

# Introduction of an Immigration Check to Alcohol and Late Night Refreshment Licence Applications

## Impact Assessment (IA)

IA No: HO0277

Date: 10/03/2017

RPC Reference No: RPC-3725(1)-HO

Stage: Validation

Lead department or agency: The Home Office

Source of intervention: Domestic

Other departments: Ministry of Justice, Business, Energy and Industrial Strategy, The devolved administrations

Type of measure: Primary legislation

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### Summary: Intervention and Options

RPC Opinion: GREEN

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANDCB on 2014 prices)	In scope for One-in, Three-out (OIO)?	Business Impact target status
£1.9m	£1.3m	£0.1m	No	Qualifying Provision

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

Illegal working often results in abusive and exploitative behaviour, tax evasion, undercutting legitimate business and adverse impacts on the employment of lawful workers. Home Office immigration enforcement officers frequently identify illegal migrants in premises involved in the sale of alcohol and late night refreshment. Government intervention is required to amend the licensing legislation to ensure illegal migrants cannot obtain alcohol and late night refreshment licences and that firms who habitually exploit illegal labour are denied access to it.

#### What are the policy objectives and the intended effects?

The policy will add the Secretary of State as a responsible authority under the 2003 Act. The provisions seek to prevent illegal migrants, and those migrants whose status does not permit them to work, from holding premises or personal licences; a mechanism for the Home Office to object to the issue of licences, or to seek a review of the licence where it considers it necessary to prevent illegal working; and align immigration officer powers to enter licensed premises with those of licensing enforcement officers, in order to check for immigration offences in connection with licensable activities.

#### What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

The do nothing option did not meet the Government's objectives. Non-regulatory options were also considered but rejected by the sector during the consultation. Licensing authorities in England and Wales were consulted and their preference was to embed immigration checking requirements into the existing licensing regimes. The Government worked with the grain of existing licensing legislation in order to minimise the changes required, whilst meeting the policy objective of preventing illegal working. Regulation also puts in place minimum and consistent standards across licensing authorities. Consultation with the Scottish Government and Northern Ireland Executive is ongoing regarding similar measures to be implemented in October 2017.

#### Will the policy be reviewed? It will be reviewed. If applicable, set review date: spring 2020

Does implementation go beyond minimum EU requirements?	N/A		
What sizes of organisation are affected?	Micro Yes	Small Yes	Medium Yes
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)	Traded: N/A	Non-traded: N/A	

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

Signed by the responsible Minister:

Date: 14 March 2017

## Summary: Analysis & Evidence

## Policy Option 2

Description: Introduction of an Immigration Check to Alcohol and Late Night Refreshment Licence Applications  
FULL ECONOMIC ASSESSMENT

Price Base Year 2016	PV Base Year 2016	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -0.9	High: -2.9	Best Estimate: -1.9

  

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0.01	10	0.1	0.9
High	0.07		0.3	2.9
Best Estimate	0.04		0.2	1.9

**Description and scale of key monetised costs by 'main affected groups'**  
Private sector costs are estimated for familiarisation (£0.3m PV over 10 years), ongoing staff costs (£0.9m PV over 10 years) and administration (£0.1m PV over 10 years). The total cost to business is estimated to be £1.3m (PV over 10 years). Public sector familiarisation cost is expected to be negligible and ongoing staff costs are estimated to be £0.6m (PV over 10 years).

**Other key non-monetised costs by 'main affected groups'**  
None.

  

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0.0	N/A	0.0	0.0
High	0.0		0.0	0.0
Best Estimate	0.0		0.0	0.0

**Description and scale of key monetised benefits by 'main affected groups'**  
There are no monetised benefits.

**Other key non-monetised benefits by 'main affected groups'**  
The main benefits are to ensure that illegal migrants do not work illegally in the licensed trade sector and denying access to firms that exploit illegal labour. There may be wider benefits from voluntary departure, to lawful businesses by avoiding undercutting and poor practice in the sector by those who seek to abuse and exploit vulnerable workers who are working illegally.

**Key assumptions/sensitivities/risks** Discount rate (%) 3.5%  
The volume of applications and the time for familiarisation and application checking are key drivers of the model. The number of LA licensing staff is taken from survey evidence but this is uncertain so actual familiarisation costs may be lower. All attempts have been made to test gross costs to business are <£1 million in any given year. There may be risks to delivery and co-operation but these are expected to be minimal.

### BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:				Business Impact Target score £m: 0.1
Costs: 0.1	Benefits: 0.0	Net: 0.1		

## Evidence Base (for summary sheets)

### A. Strategic Overview

#### A.1 Background

The legislation covering the alcohol licensing system across the UK is not a single Act. For England & Wales, Scotland and Northern Ireland the relevant legislative Acts are:

- England & Wales: The Licensing Act (2003), referred to as 'the 2003 Act', under which licensing authorities (local authorities) receive applications for alcohol premises or personal licences and also for late night refreshment licences. These may be granted or refused.
- Scotland: The Licensing Act (2005) and the Alcohol etc. (Scotland) Act 2010, referred to as 'the 2005 Act' and 'the 2010 Act' respectively, under which licensing authorities (local authorities) receive applications for alcohol premises or personal licences and also for late night catering licences. These may be granted or refused.
- Northern Ireland: The Licensing (Northern Ireland) Order (1996), referred to as 'the 1996 Order', under which the Northern Ireland Executive, Department of Justice through the County Courts (Northern Ireland Courts and Tribunal Services) receive applications for alcohol premises or personal licences. These may be granted or refused.

Illegal working often results in abusive and exploitative behaviour, the mistreatment of illegal migrant workers, tax evasion, undercutting of legitimate business and adversely impacts on the wage levels of lawful migrants and British citizens. Illegal migrants can obtain premises or personal licences under current legislation (the relevant licensing legislation, as referred to above), as local authorities have no legal duty to deny migrants a licence where they have no lawful status or are disqualified from working in a licensable activity by their immigration conditions, and are not required to check their immigration status in the UK. Immigration Officers (IOs) frequently encounter illegal migrants employed by businesses holding alcohol and late night refreshment / catering licences (premises licensed to sell food or hot drinks between 11pm and 5am). Of all civil penalties served in the UK in the year to June 2015, 82 per cent were served on the retail industry or hotel restaurant and leisure industry sectors<sup>1</sup>. A large proportion of those served penalties hold premises or personal alcohol licences.

Government intervention is necessary to amend the relevant licensing legislation to ensure that illegal migrants cannot obtain premises or personal licences to work in licensed premises and employers of illegal migrants are not permitted licences. This better prevents and deters illegal migrant working in this particularly high risk sector. This is part of the package of measures in the Immigration Act 2016 to make it more difficult for illegal migrants to live and work in the UK and to encourage voluntary departure. There is a separate legal provision which places a duty on employers to prevent illegal working under section 15 of the Immigration, Asylum and Nationality Act 2006. In practice this is discharged by employers by conducting prescribed right to work checks on their employees.

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<sup>1</sup> Civil Penalties and Compliance Team, Immigration Enforcement, 2015.

## **A.2 Groups Affected**

The groups affected by this policy include the following:

- Private sector applicants and their representatives who apply for a personal or premises alcohol licence.
- Private sector applicants and their representatives who apply for a late night refreshment / catering licence.
- Licensing authorities and in Northern Ireland, the County Courts.
- Immigration Enforcement (Immigration Compliance and Enforcement teams).
- Magistrate, Sheriff and County Courts that deal with appeals.

## **A.3 Consultation**

### **Within Government**

The Home Office is the government department responsible for the licensing scheme in England and Wales. Consultation with the Ministry of Justice has been undertaken and consultation with the devolved administrations is ongoing (that is because licensing is devolved to the Scottish Parliament and the Northern Ireland Assembly). The UK Government legislates on immigration matters (a reserved matter), while the Scottish Government legislates on licensing in Scotland and the Northern Ireland Executive (Department of Justice) is responsible for licensing in Northern Ireland. The inclusion of these measures in the Immigration Act 2016 was agreed collectively by the UK Government and as a result there has been engagement with the Department of Business, Energy and Industrial Strategy. There has not been detailed formal consultation with any other departments. Consultation with the devolved administrations is ongoing.

