

## **REPORT OF THE CHIEF EXECUTIVE**

### **LICENSING COMMITTEE – 6 MARCH 2017**

#### **AMENDMENTS TO THE LICENSING ACT 2003 CONTAINED IN THE IMMIGRATION ACT 2016**

##### **1.0 PURPOSE OF REPORT**

- 1.1 To advise the Committee of amendments to the 2003 Act contained in the Immigration Act 2016.

##### **2.0 DESCRIPTION OF DECISION**

- 2.1 The Committee is requested to note the contents of this report.

##### **3.0 INTRODUCTION/BACKGROUND**

- 3.1 On 12 May 2016 the Immigration Act 2016 (“the Act”) received Royal Assent. Part 7 of the Act contains amendments to the Licensing Act 2003 (“the 2003 Act”). The amendments will not come into force until such time as a commencement order is issued by the Government. It is anticipated that the Government will bring these amendments into effect in April 2017.

##### **4.0 CURRENT POSITION**

- 4.1 A summary of the amendments to the Licensing Act is set out below.

##### **4.2 ENTITLEMENT TO WORK IN THE UNITED KINGDOM**

The Act inserts a new section in to the 2003 Act which defines a person’s entitlement to work in the UK. The amendment states that a person may work in the UK unless they require leave to enter or remain in the UK under the Immigration Act 1971.

The Act also amends the 2003 Act so that a person without the entitlement to work in the UK may not apply for a licence to sell alcohol from particular premises, for example a public house, or to provide late night refreshment. The scheme only applies to licensees who are resident in the UK. Non-resident licensees are not subject to immigration controls.

The Act inserts a new section in to the 2003 Act which has the effect that an existing premises licence lapses if the licence holder ceases to be entitled to work in the UK.

##### **4.3 PERSONAL LICENCES**

The Act amends the 2003 Act with the effect that an applicant for a personal licence must have an entitlement to work in the UK and provides that the commission of immigration offences and requirements to pay civil penalties

under immigration law on employers and landlords of illegal migrants may be considered by licensing authorities when considering whether to grant a licence.

The 2003 Act is also amended to include immigration offences in the list of relevant offences for personal licences and a new section is inserted in to the 2003 Act which has the effect that an existing personal licence lapses if the licence holder ceases to be entitled to work in the UK.

The Act amends the 2003 Act so that if an applicant for a personal licence has been convicted of an immigration offence or been issued with an immigration penalty, the chief officer of police and the Secretary of State must be notified by the Council of the application. If the Secretary of State is satisfied that granting the licence would be prejudicial to the prevention of illegal working in licensed premises, the Secretary of State must issue an immigration objection notice within 14 days. The Council must also notify the Secretary of State of their decision if they have received an immigration objection notice.

Once a licence has been issued the holder must notify the Council if they are required to pay an immigration penalty and the details of this penalty must be recorded on their personal licence.

#### **4.4 PREMISES LICENCES**

The Act adds the Secretary of State to the list of responsible authorities notified when an application for a premises licence is submitted. This will enable the Secretary of State to make relevant representations in respect of such an application if she is satisfied that issuing the licence would undermine the licensing objective of the prevention of crime and disorder.

The Act amends the 2003 Act so that when an applicant submits an application to transfer a premises licence or an interim authority notice they must provide a copy of the application/notice to the Secretary of State.

The Act also amends the 2003 Act to provided power for an immigration officer to enter premises which he has reason to believe are being used for certain licensable activities with a view to seeing whether immigration offences are being committed in connection with that activity.

#### **4.5 RIGHT OF APPEAL**

The Act gives the Secretary of State the right to appeal against a decision of a Council where the Secretary of State has given notice opposing a transfer of a premises licence, an interim authority notice or grant of a personal licence.

#### **5.0 REASONS FOR THE DECISION**

To advise the Committee of the amendments to the Licensing Act 2003 contained in the Immigration Act 2016.

## **6.0 ALTERNATIVE OPTIONS**

None.

## **7.0 RELEVANT CONSIDERATIONS**

None.

## **8.0 GLOSSARY**

None.

## **9.0 LIST OF APPENDICIES**

None.

## **10.0 BACKGROUND PAPERS**

10.1 Immigration Act 2016

10.2 Licensing Act 2003