November 2014

Thomas & Thomas E News

Bars in Restaurants

A restaurant operator has successfully appealed against Westminster's decision to refuse an application for a bar in their restaurant. The restaurant, located in Soho and within Westminster's "Stress Area", sought flexibility to serve alcohol to a limited number of customers without food alongside its restaurant business. The restaurant is now permitted to sell alcohol to up to 24 customers in their bar areas without food until 10.30 pm.

24 Hour Tubes & Westminster's Policy – Later Core Hours?

It was recently announced that London's tubes may start operating through the night from September 2015. Readers will be aware that Westminster's Licensing Policy relies significantly on the capital's restricted transport infrastructure in relation to their Core Hours.

We understand Westminster will start consulting on their new Policy from December. Consideration should be given to advocating a change to the Core Hours Policy as well as arguably disproportionate restrictions elsewhere in the Policy, including the complete veto on new bars in the Stress Areas.

Special Policies

As readers will be aware, Special Policy Areas ("SPAs"), are now common in many areas, including Westminster, Camden and Islington.

Some Councils are better than others as to how they define an exception to the SPA. It is sometimes more difficult to constitute an exception in an area where the SPA is vague as, in some cases, the Council do not understand themselves what can constitute an exception!

For landlords and developers it is essential that appropriate action is taken at the time the Councils consult on adopting SPAs. In one case in South London, we were successful persuading a Council not to adopt a town centre saturation zone by making written submissions during the pre-SPA consultation.

Christmas & NYE TENs

The deadlines for submitting TENs for the festive period are fast approaching. Please remember you need to submit TENs at least 2 weeks before the event. TENs can be used to extend your hours or add licensable activities for special events.

Please also check if your licence includes later hours on New Year's Eve, if not you will need a TEN to stay open later.

Warning – Annual Fees in Westminster

Westminster City Council have recently announced that they no longer invoice Premises Licence Holders in respect of the annual Licence fee. They state that it is the responsibility of the Licence Holder to ensure fees are paid on time. The fee is payable on the anniversary of your Licence being granted. This is not usually shown on your Licence so you should check the date with us or the Council if you are unsure.

We suggest that your annual fee dates are carefully diarized as Licences are automatically suspended 21 days after a premises has failed to pay the annual fee.

Top Tier Thomas & Thomas

We are delighted to confirm that the firm has been confirmed as the only top ranked licensing firm in London by both leading directories, Chambers and the Legal 500.

See Chambers and Legal 500.

Further de-regulation for entertainment

Further relaxation of music licensing requirements are proposed to come into effect in the spring. The Legislative Reform Order would de-regulate the playing of live **and recorded music** between 8am and 11pm before an **audience of up to 500 people in licensed premises**. In addition, Greco-Roman and freestyle wrestling will be de-regulated before 11pm up to an audience of 1,000!

Islington adopt late-night levy

Islington's levy came into effect on 1 November 2014. The levy applies to all premises licences authorising the sale of alcohol after midnight. The levy is charged whether or not the premises actually trades after midnight. Premises permitted to provide licensable activities after midnight on New Year's Eve only are not caught (unlike in the City of London), neither are hotels.

The amount of the fee will depend on the premises' rateable value - somewhere between £300 and £4,440 per annum. Members of the council's "best practice scheme for late-night premises" can obtain a 30% discount on the levy. Alternatively, if you want to avoid the levy altogether, you can apply to reduce your permitted hours for alcohol to before midnight.

New premises closure powers

The new Anti-Social Behaviour, Crime and Policing Act 2014 has brought in new premises closure powers. The Government hopes the new legislation will empower local Councils and the Police to close problem premises more easily. The powers include:

Closure of premises associated with nuisance or disorder

The Council or Police can issue a 24-48 hour closure notice if they are satisfied:

- that the use of particular premises has resulted, or is likely soon to result, in nuisance to members of the public; or
- that there has been, or is likely soon to be, disorder near those premises associated with the use of those premises;

and that the notice is **necessary** to prevent the nuisance or disorder from continuing, recurring or occurring.

Public spaces protection orders ("PSPO")

A PSPO replaces the 'Designated Public Place Order'. They can be used to restrict the consumption of alcohol in a designated public space.

A PSPO cannot apply to an existing premises which is licensed for the supply of alcohol, or areas authorised for external seating under the Highways Act.

Changes to Mandatory Conditions

Important changes to the mandatory conditions have recently come into effect. These conditions apply to all Premises Licences, so operators should be aware of the changes:

1. Irresponsible drinks promotions **-** operators must be able to demonstrate that staff do not carry out, arrange or participate in irresponsible drinks promotions. These include drinking games, large quantities of alcohol for free or a fixed price, and rewards/prizes designed to encourage drinking.

2. Free water – there is now a requirement to provide free drinking water on request for customers where it is reasonably available.

3. Age verification policy – a premises licence holder must now ensure that an age verification policy is adopted at the premises. Previously the requirement was to simply have an age verification policy in place. This means operators should be able to demonstrate Challenge 21/25 has actually been implemented.

4. Small measures – there are stricter requirements to ensure customers are aware of the following measures being available at the premises:

- beer or cider – ½ pint
- gin, rum, vodka or whisky – 25ml or 35ml
- still wine in a glass – 125ml

As well as making the drinks available in the above measures, operators must also make their availability clear on menus, price lists or other printed material, and ensure that these are available to customers on the premises.

A key new requirement is that staff **must make customers aware** of the availability of small measures when customers do not specify what measure they want. In practice this means:

- when a customer orders alcohol in an unspecified measure, for example 'a beer' or 'a glass of wine';
- staff must tell customers about the availability of smaller measures at the time of order, for example 'would you like a ½ pint of beer?' or 'would you like a 125ml glass of wine?'.

These conditions apply to all relevant club premises certificates as well as premises licences.

What we have been up to:

- Advising Marcus Wareing in respect of his new restaurant: Tredwells
- Licensing special events on Shaftesbury plc's estates in the West End including Carnaby Street Eat and Seven Dials shopping events: Carnaby Street Eat
- Advising the Burger & Lobster group on their successful expansion, including Beast and Lobster Roll.
- Licensing Greenwich Market, despite objections and Greenwich's special policy areas.
- The opening of Library Club on St Martin's Lane and Café Pushkin in Berkeley Street.
- Licensing the new Roka in Aldwych.
- New openings in Kingly Court, Soho, including Senor Ceviche and Life Goddess.

If you have any queries in respect of the above or any other matter, please contact one of the partners:

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