### **Targeted Consultation**

Consultation meetings were held for interested parties for the private sector (British Beer and Pub Association, Association of Licensed Multiple Retailers, Wine and Spirits Trade Association, Association of Convenience Stores, Retail of Alcohol Standards Group which represents supermarkets) and the public sector (the police lead on alcohol and licensing, Police and Crime Commissioners' lead on alcohol and licensing, representatives from licensing authorities, the Local Government Association (LGA) and the Institute of Licensing (IoL)). Nearly all participants at the consultation meetings supported proposals to amend the scheme.

The Government's approach was informed by its targeted consultation on the operation of the current licensing regime. Because the intention was always to work with the grain of existing legislation and arrangements, which includes the function of a 'responsible authority', the Secretary of State was designated as such in order to make representations in the case of a licence application where to grant it would prejudice the prevention of crime and disorder (illegal working), or request a review of an existing licence where offences are committed. In addition, some licensing authorities make some checks already. Together, this is expected to minimise the additional burden on the licensing authority or the private sector.

## B. Rationale

The licensing sector is regulated. In order to introduce effective immigration safeguards, these would need to be inserted into the existing regulatory framework provided by the relevant licensing legislation.

Many licensing authorities report they have significant problems with individuals who have no right to remain (and therefore no right to work) in the UK<sup>2</sup>. They can obtain alcohol and late night refreshment licences and operate licensed premises, such as small shops selling alcohol. These premises are often associated with poor practice (for example, failing to carry out routine age verification checks on those who appear to be under the age of eighteen). Licensed premises are frequently the target of immigration enforcement activity on illegal workers (including late night refreshment).

Immigration officers cannot enter these premises unless they have a warrant or they have the business owner's informed consent. A warrant requires them to have reasonable grounds to suspect that an immigration crime (for example, illegal working) is taking place or that migrants liable to removal may be on the premises. These existing pre-conditions relate to the conduct of enforcement operations designed to apprehend immigration offenders or prevent illegal working, rather than routine activity designed to inspect compliance with licensing legislation. Government intervention is necessary to amend the relevant licensing legislation to ensure that illegal migrants cannot obtain premises licences, or manage /supervise licensed premises. The aim is to reinforce to employers in this sector their existing duty to prevent illegal working and therefore reduce the likelihood of enforcement action becoming necessary. Government intervention is also necessary to enable IOs to enter licensed premises without a warrant for the purpose of investigating immigration offences related to the licensable activities authorised under the relevant licensing legislation. By giving IOs powers of entry similar to those of police officers and authorised persons, under the relevant licensing legislation, this will facilitate visits to premises, including joint visits, and provide clarity and reduce time taken to effect entry where consent is refused.

The IOs' role will be strictly limited to the investigation of immigration offences being committed in connection with the licensable activity. This is expected to focus on the inspection of copies of immigration documents retained safely by the employer following their conduct of right to work checks on their employees to prevent a civil penalty liability for employing an illegal worker. The expectation is that IOs will normally exercise this new power when accompanying licensing enforcement officers as part of a visit to inspect the businesses' wider compliance with the conditions of its licence, as now. There may be occasions where IOs visit premises without this being as part of a licensing authority-led inspection. The involvement of immigration staff in visits will continue to be carefully targeted on the basis of intelligence or as part of specific operations aimed at reducing illegal working. It is not intended to result in extra / longer inspections on compliant businesses and therefore compliant businesses will not bear any additional costs due to this.

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<sup>2</sup> Immigration Intelligence and, Immigration and Border Policy Development (2015), unpublished material.

## **C. Objectives**

The Government's primary objective is to make it more difficult for illegally resident individuals or a person who does not have the right to work, to obtain a premises licence or personal licence, and operate licensed premises in which there are serious immigration law breaches and to deny licences to employers who habitually use illegal labour. The intended effect is to encourage more people who are in the UK illegally to choose to leave the country and to reduce the numbers who overstay. A set of successful outcomes would be to see less illegal working in this sector and an increase in voluntary departures. However, it should be noted that it will be very difficult to demonstrate a link between making it more difficult for an illegal migrant to obtain a licence that would allow them to work in this sector and an increase in voluntary departures. Many other factors can influence a decrease in illegal working (better intelligence, more immigration enforcement visits etc.) and an increase in voluntary departures. There was abuse of some assisted voluntary return schemes therefore these have been reduced and a more co-operative approach (voluntary departure) taken with illegal migrants especially where it benefits them and the UK. The UK has developed a compliant environment to make it more difficult for illegal migrants to live and work in the UK. If illegal migrants refuse to depart voluntarily then an enforced removal may be used but it is more likely that a significant re-entry ban to the UK will be applied.

