

*Draft Order laid before Parliament under section 197 of the Licensing Act 2003, for approval by resolution of each House of Parliament.*

---

DRAFT STATUTORY INSTRUMENTS

---

**2010 No.**

**LICENCES AND LICENSING**

**The Licensing Act 2003 (Mandatory Licensing Conditions)  
Order 2010**

*Made* - - - - **\*\*\***

*Coming into force*

*Paragraphs 4 and 5 of the Schedule* 1st October 2010

*Remainder* 6th April 2010

The Secretary of State makes the following Order in exercise of the powers conferred by sections 19A, 73B and 197(2) of the Licensing Act 2003(a).

In accordance with section 197(4) of that Act(b), a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

In accordance with sections 19A(1) and 73B(1) of that Act, the Secretary of State considers it appropriate for the promotion of the licensing objectives(c) to specify the conditions set out in this Order.

**Citation and commencement**

1.—(1) This Order may be cited as the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010.

(2) This Order shall come into force on 6th April 2010 other than paragraphs 4 and 5 of the Schedule which shall come into force on 1st October 2010.

**Interpretation**

2. In this Order—

“the Act” means the Licensing Act 2003;

“anti-social behaviour” has the meaning given in section 36 of the Anti-social Behaviour Act 2003(d);

---

(a) 2003 c.17; sections 19A and 73B were inserted by paragraphs 2 and 4 respectively of Schedule 4 to the Policing and Crime Act 2009 (c.26).

(b) Section 197(4) was amended by paragraph 44 of Schedule 7 to the Policing and Crime Act 2009.

(c) See section 4(2) of the Licensing Act 2003.

(d) c.38

“disability” has the meaning given in section 1 of the Disability Discrimination Act 1995(a);  
“relevant premises” has the meaning given in paragraphs (a) and (b) of the definition in section 159 of the Act;  
“responsible person” has the meaning given in paragraphs (a) and (b) of the definition in section 153(4) of the Act.

### **Mandatory conditions**

3.—(1) Subject to paragraph (3), in relation to an existing or future relevant premises licence, the conditions set out in the Schedule are specified for the purposes of section 19(4)(b) of the Act (mandatory conditions where licence authorises supply of alcohol).

(2) Subject to paragraph (3), in relation to an existing or future relevant club premises certificate, the conditions set out in the Schedule are specified for the purposes of section 73A(c) of the Act (mandatory conditions relating to the supply of alcohol to members or guests).

(3) The conditions in paragraphs 1 to 3 and 5 of the Schedule do not apply where the licence or certificate authorises the sale by retail or supply of alcohol only for consumption off the premises.

Home Office  
Date

*Name*  
Parliamentary Under Secretary of State

## SCHEDULE

Article 3

### Mandatory Licensing Conditions

1.—(1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children—

- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—
  - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
  - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);

---

(a) c.50.

(b) Section 19(4) was inserted by paragraph 1 of Schedule 4 to the Policing and Crime Act 2009.

(c) Section 73A was inserted by paragraph 3 of Schedule 4 to the Policing and Crime Act 2009.

- (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;
- (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on—
  - (i) the outcome of a race, competition or other event or process, or
  - (ii) the likelihood of anything occurring or not occurring;
- (e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

2. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

3. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

4.—(1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

5. The responsible person shall ensure that—

- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
  - (i) beer or cider: ½ pint;
  - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
  - (iii) still wine in a glass: 125 ml; and
- (b) customers are made aware of the availability of these measures.

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

Sections 19A and 73A of the Licensing Act 2003 (as inserted by section 32 of and Schedule 4 to the Policing and Crime Act 2009) provide for the Secretary of State to prescribe by order up to nine mandatory conditions applicable to relevant premises licences and club premises certificates. Relevant premises licences and relevant club premises certificates are those authorising the supply of alcohol to the public in licensed premises or to members or guests of clubs in club premises.

The Schedule to the Order sets out the five mandatory conditions which apply to relevant premises licences and club premises certificates from the date of coming into force of the Order as provided in article 1. The conditions apply to all relevant premises licences authorising consumption of alcohol on the premises, and to all relevant club premises certificates, with the exception of the condition in paragraph 4 of the Schedule, requiring an age verification policy to be adopted, which applies in addition to licences for the supply of alcohol for consumption away from the premises.

---

© Crown copyright 2010

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

£4.00

## EXPLANATORY MEMORANDUM TO

### THE LICENSING ACT 2003 (MANDATORY LICENSING CONDITIONS) ORDER 2010

#### 2010 No.

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. **Purpose of the instrument**

2.1 This statutory instrument seeks to meet the objectives under the Licensing Act 2003; namely to reduce alcohol-related crime and disorder, public nuisance, harm to children and risks to public safety by specifying a set of mandatory licensing conditions to be added to all licences and club premises certificates of those who supply or sell alcohol by retail. These mandatory conditions will prevent irresponsible promotions and practices in the retail or supply of alcohol.

3. **Matters of special interest to the Joint Committee on Statutory Instruments.**

3.1 None.

4. **Legislative Context**

4.1 The Licensing Act 2003 sets out a system for regulating, among other things, the sale and supply of alcohol. Under this system, premises licences authorise the holder of the licence to use the premises to which the licence relates for licensable activities. The premises licence details operating conditions. The supply of alcohol is also subject to mandatory conditions set out in Part 3 of the 2003 Act. An equivalent system applies to the supply of alcohol under a club premises certificate.

4.2 The Policing and Crime Act 2009 confers a power on the Secretary of State to specify further mandatory licensing conditions relating to the sale by retail or supply of alcohol in premises licences and club premises certificates. Schedule 4 to that Act amends the Licensing Act 2003 and creates an enabling power that allows the Secretary of State to set out (in secondary legislation) mandatory licence conditions relating to the supply of alcohol for all new and existing relevant premises licences and for all new and existing relevant club premises certificates respectively (or for those premises licences or club premises certificates of a particular description). "Relevant" here refers to the licence being for supply or retail of alcohol (as defined in Schedule 4).

4.3 All conditions must be made in accordance with the four licensing objectives set out in the Licensing Act 2003. These are: the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm.

4.4 Paragraph 1 amends section 19 of the Licensing Act 2003 so that where premises are licensed for the sale of alcohol, that licence is subject to the mandatory conditions specified in an order made by the Secretary of State.

4.5 Paragraph 2 inserts new section 19A of the Licensing Act 2003 to allow the Secretary of State, in secondary legislation, to specify up to nine mandatory licensing conditions that apply to all current or future premises licences. Each mandatory condition takes precedence over any existing licensing conditions to the extent that the mandatory conditions are identical or inconsistent and more onerous.

4.6 Paragraphs 3 and 4 are equivalent to paragraphs 1 and 2 respectively, except that they relate to club premises certificates rather than to premises licences (the list of conditions in respect of club premises certificates could be different to that for premises licences). These certificates relate to members' clubs rather than nightclubs.

4.7 The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 represents the first use of the powers inserted into the Licensing Act 2003 by Schedule 4 to the Policing and Crime Act 2009.

## 5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

## 6. European Convention on Human Rights

6.1 The Parliamentary Under-Secretary of State for the Home Department, Alan Campbell M.P., has made the following statement regarding Human Rights:

‘In my view the provisions of the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 are compatible with the Convention rights.’

## 7. Policy background

- *What is being done and why*

### Alcohol-related crime

7.1 Alcohol-related violent crime, nuisance and disorder remain a serious problem in many areas in England and Wales. An independent study carried out for the Home Office (KPMG, 2008), which can be viewed online at: <http://drugs.homeoffice.gov.uk/publication-search/alcohol/alcohol-industry-responsibility/> showed that there is a significant minority of licensed premises that put people at risk by encouraging excessive drinking through irresponsible promotions and activities, maintaining an environment that undermines the four licensing objectives that underpin the Licensing Act 2003. Those who retail or supply alcohol also have a responsibility to protect their customers, members, the public and communities.

7.2 According to the British Crime Survey 2008-09, almost half (47%) of all violent crime is alcohol-related, and nearly 20% of all violent crime occurs in or around pubs and clubs. About a quarter of the population (24.8%) considers drunk or rowdy behaviour to be a problem in their area. Whilst these figures are cause for concern, so too is the cost of alcohol-related crime and disorder, estimated at £8-£13bn each year.

7.3 The Government is taking forward a wide range of actions to tackle these problems, as set out in “*Safe. Sensible. Social. The next steps in the National Alcohol Strategy*”, which can be read at [www.dh.gov.uk/prod\\_consum\\_dh/groups/dh\\_digitalassets/@dh/@en/documents/digitalasset/dh\\_075219.pdf](http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_075219.pdf). In addition to these efforts to ensure that alcohol is sold or supplied responsibly, action is being taken on underage sales and under-18s drinking in public places, treatment for those with alcohol misuse problems, and tackling the high numbers of alcohol-related hospital admissions.

### Rationale for a mandatory code for alcohol retailers

7.4 In November 2005, 16 trade associations and organisations representing the alcohol industry published a set of ‘social responsibility standards for the production and sale of alcoholic drinks in the UK’. This voluntary code of conduct was intended to promote the broader social responsibilities that go with the sale of alcohol and to ensure that the risk of crime and disorder resulting from alcohol consumption was minimised.

7.5 Following the publication of the National Alcohol Strategy, *Safe. Sensible. Social.* in June 2007, the Home Office commissioned an independent review of the implementation of this voluntary code in January 2008. Whilst the majority of premises are well-run, the review revealed a disturbing level of irresponsible and harmful practice in significant sectors of the industry, along with evidence that the current social responsibility standards were not being consistently applied or were ineffective in promoting good practice.

7.6 The Government set out the case for the introduction of a set of mandatory conditions to improve the environment in which alcohol is sold and consumed, to ensure that irresponsible promotions and activities were stopped and that licensed premises should be made to act responsibly towards their customers and the general public, in a consultation in July 2008. The responses to this consultation showed overwhelming (90%) support for the introduction of such conditions.

7.7 The specific mandatory licensing conditions set out in this Order are largely as set out in the consultation document and aim to ban the kinds of irresponsible promotions and practices in licensed premises that are likely to lead or contribute to crime and disorder, risk to public safety, public nuisance or harm to children. Substantive changes were made to two conditions on careful consideration of consultation responses:

- (i) The Government has changed the scope of the condition banning dispensing alcohol directly into customers' mouths to include banning this practice between customers in addition to simply banning staff from engaging in this activity. This is due to concerns raised by respondents that this would not cover activities organised by customers themselves where large quantities of alcohol are poured directly into the mouths of other customers, known as 'the dentist's chair', and also where employees of a company other than that holding the premises licence will dispense alcohol directly into customers' mouths; and
- (ii) The proposed age verification condition in the consultation only referred to online and mail order sales. A number of respondents pointed out valid difficulties in taking forward a mandatory condition requiring age verification policies for online sales relating to where the licence was held and who held it, as well as software and delivery issues. The Government has decided not to proceed with the proposed age verification condition for online and mail order alcohol purchases at this stage. However, underage drinking was the single biggest concern raised by members of the public during the consultation in relation to alcohol-fuelled violence and anti-social behaviour. Licensing authorities and enforcement agencies echoed this view. There was agreement across many of the consultation strands that tackling underage drinking was vital to reducing alcohol-related crime and disorder. Many respondents suggested measures to combat drinking among young people, with popular options being to apply conditions, such as the Challenge 21 age verification scheme, to all premises at a national level. Given this high level of concern, the evidence of effectiveness, and the strong call to make age verification mandatory, the Government has decided to include a mandatory licensing condition to ensure that all those selling or supplying alcohol have an age verification policy in operation that requires them to check the identification of anyone who appears to be under the age of 18 attempting to buy alcohol. The draft Order delays this condition coming into force until October 2010 to allow businesses time to prepare and the Government will issue guidance and exemplar policies that will make it simpler for those who currently do not have such a policy in place to comply with this condition. This condition will not prevent any businesses from choosing to operate one of the current good practice schemes such as Challenge 21 or Challenge 25. This will be highlighted in the good practice guidance.

