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Dear Licensee

Business and Planning Act 2020

Some of you may be aware that the Business and Planning Bill was recently presented to Parliament to deal with various issues brought about by the Covid-19 situation and how it has affected businesses. This Bill has now received Royal Assent and became law on 22 July 2020.

Contained within the Act are specific provisions that will affect licensed premises and they are detailed below:

Automatic 'off sales' entitlement

Under the Licensing Act 2003, premises are licensed for the sale of alcohol for consumption either 'on' the premises, 'off' the premises or both. The measures included in the Business and Planning Act 2020 modify provisions in the Licensing Act 2003 to provide automatic extensions to the terms of on-sales alcohol licences to allow for off-sales. This is a temporary measure to boost the economy, with provisions lasting until the end of September 2021.

These measures will make it possible for licensed premises that have only an on-sales licence to sell alcohol for consumption 'off' the premises without making an application or paying a fee. This will allow businesses to trade whilst keeping social distancing measures in place inside.

The default hours in which off-sales will be permitted are your normal opening time and up to 11pm, or until the current on-sales licensing hours for the premises end, whichever is the earlier, however the premises must be open for the primary purpose of on-sales trade.

The provisions will also apply temporary conditions to licences where there is a pre-existing permission for off-sales. The conditions will allow off-sales of alcohol in open containers and allow deliveries of alcohol to residential or work buildings. Those conditions will suspend existing conditions that are more restrictive. So, for example, an existing condition that allowed off-sales only in closed containers would be suspended to allow sales in open containers.

Further information is available on the Government website

<https://www.gov.uk/government/publications/guidance-for-temporary-alcohol-licensing-provisions-in-the-business-and-planning-bill/alcohol-licensing-guidance-on-new-temporary-off-sales-permissions>

Pavement Licences

Currently, tables and chairs permissions are granted as Tables and Chair licences by Kent County Council, the Highways Authority, under Part 7A of the Highways Act 1980 and there is a time consuming 28 day consultation period.

The Act introduces a new, temporary, fast-track process for any business that sells food and drink to obtain permission, in the form of the Pavement Licence, from Swale Borough Council, for the placement of furniture such as tables and chairs on the pavement outside your premises which will enable you to maximise the capacity of your premises whilst adhering to social distancing guidelines. Businesses that are eligible include public houses, cafes, bars, restaurants, snack bars, coffee shops and ice cream parlours

These Pavement Licences are temporary permissions which will last until 30 September 2021.

Government Guidance giving further details is available at:

<https://www.gov.uk/government/publications/pavement-licences-draft-guidance/draft-guidance-pavement-licences-outdoor-seating-proposal>

Information on how to apply for a licence plus all the forms and notices that you will be required to complete are available on the Swale BC website <https://www.swale.gov.uk/pavement-licence>

You can either download the forms and email to licensing@swale.gov.uk or you can complete them online.

Please note that if you wish to apply for such a licence by law it must be submitted electronically.

The fee is £100 and you can pay either online at <https://www.swale.gov.uk> or by telephone 01795 417286

At the same time that you apply to the Council you must complete and download a public notice that you must post at your premises to inform passers-by that you have applied for a Pavement Licence. Evidence that you have done so should be provided to the Council by way of a photo.

When an application has been received there is a consultation period of 7 days during which Kent County Council as highways authority and the Environmental Health department of the Council can make comments about the application. The application will also be published on the Swale BC website in order that members of the public can also comment if they wish. The consultation period begins that day after a valid application is made to the Council

The Council has a further 7 days (beginning with the day after the end of the public consultation period, excluding public holidays) in which to decide whether your application will be successful or not. If the Council does not make a decision in that time period your application is automatically deemed to be granted.

If the site is deemed unsuitable for a Pavement licence, or if relevant representations are made which cannot be mitigated by imposing conditions, then the application may be refused.

The Council's has a set of standard conditions for Pavement Licence which you must ensure you can comply with before applying for a licence, these too are shown <https://www.swale.gov.uk/pavement-licence>

In some cases, extra measures may be required. This will be determined when assessing any application, on a case by case basis.

We hope that this information is clear and that you understand these proposed changes and how they may help you during these difficult times, but, as always, please do contact the licensing team if you wish to discuss these or any other licensing issues that you may have.

Kind regards, Licensing Team