## **D. Options**

### **Option 1 - To make no changes (do nothing).**

The do nothing option does not amend the relevant licensing legislation and no check on immigration status would be mandatory, the Secretary of State would not be made a responsible authority being notified of licence applications and not be able to intervene to prevent illegal working and immigration crime, offences and penalties would not be specific grounds to consider intervening in an application or requesting a review of an existing licence, and immigration officers would not have their power of entry aligned with licensing enforcement officers, but with the sole purpose of seeing whether an offence under the Immigration Acts (2014 and 2016) is being committed. There are no significant costs associated with this option aside from the continued need to conduct enforcement action against illegal working in this high risk sector but as it does not meet the policy objective, it is not the Government's preferred option.

### **Option 2 - Introduce an Immigration status check to alcohol and late night refreshment licensing**

The proposed policy, Option 2 includes measures to:

- Require licensing authorities / courts (the latter in Northern Ireland) to check the immigration status of all licence applicants and not issue a licence to applicants who do not have the necessary permission to be in the UK or who are not entitled to undertake work relating to the carrying on of a licensable activity. Applicants will be required to provide information that will allow the authorities to complete an immigration status check. The additional information sought is two questions, a tick box and a declaration:

- Date of birth.
- Nationality.
- A tick box stating "I have included documents demonstrating my entitlement to work in the United Kingdom".
- A declaration stating "I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK. The DPS named in this application form is entitled to work in the UK (and is not subject to conditions preventing him or her from doing work relating to a licensable activity) and I have seen a copy of his or her proof of entitlement to work, if appropriate."<sup>3</sup>

Applicants or their agent will fill in a licence application, either on paper or online. A premises licence application will be submitted to the licensing authority / County Court who will make an immigration status check on the applicant. With a premises licence IE, as a responsible authority, can make a representation to the licensing authority if there are concerns over the application otherwise the decision on granting a licence is a matter for the licensing authority. With a personal licence IE will receive applications where there is an immigration abuse history or penalty been applied. It will be up to IE to make a decision whether to object to the licensing authority or not.

- There will be a requirement for applicants to provide a copy of a specified document that demonstrates their right to work. The licence application process is moving to become an increasingly on-line process (over 60% of licence applications in England and Wales are currently lodged on-line although it is expected to be less than this in Scotland), with copies of documents being scanned and provided electronically rather than by post, thereby keeping the additional requirements on businesses and licensing authorities to a minimum. All licensing authorities must make provision for online applications under the European Services Directive (brought into UK law by the Provision of Services Regulations 2009), so it is a choice of the applicant whether they wish to make a postal or online application. Applicants must copy postal applications to responsible authorities. Licensing authorities forward online applications to responsible authorities by email. Licences issued to migrants after the commencement of the provisions will automatically lapse when their permission to be in the UK comes to an end.
- Make the Secretary of State a responsible authority<sup>4</sup> under the relevant licensing legislation (in practice this will be IE) so that they are notified of new applications so can make representations about immigration offences and penalties and where

<sup>3</sup> This is the exact wording of the declaration, approved by Home Office legal advisers. Note: DPS is a Designated Premises Supervisor.

<sup>4</sup> Currently there are ten responsible authorities: 1) police, 2) local fire and rescue, 3) primary care trust (PCT) or local health board (LHB), 4) the relevant licensing authority, 5) local enforcement agency for the Health and Safety at Work etc Act 1974, 6) environmental health authority, 7) planning authority, 8) body responsible for the protection of children from harm, 9) local trading standards and 10) any other licensing authority in whose area part of the premises is situated. See <https://www.gov.uk/guidance/alcohol-licensing>

to issue the licence would prejudice the prevention of illegal working and immigration crime. It should be noted that only the relevant part of the application (the basic application plus the immigration status and right-to-work check need be forwarded to the Home Office – it will not be necessary to submit layouts plans etc.)