- ***Consolidation***

7.8 Not applicable.

## **8. Consultation outcome**

8.1 The Home Office ran an extensive public consultation on the content of the code, for 13 weeks between May and August 2009, which received over 7,000 responses from the public, licensing authorities, enforcement agencies, health groups and the licensed trade. The consultation document can be viewed here: <http://www.homeoffice.gov.uk/documents/cons-2009-alcohol/cons-2009-alcohol-doc2835.pdf?view=Binary>. The consultation responses showed clear support for the proposed mandatory conditions from the public and those involved in enforcement and licensing. Responses from those in the alcohol retail trade were more mixed, with support for certain aspects and concern regarding the impact of some proposals. These concerns have been taken into account and a significant number of the proposals set out in the consultation document have been either removed or altered in line with issues raised – most significantly, all of the local discretionary conditions and the power for licensing authorities to apply these to groups of premises in their area were removed from the Policing and Crime Bill. Instead, members of licensing authorities were made “interested parties”, and therefore able to bring reviews against individual licensed premises. This change was made by way of amendment during the passage of the Policing and Crime Act 2009, which was positively welcomed by stakeholders. Further details of the consultation analysis are provided in sections 23 – 34 of the Impact Assessment attached at Annex A.

## **9. Guidance**

9.1 The statutory guidance, issued under section 182 of the Licensing Act 2003 that local licensing authorities must have regard to whilst discharging their duties under the Act, will be revised to reflect the changes brought about by the introduction of this Order. This is still being developed, in consultation with key stakeholders, and will be published by the time the Order comes into force.

9.2 In addition to the section 182 guidance, the Home Office will also publish non-statutory guidance for those involved in the retail or supply of alcohol. The purpose of this guidance will be to explain the impact of the mandatory conditions specified in the Order and set out examples of good practice. The Home Office have been working with key stakeholders from the alcohol retail industry, licensing and enforcement agencies to develop this guidance and to ensure that it is widely communicated to those affected by it. This guidance is still in development and will be published during March 2010.

## **10. Impact**

10.1 The impact on business, charities or voluntary bodies is set out in a full Impact Assessment, published alongside this draft Order. The Government has consulted extensively with businesses, charities and voluntary bodies to further its understanding of the impact of this draft Order, and it has taken their responses into account during the drafting in order to minimise the impact on these groups.

10.2 The impact on the public sector is that this draft Order will affect those working in local authorities, particularly those involved in licensing. They will also affect those working in ‘responsible authorities’ (i.e. those involved in enforcement) such as the police and Trading Standards. The Government does not expect that these mandatory conditions will require any significant increase in enforcement activity or impose any significant additional costs on licensing authorities. There may be a small transitional cost because most premises will have more conditions imposed and, because the conditions are mandatory and breaches will be spotted more easily, more breaches will be reported and therefore need acting on. However, these costs will be far outweighed in the longer term by the savings that local authorities will benefit from as a result of having dealt with local alcohol-related problems.

10.3 An Impact Assessment is attached to this memorandum.

10.4 An Impact Assessment was also prepared for the Policing and Crime Bill (2009) and is published here: <http://www.homeoffice.gov.uk/documents/ia-police-crime-bill-08/ia-alcohol-code2835.pdf?view=Binary>. A partial Impact Assessment was prepared for the consultation on the code of practice for alcohol retailers in May 2009, and is published here: <http://www.homeoffice.gov.uk/documents/ia-alcohol-consultation-092835.pdf?view=Binary>. The full Impact Assessment for this Order, revised following the consultation and further policy development, is attached to this memorandum at Annex A.

## **11. Regulating small business**

11.1 The legislation applies to small business.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, in developing the content of the new code of practice, the Government has been particularly mindful of the potential impact on small firms and has actively consulted with them during its consultation, through a series of regional events, leaflets and an online survey. The mandatory licensing conditions apply to all alcohol retailers and hence they will apply to many small businesses. Many of the proposed conditions involve restrictions on irresponsible practices or promotions and hence will not have any impact on those businesses that do not currently operate these types of practices or promotions. However, it is likely that some small businesses are operating them and hence will be affected by these conditions. There are also some conditions which require premises to adhere to particular good practice and these will also have an impact on some small businesses. The Government recognises the diverse nature of alcohol retailers and therefore accepts that imposing a large number of blanket conditions is not appropriate. However, there are certain irresponsible practices and promotions which are occurring across the country and which are contributing to crime and disorder. Most people agree that these should not happen anywhere, and so the Government believes that it is necessary to impose some national mandatory conditions. To minimise the impact of the requirements on small firms, the approach taken is to ensure that the mandatory conditions only target the most irresponsible practices and promotions, by making a statutory commitment in the Policing and Crime Act 2009 to limit the number of mandatory conditions to nine.

11.3 The aim of the mandatory conditions is to ensure that those businesses, both small and large, who are selling alcohol irresponsibly, act more responsibly to help tackle alcohol-related crime and disorder. Exempting small businesses could jeopardise this aim because it is likely that there are a number of small businesses who are selling alcohol irresponsibly and whom the Government wants to target through the conditions. The Government therefore does not consider it appropriate to exempt small businesses from the proposed conditions. The consultation gave a very clear majority view that no premises should be made exempt from the conditions. The Government believes that this approach will help ensure that the effect of this Order on the smallest businesses is proportionate and appropriate and that it achieves the outcomes aimed for, minimising unnecessary impacts on small firms and showing that the economic pressures they face are recognised. The non-statutory guidance that is issued alongside this Order will support small firms in adopting good practice and observing the conditions. The basis for the final decision on what action to take to assist small business is that to avoid disproportionate impact, the Government has targeted the legislation where it is most needed, has limited the maximum number of conditions to nine in the Policing and Crime Act 2009, and will produce exemplar policies and good practice guidance to further minimise impact.

## **12. Monitoring & review**

12.1 The Government anticipates a reduction in alcohol-related crime and disorder as a result of these conditions. A fall of just 1.2% in alcohol-related violent crime in year 1, and 0.8% in subsequent years, will outweigh the anticipated costs of the mandatory conditions. (Note: These figures are not cumulative and do not require a 0.8% reduction in alcohol-related violent crime in every subsequent year. Hence, alcohol-related violent crime would need to remain at least 0.8% less than it was before the conditions were introduced.)

12.2 The impact of the order will be subject to internal review based on feedback from local authorities and police after 12 months and the Order may be amended in response to that if appropriate.

## **13. Contact**

Mark Cooper at the Home Office Tel: 0207 0351827 or email: [mark.cooper16@homeoffice.gsi.gov.uk](mailto:mark.cooper16@homeoffice.gsi.gov.uk) can answer any queries regarding the instrument.

## Summary: Intervention & Options

<b>Department /Agency:</b> <b>Home Office</b>	<b>Title:</b> <b>Impact Assessment for the Licensing Act 2003 (Alcohol Mandatory Licensing Conditions) Order 2010</b>	
<b>Stage:</b> Final	<b>Version:</b> 1.0	<b>Date:</b> 22 <sup>nd</sup> January 2010
<b>Related Publications:</b> The Licensing Act 2003 (Alcohol Mandatory Licensing Conditions) Order 2010 Explanatory Memorandum to the Licensing Act 2003 (Alcohol Mandatory Licensing Conditions) Order 2010 Consultation on the new code of practice for alcohol retailers		

Available to view or download at:

<http://www.homeoffice.gov.uk/crime-victims/reducing-crime/alcohol-related-crime/>

**Contact for enquiries:** Matthew Scott / Jonathan Allinson

**Telephone:** 0207 035 1957 / 3127

What is the problem under consideration? Why is government intervention necessary?

Drinking alcohol is a matter of individual choice, but it should never be an excuse for causing harm to others and there is clear evidence that binge drinking often leads to crime and disorder. This is turning many of our town centres into unpleasant and unsafe places to be and it is estimated that alcohol related crime costs our society between £8bn and £13bn each year. This is being fuelled in part by a minority of licensed premises who are flouting the law and selling alcohol irresponsibly. The Government needs to intervene to ensure that all alcohol retailers do sell alcohol responsibly.

What are the policy objectives and the intended effects?

The objectives of introducing a code of practice for alcohol retailers are:

- i. to raise standards across the industry;
- ii. to ensure that alcohol is sold responsibly; and
- iii. to ensure that the alcohol industry plays its part in tackling the unacceptable levels of alcohol related crime and disorder which blights many of our communities.

What policy options have been considered? Please justify any preferred option.

Option 1 – Do nothing

Option 2 (preferred option) - Introduce the following licensing conditions

1. Restricting irresponsible on-trade promotions
2. Prevent the dispensing of alcohol directly into the mouth in on-trade premises
3. Ensure that an age verification policy/system is in operation in all licensed premises
4. Ensure smaller measures are available in on-trade premises
5. Ensure free tap water is available in on-trade premises

Option 3 – Introduce licensing conditions above, with the following condition replacing *Condition 3*

- 3.1 Requiring premises to operate a Challenge 21 scheme, and to display signs explaining the laws around underage sales and keep a record of all refused sales

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? If implemented, the effectiveness will be monitored using the British Crime Survey, hospital admissions data, licensing statistics and ongoing liaison with the police and other stakeholders.

### Ministerial Sign-off

*I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.*

*Signed by the responsible Minister:*

**Alan Campbell**.....**Date: 26th January 2010**

## Summary: Analysis & Evidence

Policy Option: 2

Description: Introduce mandatory licensing conditions as proposed in DA clearance letter

<b>COSTS</b>	<b>ANNUAL COSTS</b>		Description and scale of <b>key monetised costs</b> by 'main affected groups' An initial compliance cost of £55.6m and an annual compliance cost of £39.2m, which will largely fall on the minority of retailers who are selling alcohol irresponsibly. These are not necessarily financial costs and are largely made up of staff abstraction from other duties. These are only indicative estimates.
	<b>One-off</b> (Transition)	<b>Yrs</b>	
	<b>£ 55.6m</b>	1	
	<b>Average Annual Cost</b> (excluding one-off)		
	<b>£ 39.2m</b>		<b>Total Cost (PV)</b> <b>£ 381.3m</b>
Other <b>key non-monetised costs</b> by 'main affected groups': There may be a small transitional cost to local authorities of enforcing the mandatory conditions but this will be outweighed by savings in the cost of dealing with alcohol-related problems in the future.			

