if it is satisfied that the original notice has been lost etc. (subsection (3)). The 2003 Act applies to the copy in the same way as it applies to an original.

*These notes refer to the Deregulation Act 2015 (c.20)  
which received Royal Assent on 26 March 2015*

808. New section 110I provides (by virtue of subsection (1)) that, where a “relevant person” (defined in new section 110D(11) as meaning the police or environmental health authority for the area in which the premises are situated) gives an objection notice to a Part 5A notice on the basis that the sale of alcohol at premises to which a notice relates would undermine one of the statutory licensing objectives, the relevant person must give the notice to the licensing authority, the person who gave the Part 5A notice and every other relevant person. This does not apply after a counter notice has been received by the relevant person under new section 110J (subsection (2)). Subsection (3) provides that an objection notice may only be given during a 3 day period beginning on the day that the Part 5A notice was received, but by virtue of subsection (4) this does not apply in respect of things occurring after the end of the 3 day period or information that the relevant person could not reasonably have been aware of during that period.
809. New section 110J enables (subsection (1)) a relevant licensing authority (defined in new section 110N) to give a counter notice to a person who gives it a Part 5A notice and to give a copy of the counter notice to each relevant person. Subsection (2) provides that where a licensing authority receives an objection notice from a relevant person (under new section 110I), and before the Part 5A notice comes into effect, the authority must decide whether to give a counter notice. A counter notice must be given no later than the day before the date when the Part 5A notice would take effect or, if the Part 5A notice has been given with a long notice period, within 28 days of the date on which it was received by the authority. Subsection (3) provides that the licensing authority may not give a counter notice once a Part 5A notice takes effect unless an objection notice has been given under new section 110I(4). Subsection (4) provides that the counter notice must be in the prescribed form and given in the prescribed manner; these matters are prescribed by regulations subject to the negative resolution procedure.
810. New section 110K provides that (subsection (1)) the licensing authority must revoke a counter notice given under new section 110J if it is given as a result of an objection notice under new section 110I and that objection notice is withdrawn by the relevant person or quashed by the court. Subsection (2) provides that, where a counter notice is revoked or quashed by a court, it is disregarded (except in relation to any time before it is revoked or quashed), the Part 5A notice takes effect on that day and the licensing authority must as soon as possible notify the person who gave the Part 5A notice of this date.
811. New section 110L makes provision for rights of entry. Subsection (1) provides that a constable or authorised officer (defined in subsection (5)) may at any reasonable time enter premises to which a Part 5A notice relates to assess the likely effect of the notice on the promotion of the crime prevention objective. Subsection (2) requires an authorised officer exercising the power in subsection (1) to produce on request evidence of his authority. Subsection (3) makes it an offence to intentionally obstruct an authorised officer exercising his powers under this section, and subsection (4) provides that a person guilty of this offence is liable on summary conviction to a fine not exceeding level 2 on the standard scale.
812. New section 110M applies by virtue of subsection (1) to premises used for the sale of alcohol authorised, or purportedly authorised, by a Part 5A notice. Subsection (2) requires the person who gave the Part 5A notice to ensure that a copy of the notice is prominently displayed at the premises, or is kept at the premises under his control or the control of a person nominated by him who is present and working at the premises. Subsection (3) requires, where the copy of the Part 5A notice is kept in the custody of a nominated person (and not prominently displayed at the premises), that the person who gave the Part 5A notice display a notice to that effect and stating the position held at the premises by the nominated person. Subsection (4) makes it an offence to fail, without reasonable excuse, to comply with the requirements under subsections (2) and (3). Where those requirements are not met, subsections (5) and (6) enable a constable or authorised person to require the person who gave the Part 5A notice, or the nominated person (as the case may be), to produce a copy of the notice. Subsection (7) requires an

*These notes refer to the Deregulation Act 2015 (c.20)  
which received Royal Assent on 26 March 2015*

authorised officer exercising the power in subsection (5) or (6) to produce on request evidence of his authority. Subsection (8) makes it an offence to fail, without reasonable excuse, to produce a copy of the Part 5A notice on request by a constable or authorised officer. Subsection (9) provides that a person guilty of this offence is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

813. New section 110N provides the basis on which the relevant licensing authority is determined for the purposes of Part 5A. Subsections (2) to (4) prescribe the relevant licensing authority in cases where, amongst other things, one or more of the premises to which a Part 5A notice relates straddles the area of more than one licensing authority.