- Make breaches of immigration law - including illegal working, one of the grounds for reviewing (and potentially revoking) a premises licence, under the prevention of crime and disorder licensing objective. This will strengthen the sanction for existing breaches of the Immigration Acts (2014 and 2016). The decision to revoke a licence rests with a licensing authority / court and would be taken only as a proportionate response taking into account the behaviour of the business. Revocation will not be automatic but will be carefully considered by the licensing authority on a case by case basis, on the basis of the existing licensing objectives and taking into account all the circumstances. It is important to note that these are not new compliance obligations on individuals and businesses, as these are already in place. Employers are already required to monitor their employees' right to work through existing legislation, so there will be a minimal impact on compliant business that already conducts these checks. Any impacts on non-compliant businesses will be more significant as they currently will not be making any of these checks.
- Permit IOs to enter licensed premises under the relevant licensing legislation (similar to the power of entry for police officers and authorised persons<sup>5</sup>), where they will investigate breaches of any of the Immigration Acts (2014 and 2016) connected with licensable activities under the relevant licensing legislation. Immigration Officers will use this amended power to accompany licensing authority enforcement officers during compliance inspections or as part of specific operations, and IOs will focus solely on any offences committed under any of the Immigration Acts (2014 and 2016) in connection with the licensable activity. Combined visits are already undertaken and provide greater efficiency for both businesses and enforcement bodies than separate visits to the premises. It should not be necessary for a business to close during such a visit, whilst back office records are inspected or individuals are interviewed within the premises. Visits may be announced or unannounced and could be conducted whilst the business is open for trading or whilst closed to customers. Without an increase in IE resource, these measures will increase the efficiency of current enforcement activity by aligning entry powers rather than increasing the amount of enforcement in the sector. It is not therefore expected that there will be any significant change in impact on business from this measure, aside from the greater clarity provided by IOs' powers of entry similar to those of police officers and authorised persons. There is no intention to have extra / longer inspections on compliant businesses therefore compliant businesses will not bear any additional costs due to this. See Annex 1 for further details.

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<sup>5</sup> The wording from the Immigration Act 2016:

"(1A) Where an immigration officer has reason to believe that any premises are being used for a licensable activity within section 1(1)(a) or (d), the officer may enter the premises with a view to seeing whether an offence under any of the Immigration Acts is being committed in connection with the carrying on of the activity."

The Licensing Act 2003 states:

179 Rights of entry to investigate licensable activities

(1) Where a constable or an authorised person has reason to believe that any premises are being, or are about to be, used for a licensable activity, he may enter the premises with a view to seeing whether the activity is being, or is to be, carried on under and in accordance with an authorisation.



- Ensure an alcohol or late night refreshment licence issued to those granted temporary permission to be in the UK will only remain valid for the duration of their permission to be in the UK which entitles them to work, after which it will lapse. Currently licences run in perpetuity and employers are required not to employ illegal workers. They do this by conducting right to work checks on their employees. They may receive a civil or criminal sanction for breaching these requirements. The Immigration Act 2016 makes it a criminal offence for an illegal migrant to work in the UK. This measure for alcohol and late night refreshment / catering licences is consistent with the legislation to prevent illegal working. Licences issued after the commencement of these arrangements will deem to lapse if the holder's lawful status ends. This means that a licensing authority / court does not have to take action to revoke a licence, and in England and Wales, it is a criminal offence under section 136 of the 2003 Act to carry on a licensable activity without a licence. Should a licence holder extend their leave and right to work their existing licence will remain valid and they will not need to apply for another licence.

### **Non-regulatory options**

Non-regulatory options (self-regulation and an accreditation scheme) were considered but did not offer effective solutions to the problem and did not meet the policy objective, nor are they expected to achieve the intended effect. The licensing scheme is already in existence so introducing a non-regulatory option was seen as undesirable by the industry and licensing authorities when they were consulted. Illegal migrants, who by remaining in the UK illegally demonstrate a willingness to flout UK law, may go to further lengths to circumvent self-regulatory measures. Licensing authorities cited document fraud and impersonation as two problem areas which would not be detected if a regulatory regime was not in place.

In developing this option, we will only require immigration checks in respect of those who apply for a premise or personal licence, those who apply to transfer a premises licence and in respect of interim authority notices (required in order that a licensed premises may continue to operate when the premises licence holder dies, is made bankrupt etc.) Immigration checks will not be required in respect of those who apply for a club premises certificate or a temporary event notice as the risk of immigration crime in respect of such licences is considered low and we believe it would not be proportionate to introduce additional licensing requirements in respect of such licences.