<b>BENEFITS</b>	<b>ANNUAL BENEFITS</b>		Description and scale of <b>key monetised benefits</b> by 'main affected groups'
	<b>One-off</b>	<b>Yrs</b>	
	<b>£ unknown</b>		
	<b>Average Annual Benefit</b> (excluding one-off)		
	<b>£ unknown</b>		<b>Total Benefit (PV)</b> <b>£ unknown</b>
Other <b>key non-monetised benefits</b> by 'main affected groups' We anticipate a reduction in alcohol related crime and disorder as a result of these conditions. A fall of just 1.1% in alcohol-related violent crime in year 1, and 0.8% in subsequent years, will outweigh the anticipated costs of the mandatory conditions. <i>(Note: These figures are not cumulative and do not require a 0.8% reduction in alcohol related violent crime in every subsequent year. Alcohol-related violent crime needs to remain at least 0.8% less than it was before the code was introduced.)</i>			

Key Assumptions/Sensitivities/Risks Based on available evidence and feedback from the consultation, we have assumed that these measures will be effective in tackling excessive and binge drinking and have assumed that this will reduce alcohol-related crime and disorder.

Price Base Year 2010	Time Period Years 10	<b>Net Benefit Range (NPV)</b> <b>£ unknown</b>	<b>NET BENEFIT (NPV Best estimate)</b> <b>£ unknown</b>
-------------------------	-------------------------	--	--

What is the geographic coverage of the policy/option?		England & Wales	
On what date will the policy be implemented?		6 April 2010	
Which organisation(s) will enforce the policy?		Local authorities, police, training	
What is the total annual cost of enforcement for these		£ unknown	
Does enforcement comply with Hampton principles?		Yes	
Will implementation go beyond minimum EU requirements?		N/A	
What is the value of the proposed offsetting measure per year?		£ N/A	
What is the value of changes in greenhouse gas emissions?		£ N/A	
Will the proposal have a significant impact on competition?		No	
Annual cost (£-£) per organisation (excluding one-off)	Micro	S m	Medium
Are any of these organisations exempt?	No	N	N/A

<b>Impact on Admin Burdens Baseline</b> (2005 Prices)		(Increase - Decrease)	
Increase of	£ 0	Decrease of	£ 0
		<b>Net Impact</b>	<b>£ 0</b>

Key: Annual costs and benefits: Constant Prices (Net) Present Value

## Evidence Base (for summary sheets)

### The Licensing Act 2003 (Alcohol Mandatory Licensing Conditions) Order 2010

- 1. This Impact Assessment has been prepared following analysis of the responses to the public consultation on the content of a new code of practice for alcohol retailers. It has not been possible to quantify all of the expected costs and benefits of the regulations. We asked respondents to the consultation to supply any additional evidence and calculations on costs and benefits that they may have, however, only a very small number of responses gave any estimates of costs and benefits, and these were largely without showing the calculations or sources of data. Therefore, the benefit of these was limited. However, costs given ranged from well below our estimates to just above. We have looked at our assumptions again, and show here the revised calculations for costs of each condition. In addition, in line with consultation responses the proposed mandatory condition on age verification has been altered and all of the discretionary local conditions have been removed in favour of giving members of licensing authorities the power to be 'interested parties' through the Policing and Crime Act.**
- 2. Where costs have been estimated, these estimates should be viewed as indicative estimates only.**
- 3. All cost estimates presented here are economic costs and not financial costs. A large proportion of the estimated costs are due to staff abstraction from other duties which will not necessarily have any financial impact.**

#### Rationale for intervention

4. Drinking alcohol plays a long-standing, generally positive role in British culture. Pubs, bars and clubs are an important part of many people's social and family life, and alcohol can enhance meal times, special occasions and time with friends. Ultimately, whether people drink and how much they drink is down to individual choice.
5. However, the Government does have an important role to play: in making sure that people are able to make informed choices; in encouraging drinkers to drink responsibly; in making sure businesses sell alcohol responsibly; and in making clear that alcohol is never an excuse for causing harm and distress to others.
6. We recognise that the majority of retailers do sell alcohol responsibly. However, there are a minority of licensed premises who are operating irresponsible practices and promotions which encourage excessive drinking and promote a binge-drinking culture. This all too often leads to anti-social behaviour and crime and turns some of our town centres and public spaces into intimidating or unpleasant places. It is therefore necessary for the Government to intervene to restrict those practices and promotions which are leading to harm, and to ensure that all retailers sell alcohol responsibly and therefore play their part in tackling the unacceptable level of alcohol-related crime and disorder in our society.

Alcohol-related crime

7. According to the 2008/09 British Crime Survey, victims believed the offender(s) to be under the influence of alcohol in 47 per cent of all violent incidents, equivalent to 973,000 violent offences. Whilst the number of violent offences has fallen by over a fifth since the early-2000s (see figure 1), the proportion of violent offences that are alcohol-related has remained stable (see figure 2).

Figure 1: Violent incidents and alcohol-related violence, 2001/02 to 2008/09<sup>1</sup>

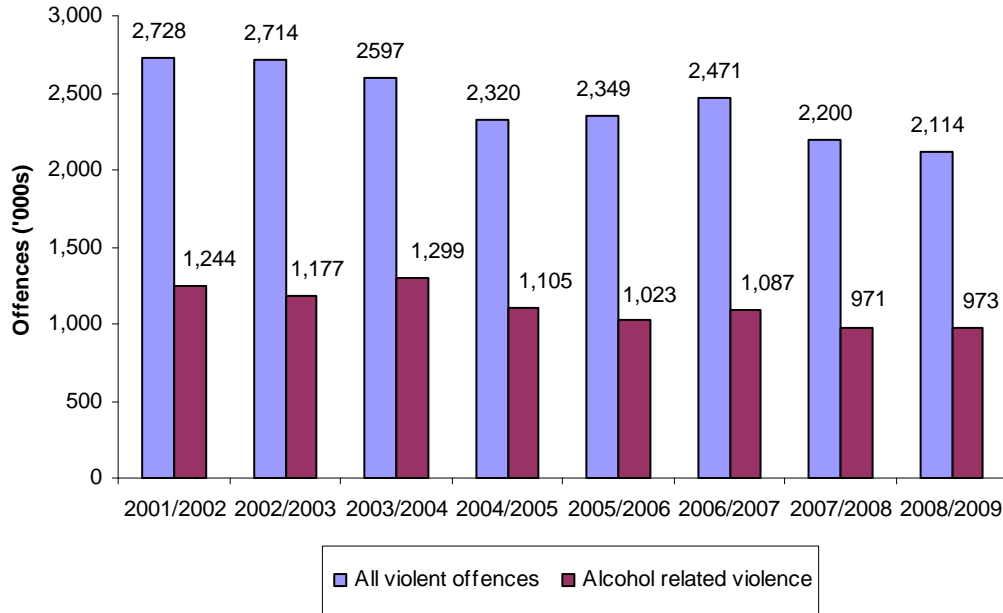
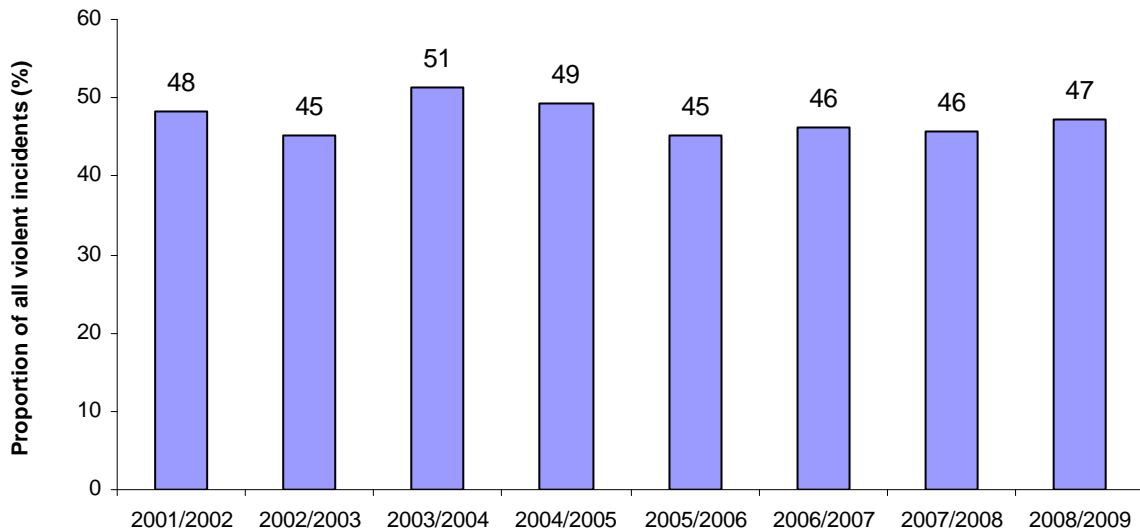


Figure 2: Violent incidents where the victim believed the offender(s) to be under the influence of alcohol, 2001/02 to 2008/09<sup>2</sup>



8. More than half of people surveyed (53%) also thought that alcohol was one of the major causes of crime in 2008/09, an increase from 52% in the previous year. However, a much smaller proportion (8%) thought it was the main cause of crime in Britain today.

<sup>1</sup> Crime in England and Wales 2008/09, Home Office Statistical Bulletin 08/09

<sup>2</sup> Crime in England and Wales 2008/09, Home Office Statistical Bulletin 08/09. N.B. These percentages cannot be derived from the figures presented in Figure 1 due to the weightings used in the British Crime Survey.

Results from the 2008/09 survey<sup>3</sup> also show that 21% of all violence occurred in or around a pub or club and 48% of all violent offences occurred between Friday evening and Monday morning.

9. The 2008 Review of the Licensing Act<sup>4</sup> found that overall there had been a 1% fall in violence, harassment and criminal damage in the 12 months following the introduction of the Licensing Act. However, there was a 25% increase in most serious violence reported between 3am and 6am, but this represents just 236 additional offences, equivalent to just 4% of the offences committed at night. Nonetheless, the Government has committed to undertake further research into post-midnight drinking patterns and their impact on crime and disorder.

#### Perceptions of drunk or rowdy behaviour

10. Perceptions of crime are an important factor in social welfare as it is often perceptions, rather than reality, that determine how much individuals are willing to spend in anticipation of crime in order to reduce either the likelihood or impact of an incident.
11. According to the British Crime Survey, the percentage of people who think drunk and rowdy behaviour is a fairly or very big problem in their area has risen, from 19% in 2003/4 to 24.8% in 2008/09. Perceptions of this problem are likely to be heavily influenced by binge-drinking and by young people drinking alcohol in public.

#### Underage sales

12. Although it is illegal for a person under 18 to buy, or attempt to buy, alcohol, and it is illegal for alcohol to be sold or supplied to a person under 18<sup>5</sup>, there is good evidence that underage sales are still occurring. The Tackling Underage Sales of Alcohol Campaign in summer 2007 showed an overall test purchase failure rate of 14.7%. Whilst this represents a significant improvement on the failure rates in previous campaigns, around 40% of premises tested sold to children on at least one occasion. Although these premises were targeted on the basis of local intelligence, this figure is still unacceptably high.
13. A survey of 11-15 year olds in 2008<sup>6</sup> found that where the young person had attempted to buy alcohol from a shop in the last month, 73% had been successful. Where the young person had attempted to buy alcohol from a pub or club in the last month, 82% had been successful.
14. We recognise that large parts of the industry have voluntarily introduced schemes to tackle underage sales, such as Challenge 21 and even Challenge 25, but it is clear that more needs to be done to ensure that existing legislation is being complied with.

#### The Licensing Act 2003

15. The new Licensing Act was introduced in November 2005 and made a great deal of tools and powers available to enforcement agencies to tackle alcohol-related crime and disorder, as did various pieces of Anti-Social Behaviour legislation, and most recently the Violent Crime Reduction Act 2006.

