

ALCOHOL & ENTERTAINMENT LICENSING LAW

SECOND EDITION



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PREFACE

When the first edition of this work appeared in May 2005, transitional arrangements for the new licensing scheme contained in the Licensing Act 2003 were in place and operational, but 24 November 2005, when the scheme was to come fully into force, was some months away. There was a good deal of uncertainty and anxiety as to how the new scheme would function after that date and the impact that it would have. Over the course of the last two years, however, the scheme has bedded in as all involved in the licensing process have become familiar with the changes introduced by the 2003 Act and the requirements contained in its legislative scheme. Over this two-year period, there have been a number of important developments, both legislative and case law, which have shaped both the substantive law itself and the underlying focus of the 2003 Act.

Legislative developments, contained principally in the Violent Crime Reduction Act 2006, have included provision for Alcohol Disorder Zones (in which, as a last resort, holders of premises licences and clubs with club premises certificates within the zone can be required to contribute to the cost of the disorder); creation of a new offence of persistently selling alcohol to children, liability for which can result in police and trading standards officers giving closure notices prohibiting alcohol sales at the licensed premises for up to 48 hours; and an expedited review of premises licences which authorise the sale of alcohol in cases where the premises are associated with serious crime and disorder. These developments, coupled with others such as Penalty Notices for Disorder for some licensing offences, have reflected a significant shift in the focus of the 2003 legislation. Initially perceived primarily as a deregulatory measure aimed at developing and promoting the leisure industry, with targeted enforcement against 'problem' premises, the primary focus has shifted significantly, with the Act becoming an important mechanism for preventing crime and disorder and delivering the Government's alcohol harm reduction strategy.

Case law developments have, as expected, clarified several aspects of the new scheme, although inevitably judicial clarification is lacking in a number of areas and here uncertainty continues to prevail. These legislative and case law developments are covered in detail in this new edition, along with substantive changes to the Secretary of State's Guidance, which was revised and reissued in June 2007. Unlike the first edition of the book, the full text of the Guidance is reproduced in an Appendix to this edition, so that, along with the provisions in the 2003 Act and its accompanying regulations and other secondary legislation, there is comprehensive inclusion of all primary source materials.

The format of the book remains largely unchanged, although some chapters have undergone major revision or amendment and the opening chapter has been completely rewritten. This chapter seeks to provide: an introduction to the 2003 Act, which includes an overview of the legislative scheme; an exposition of its nature and underlying themes; a section on converted licences and certificates during transition (which in our view is important in order for readers to appreciate the different terms and conditions that may be attached to them compared to those granted under the 2003 Act); and an account of post-2003 Act developments. Chapters substantially revised include: Chapter 2 on Procedural and Decision-Making Framework, where there has been a restructuring of the chapter's contents; Chapter 11 on Enforcement, to which several sections have been added; and Chapter 12 on Appeals, which has been substantially expanded in the light of developments in magistrates' court practices in hearing appeals under the 2003 Act.

As with the first edition, the book seeks to combine detailed academic analysis of the legislative provisions, in the context of their practical application, so as to provide a comprehensive and (it is hoped) an authoritative exposition of the legal position. The approach, as previously, has been for the writing of the book to be done by Colin Manchester, initially with chapter revisions in draft and subsequently progressing through to final format, as practical aspects were incorporated and our collective views on particular matters were refined. Our feedback from the first edition has been overwhelmingly positive and we have been heartened by the favourable reviews that the book has received in legal periodicals. We hope that the second edition proves to be a valuable aid to understanding the 2003 Act now that it has become fully operational, and that it stimulates debate and discussion on areas that are controversial or where the legal position remains uncertain. We are grateful to everyone who has given us assistance in the preparation of this edition, with particular thanks due to our publishers, Routledge-Cavendish, especially Fiona Kinnear and Maddy Langford, with whom we have worked closely on this edition, and to our families who have put up with our continuing preoccupation with work on the book.

We have attempted to state the law, or at least the law as we understand it, as at 1 January 2008.

Colin Manchester
Susanna Poppleston
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