## **E. Appraisal (Costs and Benefits)**

### **General assumptions and data**

A social discount rate of 3.5 per cent is used to obtain present values, see HM Treasury (2003) Green Book<sup>6</sup>. Any estimate quoted (PV) or the Net Present Value (NPV) is discounted using this rate. The appraisal is over a ten year period.

<sup>6</sup> HM Treasury (2003) The Green Book, Appraisal and Evaluation in Central Government, (2003 version includes amendments made in July 2011), London. See: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/220541/green\\_book\\_complete.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/220541/green_book_complete.pdf)

Any occupational wage rates are taken for Standard Occupational Classifications (SOC) 2010 from the Annual Survey of Hours and Earnings (ASHE) (2016), Table 14.5a.<sup>7</sup> The wage is multiplied by 1.202 to take account of on-costs accruing to the employer<sup>8</sup>. The assumption for reading the guidance notes on the form (about 200 words) for the additional question is taken to be 30 seconds, two and four minutes for the low, central and high scenarios. The reading times were estimated using standard tables from [readingsoft.com](http://readingsoft.com)<sup>9</sup> (columns 2 and 3). Because of lower comprehension a slow reader may need to re-read the guidance (column 4). An allowance has been made for people who may be dyslexic or where English is not their first language.

**Table 1, Reading speed assumptions used**

Scenario	Speed wpm	Comp	Re-read	Allowance	Total time
High	(slow) 100	50%	1.0	1.0	4.0
Central	(average) 200	60%	0.4	0.5	2.0
Low	(good) 400	80%	0.0	0.0	0.5

Notes: wpm = words per minute. Comp = comprehension. Units are minutes unless otherwise specified.

Familiarisation applies to individual applicants and to solicitors and agents in the private sector who specialise in licensing work. It is not known how many multiple applications solicitors or agents may handle so familiarisation is assumed to take place when a new application is required, although we recognise this is probably an over-estimate of their actual familiarisation cost. The assumption is that familiarisation for applicants may use agents/specialised teams because it is more economical for them (lower familiarisation and operational costs plus specialisation of labour gains) and this policy makes no change to this. In England and Wales, the application forms prescribed under the Licensing Act 2003 have become out of date due to a number of legislative changes, and the forms needed to be updated to reflect changes made by: the Deregulation Act 2015, Legal Aid, Sentencing and Punishment of Offenders Act 2012 and the Legislative Reform (Entertainment Licensing) Order 2014 as well as the Immigration Act 2016. Training and guidance has already been provided to licensing authorities for the taxi and private hire vehicle / car provisions so they are already familiar with the overall framework of immigration status and right-to-work checks. Local authorities will be provided with SMART communications for their websites that minimises the burden on them and on applicants.

All applicants will be required to provide the licensing authority with the original or a copy of a stipulated document such as a passport. Where applicants do not have passports or other recognised ID documents, a UK birth certificate and national insurance number may be required. Applicants may incur an additional photocopying cost if they choose to make a postal application. About 60 per cent of applications in England & Wales are made online and this policy will not impose additional administration (photocopying and postage) costs as licensing authorities disseminate copies of applications to responsible authorities electronically. The administration costs included in this assessment are for the 40 per cent (50% in Scotland) of applications that are not online.

<sup>7</sup> ONS (2016) Annual Survey of Hours and Earnings, Occupations and gross median wages, Table 14.5a. See: <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/occupation4digitsoc2010ashtable14>

<sup>8</sup> Source: Department of Business, Innovation and Skills, Labour Market Section, 2016.

<sup>9</sup> Estimates of reading speed are given by a number of reading software companies and this particular website has been used to estimate the time taken to read 200 words of guidance on an application form. See <http://www.readingsoft.com/>

Consultation in England and Wales, with the industry, trade representative bodies, licensing authorities, the LGA, the IoL and the police indicate that for single applicants, it may take 4, 8 or 12 minutes (for a low, central and high scenario) to provide the additional information (including time taken to provide documentary evidence to demonstrate a right to be in the UK and work. However, solicitors/agents are assumed to take half this time (2, 4 or 6 minutes) as they are very accustomed to this type of work. It is assumed that in the low scenario 67 per cent of applications are dealt with by solicitors, in the central 50 per cent and in the high 33 per cent. This is because it is assumed they are more specialised and take less time, therefore the high costs scenario has the least amount of solicitor led applications. The proportion of single applicants is simply (1- the proportion of solicitor led applications for each scenario) <sup>10</sup>.