---

<sup>3</sup> *Crime in England and Wales 2008/09: Supplementary Tables: Nature of burglary, vehicle-related theft, personal and other household theft, vandalism, and violent crime*

<sup>4</sup> Based on a sample of 30 police forces which accounted for approximately 75% of police recorded crime.

<sup>5</sup> Although a 16 or 17 year old may consume alcohol with a table meal.

<sup>6</sup> *Smoking, drinking and drug use among young people in England in 2008*, NHS Information Centre

16. It is clear, however, that the use of these tools and powers differs considerably from area to area. For example, the recent National Audit Office report, Reducing the Risk of Violent Crime, noted “The Licensing Act 2003 has provided a lever for Crime and Disorder Reduction Partnerships to address alcohol-related violence but it is not yet being fully exploited by local areas”. This was also noted by the Licensing Minister, Gerry Sutcliffe, following the review of the Licensing Act, who said “Our main conclusion is that people are using the freedoms but people are not sufficiently using the considerable powers granted by the Act to tackle problems, and that there is a need to rebalance action towards enforcement and crack down on irresponsible behaviour”. Our stakeholders have highlighted that the same is true for the other tools and powers available to front line practitioners.
17. The Licensing Act 2003 allows licensing authorities to impose conditions on a licence in order to support the four licensing objectives on a case-by-case basis. The four licensing objectives are:
  - prevention of crime and disorder;
  - public safety;
  - prevention of public nuisance; and
  - protection of children from harm
18. However, there is some evidence that licensing authorities are not always able to establish a clear link between local problems and a single premises, and are therefore often prevented from imposing licensing conditions even where they believe they would be beneficial. This has limited the effectiveness of the existing licensing mechanisms.
19. The Home Office also received representations from Local Authorities reporting that as they were not considered interested parties under the Licensing Act 2003, they were not able to proactively use the tools and powers contained in the act. Further measures to solve this problem were introduced in the Policing and Crime Act 2009.

#### Social Responsibility Standards and the KPMG review

20. The alcohol industry’s Social Responsibility Standards were launched in November 2005 with the intention of:

“assist[ing] businesses, individuals and organisations involved in the production and sale of alcohol in promoting the broader social responsibilities that go with the sale of alcohol.”
21. The voluntary standards draw together industry good practice, advice and codes of conduct and were signed by 16 trade associations. However, adherence to the Standards is voluntary except for the aspects relating to legislation and advertising.
22. In February 2008, the Home Office commissioned KPMG to conduct a review into the effectiveness of these Standards in contributing to a reduction in alcohol harm. Although they found examples of good practice, most notably at a corporate level, KPMG concluded that those selling alcohol to the public were not aware of the voluntary code of practice that had been agreed by the key trade organisations, and that the code did not have an impact in reducing levels of crime and disorder.<sup>7</sup> In particular, KPMG saw examples of:
  - people who appear to be under-18 frequently being admitted to age restricted venues in which they cannot purchase alcohol legally;

---

<sup>7</sup> The KPMG report is available at: <http://drugs.homeoffice.gov.uk/publication-search/alcohol/alcohol-industry-responsibility/?view=Standard&pubID=569418>

- the promotion of alcohol through low price offers, inducements by DJs to consume greater quantities, and glamorisation of alcohol through links with sexual imagery;
- encouragement to drink more and faster through shots and shooters being “downed in one”;
- sales to blatantly intoxicated people;
- several public safety issues inside bars and clubs e.g. overcrowding, broken glass and spilled alcohol;
- poor dispersal practices (although there was some very good practice also seen); and
- several instances of anti-social behaviour and low level crime (fights and assaults, urinating and vomiting in public places, criminal damage).

#### Department of Health’s public consultation in 2008

23. The Department of Health held a public consultation on various alcohol issues, including what action should follow KPMG’s findings, between July and October 2008.<sup>8</sup> The consultation received 2,790 responses and events involving a further 200 individuals and organisations also took place. The majority of respondents were from the public and third sector (police, health, local authorities). Alcohol producers and trade bodies provided a number of very detailed responses as well as participating in the consultation events.
24. Around 90% of the 2,000 respondents who answered the question on whether a new alcohol retailing code should be made mandatory through further legislation felt that it should. When asked what are the most important issues that need to be addressed in a revised code (unprompted) responses covered; restrictions on alcohol promotions, proof of age schemes, separate check-out areas, requirements to sell the smallest measures, server training, restrictions on advertising, setting minimum prices, ending cut-price promotions providing information at point of sale and ensuring water and soft drinks were available at cheaper prices.
25. However, the alcohol producers and trade bodies who responded argued that improvements could best be achieved through a system of co- or self-regulation with standards agreed between the Government and the alcohol industry. We are sympathetic to these arguments and believe that self-regulation is a desirable choice when working with industry. However, we do not believe that a revised voluntary code would be any more effective than the one that the alcohol industry signed up to in 2005.
26. Based on the evidence gathered by KPMG, the responses to the public consultation and extensive discussions with stakeholders, the Government concluded that continued self-regulation was not a viable way forward. In December, the Government announced plans to introduce a new code of practice for alcohol retailers.

#### Pre-consultation meetings regarding the proposals for the code of practice for alcohol retailers

27. Ahead of the public consultation on proposals for a code of practice for alcohol retailers, Government officials held a number of discussions with over 50 key stakeholders representing the alcohol industry, police and local enforcement agencies, health and third sector organisations and the tourism sector to discuss what conditions should be included in the new code of practice of practice. The proposals that were subsequently publicly consulted on were informed by these views.

---

<sup>8</sup> *Safe, Sensible, Social - Consultation on further action*, Department of Health

## Analysis of Home Office Consultation Responses 2009

28. A full public consultation on this issue was held between 13 May and 14 August 2009. Along with the formal consultation a number of additional engagement activities were held. The main audiences were: licensing authorities; enforcement agencies and health bodies; those who sell and supply alcohol; and members of the public. Across all activities, around 7,000 responses have been received commenting on the proposals.
29. It is apparent that many respondents agree with the need to address the UK's binge-drinking culture and the problems associated with excessive alcohol consumption. The majority of respondents across the respondent types believe that alcohol and drunkenness contribute to crime and disorder. Many people believe more should be done to reduce harassment and intimidation around licensed premises.
30. There is clear support for the proposed mandatory licensing conditions among licensing authorities, enforcement agencies and health bodies, who generally view the conditions as an improvement to the current licensing regime. Many members of the public that were consulted also think the conditions will contribute to a reduction of alcohol-related crime and disorder.
31. Members of the public are supportive of conditions that increase their choice of quantity of alcohol sold (condition 4) or ensure that free tap water be made available (condition 5), whereas both of these are considered potentially costly by the alcohol retail sector.
32. Support from the retail sector to conditions 1 and 2, bans on irresponsible promotions and on dispensing alcohol directly into customers' mouths, is more widespread. Respondents from other audiences also tend to back the purpose of these conditions.
33. One local discretionary condition that was consulted on, which imposed a Challenge 21 age verification scheme, received considerable backing from licensing, enforcement and health professionals as well as from members of the public, while people from the alcohol retail trade are more reluctant. The majority of the public, licensing and enforcement bodies would like the condition to be applied to both the on-trade and the off-trade as a mandatory condition.
34. There were a range of concerns raised by those involved in licensing and retailing alcohol over the viability and practicality of the process for applying local discretionary licensing conditions to groups of two or more premises. As a result of feedback from the consultation, the decision was taken to remove these powers from the Policing and Crime Bill in favour of giving members of local licensing authorities the power to act as 'interested parties'.

### **Objectives**

35. An independent review of the alcohol industry's voluntary standards has shown that adherence to the standards is not widespread and that they are not contributing to a reduction in alcohol related crime and disorder. The objective of introducing a code of practice for alcohol retailers is therefore:
  - to raise standards across the industry;
  - to ensure that alcohol is sold responsibly; and
  - to ensure that the alcohol industry plays its part in tackling the unacceptable levels of alcohol related crime and disorder which blights many of our communities.

## Options for the Order

### Option 1: Do nothing

### Option 2 (preferred option): Introduce the proposed mandatory licensing conditions and requirements as set out below

36. The Policing and Crime Act (2009), which received Royal Assent on 12 November 2009, contains an enabling power to allow the Home Secretary to introduce up to nine national mandatory licensing conditions which could ultimately apply to all licensed premises in England and Wales. This option only involves introducing 5 conditions.
37. This framework will be supported by statutory guidance, issued under existing powers in the Licensing Act 2003 to which licensing authorities must have regard. This will explain how the conditions are applied.

#### Summary of proposed mandatory licensing conditions and requirements

##### *Condition 1: Restricting irresponsible on-trade promotions*

38. Our stakeholders have told us that there are a minority of premises that are operating irresponsible drinks promotions which are causing harm. Irresponsible promotions were also the most frequently raised issue which respondents to the Department of Health's public consultation wanted to be tackled by a code of practice. The Government therefore consulted on preventing on-trade premises from operating the most irresponsible of these promotions, such as "all you can drink" offers and "women drink free" nights.
39. Whilst these practices are not considered to be widespread, there is evidence linking irresponsible promotions to excessive alcohol consumption and drunkenness, and also evidence linking alcohol consumption to crime and disorder. This will be particularly true with some of these promotions where the marginal cost of an extra drink is zero.

##### *Condition 2: Prevent the dispensing of alcohol directly into the mouth in on-trade premises*

40. The dispensing of alcohol directly into the mouth (except where necessary because of disability) is clearly irresponsible as it encourages people to drink quickly and makes it difficult for them to regulate their alcohol consumption. This is therefore likely to lead to intoxication and potentially crime and disorder.

##### *Condition 3: Ensure that an age verification policy/system is in operation in all licensed premises*

41. The aims of this condition are to protect children from alcohol-related harm and to tackle alcohol-related anti-social behaviour among young people by reducing the opportunities for under 18s to be able to purchase alcohol. This will be done by ensuring that the existing law banning sales of alcohol to those under the legal age of purchase (18 years old) is proactively observed and enforced by those who retail or supply alcohol.
42. According to the British Crime Survey, half of those who think that drunk and rowdy behaviour is a fairly/big problem in their area believe young people to be the main cause. Some key statistics highlight the problems associated with underage drinking<sup>9</sup>:

---

<sup>9</sup> Draft Guidance on the Consumption of Alcohol by Children and Young People from the Chief Medical Officers of England, Wales and Northern Ireland (January, 2009)

- 17 million units of alcohol are consumed in a week by 11 – 17 years olds
  - By 16 years most children have drunk alcohol
  - 10,000 children aged 11-17 who are admitted to hospital each year as a result of their alcohol consumption (6,000 aged 11-15 and 4,000 aged 16-17)
  - Children in the United Kingdom are more likely to drink alcohol than many other countries
  - 360,000 young people aged 11-15 years were drunk in the previous week
  - Early age of starting drinking is associated with higher trends of alcohol dependence in adulthood and a wider range of other adverse consequences
43. A recent large-scale survey<sup>10</sup> has shown that a quarter (24%) of young people aged 15 report that they are successful when attempting to purchase alcohol from off-licenses, 17% from supermarkets and 10% from pubs or bars.
44. The World Health Organisation's recent (2009) review of evidence showed that: "There is some evidence that increased enforcement on sales to intoxicated and underage drinkers can reduce alcohol-related harm."
45. The most recent Home Office funded test purchase campaign in 2007 showed a fall in the failure rate, meaning less premises were caught selling to under 18s (15% failing two test purchases). Evidence from a provider of test purchasing services to the major off-licensed retailers (that we have seen but are unable to reproduce here as it is commercially sensitive and was shown to the Home Office in confidence) shows that premises that implement Challenge 21 see a significant fall in test purchase failures and those that implement Challenge 25 see the failure rate fall even further.
46. In the Youth Alcohol Action Plan (June 2008), the Government committed to a prompt roll-out of Challenge 21 in all licensed premises. The introduction of this condition will ensure that the relatively small percentage of licensed premises that do not already voluntarily operate one of these schemes will be required to operate a policy/system on age verification. All those licensed premises who are already voluntarily operating the good practice schemes (Challenge 21/25) – and those who subsequently decide to start operating one of these schemes - will not be required to do anything new or additional in order to comply with this condition. But they will have to be able to give evidence that they do have one of these schemes in operation. The Youth Alcohol Action plan is available at:  
<http://publications.dcsf.gov.uk/default.aspx?PageFunction=productdetails&PageMode=publications&ProductId=Cm%25207387>
47. Discussions with key trade associations for the on and off trade (including BBPA, WSTA and NOCTIS) have expressed support for this condition as long as it is not overly burdensome, as they welcome a move to encourage those who do not currently operate Challenge 21/25 to do so and to encourage wider acceptance of the PASS scheme. A similar condition is being taken forward through the Scottish Alcohol Bill.
48. Feedback from the consultation showed that the proposed mandatory condition for age verification systems for those retailing alcohol online would not be workable through licensing conditions, but there was very strong support for all licensed premises to have an age verification policy or system in operation.
49. Therefore, the proposed mandatory condition for age verification has been adjusted to ensure that there is an age verification policy/system in relation to the sale/supply of

<sup>10</sup> 'Smoking, Drinking and Drug Use by Young People in England in 2008' NatCen, 2009

alcohol in operation in all licensed premises (on-trade, off-trade and qualifying clubs premises certificate) at all times that alcohol is available for retail/supply.

50. An “age verification policy/system” is a policy/system that demonstrates the steps that are to be taken to establish the age of a person attempting to purchase alcohol if it appears to the person selling the alcohol that the customer may be less than the legal age of purchase (i.e. 18 years of age).
51. Good practice guidance – consulted on during the public consultation on the code of practice for alcohol retailers and to be published alongside the mandatory conditions – will include exemplar policies and signposting to good practice examples and relevant training for staff and licensees. This will present a virtually cost-free/low cost way for businesses to satisfy the requirements of the condition.
52. In order to ensure that this condition is not overly burdensome to businesses, it is our intention to draft this in the Regulations in such a way as to allow those who adopt Challenge 21/25 schemes or similar will not have to do anything additional in order to comply. Also, the condition will not require record keeping or the putting up of posters. These will be recommended in good practice guidance aimed at helping those running licensed premises to meet the condition and exceed it voluntarily in line with evidence of what is effective. Premises that have door staff or membership schemes that will only allow people to enter the premises if they have proven/satisfied criteria around age verification will not have to do anything additional to meet this condition.
53. The condition will require licensed premises to produce details of the age verification policy/system on request from a ‘Responsible Authority’. Under the Licensing Act 2003, these are: the police, the fire service, the Health and Safety Agency, the Environmental Health Department, the Planning Department and the Social Services Department.
54. The condition will include details of acceptable forms of ID – likely to be PASS card, Passport, National Identity Card, Driver’s Licence and Armed Forces Card [Note: this list is not exhaustive].
55. Research shows that 90% of 18-24 year olds are aware of the Challenge 21 scheme. One of the benefits of this proposal that is strongly welcomed by retailers is that it shares the responsibility for attempted underage sales and proxy purchases between the retailer (who must check ID) and the purchaser who is made aware that they will commit an offence if they attempt to buy alcohol underage or for someone who is underage.

*Condition 4: Ensure smaller measures are available in on-trade premises*

56. Current Weights and Measures legislation prescribes the various measures in which it is legal to sell certain types of alcohol. However, it does not require that licensed premises offer alcohol in all of those measures. Research suggests, and our stakeholders have told us, that there are an increasing number of premises who do not offer small measures. This can make it difficult for consumers who want to drink less to do so. This condition would therefore require that on-trade premises must sell alcohol in the following measures:
  - Beer, lager and cider: ½ pint
  - Still wine in a glass: 125ml
  - Gin, rum, vodka or whisky: 25ml or 35ml

57. This condition does not prevent premises from offering alcohol in any other measures so long as they comply with Weights and Measures legislation. Under existing legislation, servings of beers, wines and spirits must be measured using a government stamped measure. There is a choice as to how this is achieved, and premises may use a measured optic, a measured pump, a government stamped measure or a government stamped glass.

*Condition 5: Ensure free tap water is available in on-trade premises*

58. Advice and guidance on how to reduce the harms associated with drinking alcohol often advises people to drink water alongside alcohol drinks or to alternate between an alcoholic drink and a soft drink in order to prevent intoxication and reduce the risk of being involved in crime and disorder. Therefore, customers should be given the chance to drink a non-alcoholic drink for free in order to prevent or mitigate intoxication and the possible crime and disorder effects. The vast majority of premises already do offer free tap water and some late-night venues already pro-actively have a supply of free water available at the bar near closing time. This condition simply ensures that free tap water will be available in all on-trade premises.

**Option 3: Introduce the proposed mandatory licensing conditions and requirements set out above, with the following condition replacing *Condition 3***

***Condition 3.1***

*Requiring premises to operate a Challenge 21 scheme, and to display signs explaining the laws around underage sales and keep a record of all refused sales*

58. This condition would require premises to operate a scheme where anyone who is or appears to be under 21 must be asked for ID before being sold alcohol. The premises would also have to display a sign explaining the law around underage sales and stating that Challenge 21 is in operation. This should act as a deterrent to children attempting to purchase alcohol and will encourage staff to feel more confident in asking for ID. Finally, this condition would require the premises to keep a record of all refused sales in order to demonstrate that Challenge 21 is being operated in practice.

**Option appraisal**

**Costs and benefits of the current system**

**Costs**

*Table 1: Costs of alcohol to society*

<b>Body/ organisation</b>	<b>Annual Cost</b>	<b>Explanation of cost</b>
<b>Alcohol related crime (including costs to the victims of crime and to society)</b>	<b>£8bn to £13bn</b>	<b>This estimate takes into account the costs in anticipation of crime, the direct physical and emotional costs to victims, the value of lost output, and the costs to the health service and Criminal Justice System. It is estimated on the basis of attributable fractions calculated from the Offending, Crime and</b>

<sup>11</sup> See Impact Assessment for the enabling power for the code of practice in the Policing and Crime Bill, available at: <http://www.homeoffice.gov.uk/documents/ia-police-crime-bill-08/ia-alcohol-code-practice?view=Binary>

		<b>Justice Survey.<sup>11</sup></b>
<b>Licensing authority</b>	<b>£21.6m</b>	<b>This estimate is based on a sample of 48% of licensing authorities in 2007/08<sup>12</sup>. The costs are net of the value of licensing fees collected as these are transfers</b>
<b>Trading standards and Police enforcement costs</b>	<b>Unknown</b>	<b>The costs of enforcement including inspections and reviews of premises licences, test purchases, police prevention of sales of alcohol to under age drinkers and dispersal of drunk and rowdy individuals or crowds. It is not possible to extract these costs from other costs associated with upholding the law relating to alcohol.</b>
<b>NHS<sup>13</sup></b>	<b>£2.7bn<sup>14</sup></b>	<b>Includes hospital inpatient and day visits (both wholly and partially attributable to alcohol), A&amp;E costs, ambulance service costs, GP consultations and specialist treatment</b>
<b>Licensee (through compliance with licensing conditions) and Licensing fees</b>	<b>Admin costs of applying for licences: £83.9m</b> <b>Licensing fees: £48.8m</b>	<b>The administrative costs were estimated by DCMS using BERRs standard cost model. Licensing fees are estimated using the same survey of licensing authorities as above. There will also be additional compliance costs but it is not possible to estimate these as they will vary for each premises depending on the particular conditions imposed and the nature of those premises.</b>
<b>Total</b>	<b>£12bn - £18bn</b>	

## Benefits

59. The alcohol industry plays a significant part in the economy. It is estimated that the industry contributes around £29bn to the UK's Gross Domestic Product both directly and through multiplier effects. This is equivalent to 2% of the UK's total output. In total, it is estimated that 668,000 people are directly employed in the production and retailing of alcohol and including indirect and induced jobs, over 1.8m jobs in the UK economy are supported by the alcohol industry.<sup>15</sup>
60. When drunk responsibly, alcohol can enhance social occasions and can have an important and positive role to play in society.<sup>16</sup> However, it has not been possible to quantify these additional social benefits.

<sup>12</sup> The LGA/LACORS Licensing Fee Survey 2008, the results of which are published in *unfinished business: a state-of-play report on alcohol and the licensing act 2003*

<sup>13</sup> Whilst health is not a licensing objective, the alcohol-related health costs are significant and are therefore still presented. See the Impact Assessment published alongside *Safe, Sensible, Social - consultation on further action* for further details of the calculations, available at: [http://www.dh.gov.uk/en/Consultations/Closedconsultations/DH\\_086412?IdcService=GET\\_FILE&dID=169372&Rendition=Web](http://www.dh.gov.uk/en/Consultations/Closedconsultations/DH_086412?IdcService=GET_FILE&dID=169372&Rendition=Web)

<sup>14</sup> This figure includes all the cost to the NHS of those injuries that arise as a result of crime. There is therefore likely to be some double counting with the costs of crime estimate. Initial estimates suggest that between £600m and £1.5bn of the estimated costs of crime may be to the NHS. However, this is not comparable to the £2.7bn estimate of the total cost of alcohol to the NHS.

<sup>15</sup> *The economic outlook for the UK drinks sector and the impact of the changes to excise duty and VAT announced in the 2008 Budget and Pre-Budget Report*, Oxford Economics, February 2009.

<sup>16</sup> See for example Peele S and Brodsky A. (2000). "Exploring psychological benefits associated with moderate alcohol use: A necessary corrective to assessments of drinking outcomes?". *Drug and Alcohol Dependence*, 60:221-247.

## Option Two

*“Introduce the proposed mandatory licensing conditions and requirements”*

### Costs of Option Two:

#### Cost to the alcohol industry

61. The calculations below are based on the following assumptions:
- The hourly wage rate for a manager is £10.12<sup>17</sup>
  - The hourly wage rate for bar staff is £5.87<sup>18</sup>
  - The hourly wage rate for door supervisors is £8.49<sup>19</sup>
  - An hour of staff time is valued at the wage rate plus 21% to account for non-wage related employment costs
  - On-trade: there are 132,400 premises in England and Wales licensed to sell or supply alcohol for consumption on the premises (of which 90,000 are also licensed to sell or supply alcohol for consumption off the premises).<sup>20</sup> These include pubs, bars, nightclubs and restaurants.
  - Off-trade: there are 47,000 premises in England and Wales only licensed to sell or supply alcohol for consumption off the premises.<sup>21</sup> These include supermarkets and convenience stores.
  - Total number of licensed premises: there are 179,400 premises in England and Wales licensed to sell or supply alcohol.<sup>22</sup>

#### Cost of the mandatory licensing conditions

62. Based on the assumptions above, we have estimated the economic cost of each of the mandatory licensing conditions to each affected premises (Table 2) and to the alcohol industry as a whole (Table 3). These estimates are indicative estimates of the broad scale of economic costs of the conditions, and do not represent actual financial impacts. For example, a large proportion of the costs are associated with staff abstraction from other activities which does not have a tangible financial impact. More details on how these figures have been calculated are set out below.

*Table 2: summary of the estimated economic cost to individual affected premises of the mandatory licensing conditions*

Mandatory conditions and requirements		Average cost in first year for each affected premises	Average cost in subsequent years for each affected premises	Number of premises affected
1	Restrictions on on-trade promotions	£40	£12	16,310
2	Prevent dispensing into the mouth	£0	£0	unknown

<sup>17</sup> This is the median hourly wage for Managers and Proprietors in Hospitality and Leisure Services from the *Annual Survey of Hours and Earnings 2009, uprated by 2% to become an estimate for the 2010 figure*

<sup>18</sup> This is the median hourly wage for Bar Staff from the *Annual Survey of Hours and Earnings 2009, uprated by 2% to become an estimate for the 2010 figure*

<sup>19</sup> This is the median hourly wage for Security Guards and related occupations from *Annual Survey of Hours and Earnings 2009, uprated by 2% to become an estimate for the 2010 figure*

<sup>20</sup> DCMS Statistical Bulletin *Alcohol, Entertainment and Late Night Refreshment Licensing England and Wales, April 2007 - March 2008*. This figure includes both licensed premises and qualifying club premises certificates.

<sup>21</sup> Ibid

<sup>22</sup> Ibid

3	Age verification policy/system	£519	£519	71,760
4	Smaller measures - ½ pint beer	£0	£0	0
	- 125ml wine	£37	£0	92,680
	- 25ml or 35ml spirits	£94	£0	6,620
5	Free tap water	£13	£13	132,400
	Familiarisation with code - managers	£37	£0	179,400
	Familiarisation with code - staff	£30	£0	179,400

*Table 3: summary of the estimated total economic cost to all premises of the mandatory licensing conditions*

Mandatory conditions and requirements		Total cost in first year	Total cost in subsequent years
1	Restrictions on on-trade promotions	£652,000	£200,000
2	Prevent dispensing into the mouth	£0	£0
3	Age verification policy/system	£37,240,000	£37,240,000
4	Smaller measures – ½ pint beer	£0	£0
	- 125ml wine	£3,430,000	£0
	- 25ml or 35ml spirits	£622,000	£0
5	Free tap water	£1,720,000	£1,720,000
	Familiarisation with code - managers	£6,640,000	£0
	Familiarisation with code - staff	£5,310,000	£0
<b>Total (may not sum due to rounding)</b>		<b>£55,614,000</b>	<b>£39,160,000</b>

Condition 1: Restrictions on irresponsible on-trade promotions

**Cost to individual affected premises: £40 in first year, £12 in subsequent years**

**Total cost: £652,000 in first year, £200,000 in subsequent years**

63. The KPMG review found irresponsible promotions being operated in 51 out of the 414 on-trade premises they visited, which is approximately 12%. Assuming this proportion is reflected nationally, we estimate there are 16,310 premises in England and Wales operating these types of promotions.
64. Assuming in each of these premises it takes on average 4 hours of a manager's time to update price lists and marketing material to remove these promotions, we estimate that the one-off cost to each of these premises, is £49. Therefore, the overall one-off cost to the industry of this restriction is £799,190.
65. If this condition was introduced, those premises who currently operate these types of promotions are likely to attempt to develop new promotions, as well as continually needing to review their other promotions to ensure that they are not captured by this condition. We estimate that developing and reviewing these promotions and ensuring they comply with this condition would take approximately 1 hour of a managers time each year, at a cost of £12. The annual cost to the industry of complying with this condition would therefore be approximately £200,000.

Condition 2: Prevent dispensing alcohol into the mouth

**Cost to individual affected premises: £0**

**Total cost: £0**

66. The KPMG review found evidence of this type of activity in just 4 out of the 414 (1%) on-trade premises they visited, but it simply should not happen anywhere. As this practice is not widespread, banning it should not impose any costs on the industry.

Condition 3: Ensure that an age verification policy/system is in operation

**Cost to individual affected premises: £519**

**Total cost: £37,240,000**

67. Costs are based on 1 minute per hour of staff time for every premises spread across all premises (on and off) spent checking ID and implementing the age verification policy. This would require 73 hours of bar staff time each year, equivalent to £519.
68. This reflects the fact that some premises will have some trading hours where this is taking more time (e.g. city centre pubs on weekend evenings) and some where this is taking less than the estimated time (e.g. quiet country pubs). This has been reduced from the 2 minutes per hour estimate used in the draft impact assessment published alongside the consultation on the code as the proposal in the consultation was for premises to operate a challenge 21 scheme which would require ID checking of all those who looked 21 or under, whilst this condition mandates the checking of ID for those looking under 18, and therefore this represents a smaller number of customers of licensed premises requiring ID checking, bringing about a reduction in the time estimate.
69. By removing the requirement to display a sign and the record-keeping element - at £241 per premises – this has reduced the costs estimated in the Consultation Impact Assessment by £43m.
70. This approach would also allow us to strongly recommend that premises adopt Challenge 21/25 schemes as the best way of complying with the condition, without making these programmes mandatory.
71. The intention is to draft the regulations in the Order so as to allow there to be no need to ask to see ID if the seller know that the person is over 18 i.e. if they have previously checked ID or actually know the person and their age. This condition would be drafted in partnership with industry to ensure that unnecessary costs are kept to a minimum whilst ensuring that it is effective.
72. However, following evidence received from WSTA (who represent the majority of off licenses/supermarkets) and from BBPA (who represent the majority of pubs), they show that currently 80% of off licenses already operate an age verification policy with ID (e.g. Challenge 25) and 68% of pubs already operate a similar scheme (most often Challenge 21).

We have therefore based our final cost on a conservative estimate that 60% of all licensed premises are already operating an age verification scheme and therefore will be unaffected by this condition. Therefore, the remaining 40% of premises will present a cost of £37,240,000 per year to meet this condition.

Condition 4: Ensure smaller measures are available in on-trade premises

*Beer, Lager and Cider in ½ pint measures*

**Cost to individual affected premises: N/A**

**Total cost: £0**

73. We are not aware of any on-trade premises that refuse to serve half pints and so this element of this condition imposes no costs.

*Still wine in a glass in 125ml measures*

**Cost to individual affected premises: £37**

**Total cost: £3.43m**

74. A 2008 survey by CGA Strategy<sup>23</sup> suggests that around 70% of on-trade premises do not offer small glasses of wine, approximately 92,680 premises. Although the condition only requires that 125ml measures are offered, not that 125ml glasses are available, we anticipate that most premises will purchase new glasses. We estimate that, on average, each affected premises will purchase 50 125ml glasses at 50p each, a total cost of £25, and that arranging for this and updating price lists and other material will take 1 hour of a managers time. We therefore estimate that the total one-off cost to each affected premises of offering 125ml wine measures would be £37. The total cost to the industry would therefore be approximately £3.43m.

*Gin, Rum, Vodka or Whisky in 25ml or 35ml measures*

**Cost to individual affected premises: £94**

**Total cost: £622,000**

75. Our stakeholders have told us that there are a small number of premises, particularly in town and city centres, that only serve spirits in double measures. We are not aware of any systematic research assessing the extent of this practice and, even if this research exists, it will be impossible to know how many of those do not have the necessary equipment to offer single measures.
76. We estimate that approximately 5% of on-trade premises, equivalent to 6,620, are not currently able to serve 25ml or 35ml measures, because they currently only serve 'doubles' (i.e. 50ml or 70ml) and do not have the necessary equipment to measure 'single' measures.
77. Estimating that each of these premises has 30 optics to replace and each optic costs £2.74, the physical costs to each affected premises would be £82. We also estimate that it would take a manager 1 hour to update price lists and other material to reflect the smaller measures, which would cost each affected premises £12. We therefore estimate that the total one-off cost to each affected premises of selling spirits in smaller measures would be £94. The total cost to the industry would therefore be approximately £622,000.

*Combined cost of beer, wine and spirits in smaller measures*

78. Therefore, the overall one-off cost of requiring premises to offer these smaller measures is £4.05m. We do not expect there to be any on-going costs of complying with this condition.

Condition 5: Ensuring that free tap water is available

**Annual cost to individual affected premises: £13**

**Total annual cost: £1.72m**

79. The KPMG review found that just 5% of on-trade premises refused to offer free tap water, equivalent to 6,600 premises nationally. However, we recognise that many premises, whilst unlikely to refuse requests for tap water, may face additional costs if required to supply tap water on a larger scale which may occur if this condition was implemented.
80. We have estimated that, on average, each on-trade premises will face an additional cost from offering free tap water of £13 per year (equivalent to 25p per week), at a total

---

<sup>23</sup> Referred to at <http://www.thepublican.com/story.asp?storycode=59382>

annual cost to the industry of £1.72m. Responses to the consultation indicated that this figure was a realistic estimation of the likely cost.

#### Costs of familiarisation with the mandatory conditions

**Cost to individual affected premises: £67**

**Total cost: £12m**

81. The Government is committed to ensuring that the code is proportionate and targeted at the minority of businesses who sell alcohol irresponsibly and in developing the conditions we sought to ensure that responsible businesses do not face any undue additional costs. However, we recognise that in practice, introducing any new national conditions and requirements will impose some additional costs on all retailers in terms of needing to familiarise themselves and their staff with the new code and ensuring that they are complying with it. It is not possible to anticipate what form this 'familiarisation' may take. Some premises may opt for formal training whilst others may simply read the code and accompanying guidance. For simplicity, we have estimated its cost purely on the basis of the managerial and staff time devoted to it.
82. We estimate that one manager in each of the 179,400 premises will need to spend approximately 3 hours familiarising themselves with the new code, at a one-off cost of approximately £37. Therefore, the total one-off cost of managers familiarising themselves with the code is estimated at £6.64m.
83. The number of staff per premise varies by the size and business of each individual premise, so it is difficult to estimate the total cost per premise of staff familiarising themselves with the code. However, in the Impact Assessment for the enabling power in the Policing and Crime Bill, it was estimated that there are approximately 758,604 staff employed by alcohol retailers. We estimate that each member of staff will need to spend 1 hour familiarising themselves with the new code, at a cost of £7. Therefore, the total one-off cost to premises in the UK of staff familiarising themselves with the new code is £5.31m. If this UK total figure is divided by the total number of premises (178,400) then the cost is the equivalent of £30 per premises.
84. Therefore, we estimate the total one-off cost of both managers and staff 'familiarising' themselves with the code is £12.0m, equivalent to £67 per premises.

#### **Benefits of Option Two**

85. The aim of the new code of practice is to ensure that alcohol retailers sell alcohol responsibly in order to promote the four licensing objectives and, in particular, to reduce alcohol related crime and disorder and public nuisance.

#### Benefits of the mandatory licensing conditions

86. The mandatory licensing conditions will help to ensure that all retailers sell alcohol responsibly. Although we have separately estimated the cost of each mandatory condition, the conditions should not be viewed in isolation because each condition only addresses one aspect of irresponsible retailing. Therefore, the likely benefit from each individual condition is likely to be less than the benefit of imposing it alongside the other conditions. Hence, this Impact Assessment considers the expected benefits of all the mandatory conditions together.
87. However, due to the inherently random nature of crime, particularly alcohol related crime, and a lack of data around the nature of alcohol consumption as opposed to simply the amounts being consumed, it is not possible to quantify the expected benefits of the code of practice. However, it is possible to estimate the impact that the mandatory

conditions would need to have on crime and disorder in order to justify the cost identified above.

88. The calculations in Table 3 suggest that the economic cost of the mandatory licensing conditions to the alcohol industry would be £62m in the first year, and £43m in subsequent years. Table 4 illustrates the number of crimes that would need to be prevented to justify that initial cost:

*Table 4: Reduction in violent offences (excluding robbery) needed to justify estimated cost of the mandatory licensing conditions<sup>24</sup>:*

					Offences needed to be prevented (proportion of current alcohol related offences) to save:	
Crime Type	Total offences in 2008/9 (BCS)	Proportion which is alcohol related (BCS)	Total offences which are alcohol related	Average social cost of one crime	Year one	Subsequent Years
Mandatory Conditions	1.843m	50.4%	929,628	£5,500	10,112 (1.1%)	7,120 (0.8%)

89. It is not possible to accurately quantify the likely benefits of these conditions. However, we can estimate the number of crimes that would need to be prevented in order for the benefits to outweigh the costs estimated.
90. Therefore, the benefits of introducing the mandatory conditions would justify the estimated costs of implementation if they reduced alcohol-related violence by just 1.2% in year one and 0.8% in subsequent years<sup>25</sup>. Based on information received from our stakeholders in local government and enforcement agencies, and the existing evidence base around these measures, we are confident that this will be the case.

### Costs of Option Three

91. These will be the same as the costs for Option Two, except with the following costs replacing those for *Condition 3*:

#### *Condition 3.1*

**Cost to individual affected premises: £1,221 in first year, £1,178 in subsequent years**

**Total cost: £219,000,000 in first year, £211,300,000 in subsequent years**

92. We estimate that displaying a sign for a Challenge 21 scheme will cost £21. As above, we estimate that in order to keep a record of attempted underage sales, a premises would need to spend on average £10 on either a record book or computer software, and organising this would take one hour of a managers time, equivalent to £12. Therefore, the total one-off cost of this condition would be £43.

<sup>24</sup> All violence includes wounding (both more and less serious), assault with minor injury and assault without injury. The average unit cost for all violence is an amalgamation of the unit costs for the different types of violent crime. The percentages are percentages of alcohol-related crime, not total offences.

<sup>25</sup> These figures are not cumulative and do not require a 0.8% reduction every year. Alcohol-related crime only needs to remain at least 0.8% less than it was before the conditions were introduced.

93. Assuming that in operating a Challenge 21 scheme, staff spend two minutes out of every hour checking ID this would require 146 hours of bar staff time each year, equivalent to £1,022. There will be no ongoing costs of displaying a sign. Assuming that a manager spends 15 minutes each week updating the records of attempting underage sales, this will take approximately 13 hours per year, equivalent to £156. Hence, we estimate the annual cost would be £1,178.

### **Benefits of Option Three**

94. Calculating the benefits of Option Three is subject to the same problems as noted above for Option Two.
95. The total cost of Option Three would be £237,400,000 in the first year, and £213,200,000 in all subsequent years. Table 5 (below) illustrates the number of crimes that would need to be prevented to justify that cost:

Crime Type	Total offences in 2008/9 (BCS)	Proportion which is alcohol related (BCS)	Total offences which are alcohol related	Average social cost of one crime	Amount of crime needed to be reduced in year one to break even	Amount of crime needed to be prevented in subsequent years to break even
Mandatory Conditions	1.843m	50.4%	929,628	£5,500	43,164 (4.6%)	38,764 (4.2%)

### **Enforcement costs**

#### Costs of enforcing the mandatory licensing conditions

96. We do not expect that these mandatory conditions will require any significant increase in enforcement activity or impose any significant additional costs on licensing authorities. There may be a small transitional cost because most premises will have more conditions imposed and, because the conditions are mandatory and breaches will be spotted more easily, more breaches will be reported and therefore need acting on. However, **these costs will be far outweighed in the longer term by the savings that local authorities will benefit from as a result of having dealt with local alcohol related problems.**

### **Monitoring**

97. The effectiveness of these mandatory licensing conditions in tackling alcohol related crime and disorder will be monitored using the British Crime Survey, police recorded crime data, local crime mapping websites, licensing statistics collected by the Department for Culture, Media and Sport and Criminal Justice System statistics collected by the Ministry of Justice. Health benefits, either directly from the provision of unit and other health information or indirectly from other measures, will be monitored through hospital admissions data.

### **Evaluation**

98. The impact of the order will be subject to internal review based on feedback from local authorities and police after 12 months and the legislation may be amended accordingly.

### **Preferred option**

99. On analysis, option 2 is our preferred option. We feel that Condition 3 of Option 2, requiring each licensed premise to have an age verification policy in place, will provide most of the benefits provided by Condition 3.1 of Option 3 (which requires premises to implement Challenge 21), but with fewer consequences for businesses. As such, we feel that Option 2 meets the right balance between reducing irresponsible drinking and ensuring that responsible premises are not unduly affected.

## Specific Impact Tests: Checklist

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	No	Yes
Small Firms Impact Test	No	Yes
Legal Aid	No	Yes
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	Yes
Race Equality	No	Yes
Disability Equality	No	Yes
Gender Equality	No	Yes
Human Rights	No	No
Rural Proofing	No	Yes



## Competition Assessment

1. Introducing a new code of practice for alcohol retailers could potentially affect the competition between licensed premises in particular localities and this is discussed below. Any impact on licensed premises could potentially filter through to alcohol producers, although we do not expect this to occur with the conditions outlined in the order.
2. In introducing this code of practice, the Government is keen to minimise adverse effects on competition and we will continue to discuss any potential competition issues with the alcohol industry throughout the development of regulations and guidance.

### a) Would the proposals directly limit the number or range of suppliers?

3. Introducing this new code will not directly limit the number or range of suppliers in the market.

### b) Would the proposals indirectly limit the number or range of suppliers?

4. Introducing the proposed conditions for the alcohol code would impose extra costs on some premises. Whilst these costs are not extensive, in the current climate such costs could ultimately make it difficult for some premises to continue operating. However, the Government is committed to ensuring that the code is proportionate and targeted at the minority of businesses who sell alcohol irresponsibly.
5. The mandatory licensing conditions should also not affect new retailers entering into the market. The additional compliance cost of the proposed mandatory conditions to individual premises is very low (see Table 2).

### c) Would the proposals limit the ability of suppliers to compete?

6. The proposed mandatory licensing conditions will limit the ability of premises and retailers to diversify their offerings through offering different discounts on different quantities of the same product or offering different drinks promotions. This will limit their ability to compete.
7. The additional costs to some businesses of complying with these proposed conditions may also limit the ability of some small retailers to compete as compliance costs for smaller retailers is usually higher. Table A1 suggests that around three-quarters of all alcohol retailers are small businesses, although as the proposed conditions will only affect irresponsible retailers the vast majority will be unaffected. However, information on the market share of these businesses is not available and so it is not possible to assess the impact on the market as a whole.

### d) Would the proposals reduce suppliers' incentives to compete vigorously?

8. Whilst these conditions may alter the scope of competition between licensed premises (by restricting irresponsible promotions for example), they do not reduce the incentives to continue to compete vigorously in ways which are still permissible under the new code. This may ultimately intensify competition in other areas not affected by the conditions, such as quality of service and ambiance of venues.

## Small Firms Impact Test

9. In the 2008 Enterprise Strategy, the Government committed to a new approach to the way that new and existing regulation applies to firms that employ fewer than 20 people; to consider simplified or more flexible approaches to find the most effective way to meet intended outcomes and minimise burdens. Therefore, in developing the content of the new code of practice, we have been particularly mindful of the potential impact on small firms and we actively consulted with them during the consultation.

#### Industry structure

10. The guidance produced by BIS states that in developing policy, consideration must be given as to “whether a more flexible approach, or possibly exemptions, would be appropriate for firms with fewer than 20 employees; and is there potential to fully or partially exempt small business (those with fewer than 50 employees)?” The figures in Table A1 suggest that based on the number of employees, approximately three quarters of all alcohol retailers are small businesses.

*Table A1: Number of small businesses selling alcohol in England and Wales, March 2008<sup>26</sup>*

Type of retailer (SIC 2003 <sup>27</sup> )	Estimated number of enterprises in England and Wales (and proportion of all licensed premises) with:	
	Less than 20 employees	Less than 50 employees
Retail sale in non-specialised stores with food, beverages or tobacco predominating (5211)	25,110	25,552
Retail sale of alcoholic and other beverages (5225)	5,088	5,121
Off trade	30,198 (64%)	30,673 (65%)
Hotels (5510)	6,102	7,345
Restaurants (5530)	52,770	54,823
Bars (5540)	43,473	45,379
On trade	102,346 (77%)	107,547 (81%)
All alcohol retailers	132,544 (74%)	138,220 (77%)

#### Will the code of practice affect small businesses?

11. The mandatory conditions are likely to apply to all alcohol retailers and hence they will apply to many small businesses. The conditions involve restrictions on irresponsible practices or promotions and hence will not have any impact on those businesses that do not currently operate these types of practices or promotions. However, it is likely that some small businesses are operating them and hence will be affected by these conditions. There are also some conditions which require premises to adhere to particular good practice and these will also have an impact on some small businesses.

#### Exemptions for small businesses

12. The aim of the new code of practice for alcohol retailers is to ensure that those businesses, both small and large, who are selling alcohol irresponsibly to act more responsibly to help tackle alcohol related crime and disorder. Exempting small businesses could jeopardise this aim because it is likely that there are a number of small businesses who are selling alcohol

<sup>26</sup> This table is based on data from *UK Business: Activity, Size and Location – 2008* which contains data from a snapshot of the Inter Departmental Business Register (IDBR) taken on 21 March 2008. Table B3.1 provides a breakdown of the number of enterprises in the UK by SIC and number of employees and those figures have been scaled down to estimate the number of small enterprises in England and Wales using the figures in Table B3.4, which breaks down the number of enterprises in the UK by SIC and Government Office Region.

<sup>27</sup> Standard Industrial Classification of Economic Activities 2003

irresponsibly and who we want to target through the code of practice. We therefore do not consider it appropriate to exempt small businesses from the conditions.

13. The consultation gave a very clear majority view that no premises should be made exempt from the conditions.

#### Alternative approaches to reduce burdens on small firms

##### *No national mandatory licensing conditions*

14. The Government recognises the diverse nature of alcohol retailers and therefore accepts that imposing a large number of blanket conditions is not appropriate. However, there are certain irresponsible practices and promotions which are occurring across the country and which are contributing to crime and disorder. Most people agree that these should not happen anywhere, and so we believe that it is necessary to impose some national mandatory conditions. In order to ensure that the mandatory conditions only target the most irresponsible practices and promotions, we have made a statutory commitment in the Policing and Crime Bill to limit the number of mandatory conditions to nine.

##### *Conditions should only restrict irresponsible practices and not require good practice to be implemented*

15. The aim of the code of practice is to ensure that alcohol is sold more responsibly. This can be achieved in two ways: preventing premises from operating irresponsible practices or forcing premises to implement certain good practices. The compliance costs associated with the former approach are likely to be less because fewer premises are likely to be affected, and the costs associated with not doing something should be less than the cost of actively doing something else. Hence, many of the conditions seek to restrict irresponsible practices rather than requiring premises to implement good practices. However, we do not believe that this approach will effectively tackle all of the issues around the irresponsible sale of alcohol.

##### *Issue statutory guidance*

16. Under Section 182 of the Licensing Act 2003, the Secretary of State must issue guidance to licensing authorities and they must have regard to that guidance when carrying out all of their licensing functions. We will therefore be issuing guidance to licensing authorities on the code of practice once it is implemented to ensure that licensing authorities do use their new powers appropriately and in a proportionate and targeted manner.
17. We have also engaged with industry representatives, including those representing small businesses, to help the Government in drafting non-statutory guidance on what is best practice in retailing alcohol, and licensing authorities must consider whether premises have acted in accordance with this best practice at a licensing review. This will help licensees to demonstrate that they are acting responsibly and to potentially prevent additional licensing conditions being imposed and it will help licensing authorities to understand what processes it is reasonable to expect small businesses to operate.

#### Estimated cost to small firms

18. Table 2 contains estimates of the economic cost to each individual affected premises of the mandatory conditions. It has not been possible to estimate whether these costs would be significantly higher for small businesses.

#### Consultation with small firms

19. In developing these conditions prior to the consultation, Government officials have held discussions with a range of key industry stakeholders, including the Association of Convenience Stores. This Small Firms Impact Test has identified a number of issues in relation to the mandatory conditions which need to be explored further; particularly in relation

to the costs these conditions may impose on small businesses and whether the conditions could be modified to prevent an adverse impact on small businesses.

20. During the consultation we actively sought the views of small firms in particular on these issues and on the following:
- How serious is the problem the proposal seeks to address in relation to smaller firms?
  - What changes will smaller firms have to make to the way their business operates?
  - Is there likely to be a greater impact on the operations and performance of smaller business than others?
  - What are the likely approximate costs and benefits of the proposal for small business?
  - Will exempting (either fully or partially) smaller firms from the policy materially affect the potential benefits from the policy?
  - Are there alternative approaches for smaller firms, which would not materially affect the potential benefits from the policy?
21. We have consulted with a representative sample of individual small firms, and with the relevant trade bodies.

### **Legal Aid Impact**

22. These regulations will lead to a number of premises having additional conditions imposed on their licences and there is therefore likely to be an increase in the number of premises breaching these conditions and hence a potential increase in the number of prosecutions for breach of a licence. However, as businesses do not qualify for legal aid there will be no impact.

### **Health Impact**

23. Although promoting public health is not a licensing objective in the Licensing Act 2003, and therefore cannot be the primary rationale for imposing licensing conditions, we do expect collateral health benefits from some of the conditions.

#### *Condition 4: Ensure smaller measures are available in on-trade premises*

##### *Gin, Rum, Vodka or Whisky in 25ml or 35ml measures*

24. The potential health benefits of this condition can be estimated by assessing the impact if people switch from double to single measures. As above, we assume that currently around 5% of premises only serve doubles. We have estimated the anticipated benefits based on the Sheffield Alcohol Policy Model if, in these premises, all customers switch from doubles to singles and if half of customers switch from doubles to singles (assuming no increase in the number of measures consumed). For simplicity, we have assumed all of these premises currently serve 50ml measures and under this condition they will also offer 25ml measures.
25. If all customers in these premises switch to singles, then we estimate there will be 180 less alcohol-related hospital admissions per annum after 10 years and an annual health benefit of £1.8m (including the value of QALYs saved).<sup>28</sup>
26. If half of the customers in these premises switch to singles, then we estimate there will be 90 less alcohol-related hospital admissions per annum after 10 years and an annual health benefit of £885,000 (including the value of QALYs saved).<sup>29</sup>

---

<sup>28</sup> Figures provided by Department of Health

27. These estimates represent the upper bound for the anticipated benefits. The lower bound is effectively zero, as it is possible that everyone continues to drink doubles.
28. However, based on the Sheffield Alcohol Policy Model, alcohol consumption would need to fall by just 0.0003% to justify the 644,000 cost of this condition to the alcohol industry estimated above in Table 3.

#### *Still wine in a glass in 125ml measures*

29. When asked about the number of glasses of wine drunk in the last year, 28.4% of respondents to the Omnibus Survey 2007 measured their consumption in small glasses (approx 125ml). This suggests there may be some unmet demand for smaller glasses.
30. The potential effects of this condition can be estimated by assessing the impact of changes in average wine glass sizes drunk in on-trade premises. The current average wine glass size is 169ml<sup>30</sup>. We have estimated the anticipated benefits using the Sheffield Alcohol Policy Model if the average size was to fall to 125ml with no increase in the number of glasses drunk (a level consistent with 1978 glass sizes when General Household Survey reporting began), and secondly if the average size fell to 147ml with no increase in the number of glasses drunk (half-way towards the 1978 level).
31. A fall in average wine measure size to 125ml would result in an estimated annual health benefit (including the value of QALYs saved) of £81.6m after 10 years and a discounted 10-year cumulative benefit of £433.1m.<sup>31</sup>
32. These estimates represent the upper bound for the anticipated benefits. The lower bound is effectively zero, as it is possible that everyone continues to drink larger measures.
33. However, based on the Sheffield Alcohol Policy Model, alcohol consumption would need to fall by just 0.0018% to justify the £3.71m cost of this condition to the alcohol industry estimated above in Table 3.

### **Equality Impact**

34. A full Equality Impact Assessment was produced when the Policing and Crime Bill, including the enabling power for the code of practice, was introduced in Parliament in December<sup>32</sup>. It identified three potential differential impacts: a greater impact on young adults, a greater impact on women, and a greater impact on white people. However, the assessment concluded that these differential impacts were not disproportionate because of the pattern of binge drinking within England and Wales.
35. As part of the public consultation we actively explored the equality impacts of the proposals and a full assessment will be produced as the regulations for the mandatory conditions are finalised.

### **Rural Proofing**

#### Will the policy affect the availability of public and private services?

---

<sup>29</sup> Figures provided by Department of Health

<sup>30</sup> ONS, 2007. *GSS Methodology Series No. 37: Estimating alcohol consumption from survey data: updated method of converting volumes to units*. See <http://www.statistics.gov.uk/statbase/product.asp?vlnk=15067>

<sup>31</sup> Figures provided by Department of Health

<sup>32</sup> See <http://www.homeoffice.gov.uk/documents/ia-police-crime-bill-08/ia-alcohol-code?view=Binary>

36. No

Is the policy to be delivered through existing service outlets, such as schools, banks and GP surgeries?

37. In rural areas, innovative service delivery solutions mean that some rural pubs may co-host other public services, such as post offices. However, it is not anticipated that this policy would have a detrimental affect upon these services.

Will the cost of delivery be higher in rural areas where clients are more widely dispersed or economies of scale are harder to achieve?

38. No

Will the policy affect travel needs or the ease and cost of travel?

39. No

Does the policy rely on communicating information to clients?

40. The Home Office will ensure that licence holders are made aware of the new mandatory licensing conditions through a variety of communication channels, including licensed trade special interest publications, trade associations, communications issued through the Government Office network and the local police. This costs this will pose to the Home Office will be insignificant.

Is the policy to be delivered by the private sector or through a public-private partnership?

41. No

Does the policy rely on infrastructure (e.g. broadband ICT, main roads, utilities) for delivery?

42. No

Will the policy impact on rural businesses, including the self-employed?

43. The aim of the mandatory code is to ensure that all licensed premises, including premises in rural communities, sell alcohol responsibly so that they do not encourage excessive drinking which in turn can lead to alcohol related crime and disorder. However, in taking this necessary action, the Government is committed to ensuring that the mandatory code is proportionate and targeted at the minority of premises who are selling alcohol irresponsibly, the majority of which are not in rural areas.

44. The mandatory licensing conditions involve restricting irresponsible practices and promotions, this will not impact on those premises that already sell alcohol responsibly. However, some aspects of the mandatory licensing conditions do require premises to implement specific good practice. Whilst the costs for most well-run premises, which includes most rural licence holders, will be minimal, the cost of doing so may be proportionately greater for some small businesses.

45. During the drafting of regulations and guidance, we will, as far as practicable, continue to work with representatives of small businesses and rural premises to assess the potential impact of the code on rural businesses and we will hold focus groups in rural areas to

discuss these issues. The conditions have been further refined to mitigate any significant adverse impacts which emerged through the consultation.

Will the policy have a particular impact on land-based industries and, therefore, on rural economies and environments?

46. The aim of the mandatory code is to tackle the irresponsible sale of alcohol, which encourages excessive drinking and which in turn can lead to alcohol related crime and disorder. It is therefore aimed at alcohol retailers and not at alcohol producers.
47. The code is also aimed at tackling alcohol related crime and disorder and not alcohol consumption. We therefore do not anticipate any direct effects of the mandatory code on alcohol producers but recognise that there may be some indirect effects. The relationship between harm and excessive drinking means that the measures within the code may result in some marginal reduction in consumption but we do not anticipate this will have any impact upon overall consumer spending on alcohol and therefore on profitability.
48. During the consultation, we engage all relevant stakeholders and explored whether the proposed conditions would have any impact on alcohol producers. We have aimed to ensure that any significant adverse impact on rural economies and communities are mitigated against.

Will the policy affect those on low wages or in part-time or seasonal employment?

49. A large proportion of the staff employed by licensed premises in rural areas are likely to be earning low wages and/or working part-time and, as a number of these premises will be dependent on tourism, many are likely to employ seasonal workers. The national mandatory conditions could ultimately apply to all licensed premises and so these premises and their staff may be affected.
50. However, the code is designed to make licensed premises more attractive to the majority of potential customers, including tourists, therefore the impact on the pattern of business and employment in rural premises is likely to be, at worst, neutral.
51. As previously stated, the Government is committed to ensuring that the mandatory code is proportionate and targeted at those businesses who are selling alcohol irresponsibly. The conditions should not have any significant impact on responsible businesses, or their staff. However, through relevant stakeholders we will continue to explore whether the conditions will have any impact on workers in rural premises and will refine the conditions if any significant adverse impacts are identified.

Is the policy to be targeted at the disadvantaged?

52. No. We recognise the special needs of rural areas and will endeavour to ensure that any negative impacts upon the disadvantaged in rural areas are mitigated against.

Will the policy rely on local institutions for delivery?

53. Licensing authorities and responsible authorities across England and Wales will be relied upon to implement and enforce the mandatory code. Responsible authorities will be required to enforce the national mandatory conditions and to initiate license reviews of premises

which fail to comply. The effectiveness of the mandatory code is therefore dependent upon the capacity of these authorities, both in rural and urban areas.

54. We do not anticipate that this will create significant difficulties in rural areas. Granting licensing authorities the power to apply conditions on groups of premises is primarily intended to tackle those alcohol related problems which occur in many town centres. Where these problems do not occur, as is likely in rural areas, we do not expect the licensing authorities to use this power. The mandatory conditions may apply to all licensed premises. By ensuring that all retailers sell alcohol more responsibly, the mandatory code will ultimately help to reduce alcohol-related problems which will in turn reduce the burdens on local institutions.

Does the policy depend on new buildings or development sites?

55. No