In England & Wales there were 210,000 licensed premises in 2015/16 <sup>11</sup> and there were 646,500 personal licences in existence in 2015/16. This measure would affect about 9,800 new premises applications per year and it is expected that this proposal will affect 43,900 personal licence applications per year (these data have been averaged over the last five years).

In Scotland there were 16,704 active premises licences and a stock of 54,603 personal licences in 2015/16. This measure is expected to affect 440 applications for a premises licence and 6,200 personal applications (data averaged over the last five years).

In Northern Ireland there were about 200 applications premises licences in 2015/16 and in the previous year. There are no personal licences in Northern Ireland. A licence lasts for five years in Northern Ireland so from 2022/23 onwards, there are 400 applications per year incurring processing and admin costs (200 new applications and 200 renewals. Note: this does not affect familiarisation costs as they have already been incurred.).

## **Option 2 - Introduce an immigration status check to alcohol and late night refreshment licensing**

### **Costs**

Costs to business in scope of the Estimated Annual Net Cost to Business (EANCB) will be the administration costs of answering the additional questions when applying for a licence, and any additional processing costs (for example, photocopying and postage). Cost calculations below are per year and totals are for 10 years, given as present values (PV).

Making immigration offences and penalties a material factor in the application process and also a ground for reviewing (and potentially revoking) a premises licence, will not impact on legitimate business. These are not new compliance obligations on business, as these are already in place. The Immigration Act 2016 extends the scope of sanctions that may be applied to non-compliant businesses, not compliant ones. The current legislation also applies to individuals if they work illegally in breach of their conditions. The Immigration Act 2016 measures will mean that a licence will lapse once an individual no longer has leave to remain in the UK in keeping with the existing licensing legislation thereby reducing the

<sup>10</sup> Assumption based on informal discussions with local authorities, Home Office policy teams and analysts.

<sup>11</sup> See: Alcohol and Late Night Refreshment Statistics: March 2016, (2010 to 2016 data). Stock and change figures, see Table 1. See Table 6a for new premises applications. See Table 13a for surrendered, lapsed and suspended licences;

For Scotland see, Liquor Licensing Statistics Scotland 2016, Table 1 for both premises and personal licences.

For Northern Ireland see, County Court Bulletin, Quarterly, 2016, Research and Statistical Bulletin 2016, Department of Justice, Northern Ireland Executive, Licence section: applications.

likelihood of overstayers working illegally in this sector as it will be clear to employers what their visa and right-to-work permissions allow.

Aligning powers of entry to inspect will enable enforcement resources to be used in a more targeted way. Without increasing the overall enforcement resource, this measure will make enforcement activity more effective by aligning entry powers rather than increasing the amount of enforcement in the sector. Table 3 summarises all the costs.

### **Familiarisation costs**

#### **Private sector costs**

The private sector familiarisation cost occurs every year over 10 years, as applicants only familiarise themselves when they come to make a new application, so for solicitors/agents this is calculated as and given for the low, central and high scenarios (assumed to be 0.5 minutes, 2 minutes and 4 minutes respectively) in England & Wales as:

(volume of applications x proportion dealt with by solicitors/agents) x additional familiarisation time (hrs) x ASHE 2016 median gross wage for solicitors (SOC 2413).

Low =  $(53,700 \times 0.67 = 36,000) \times 0.01 \times £26.96 = £8,000$  per year<sup>12</sup>

Central =  $(53,700 \times 0.50 = 26,850) \times 0.03 \times £26.96 = £24,000$  per year

High =  $(53,700 \times 0.33 = 17,700) \times 0.07 \times £26.96 = £32,000$  per year

This cost, for solicitors, occurs in each year and for the UK, is estimated to be around £0.2 million (PV) over 10 years in the central case. In the low scenario is £0.1 million (PV) and £0.3 million (PV) in the high scenario. It may be that solicitors process multiple applications and only need to familiarise themselves once but there is no data to indicate the frequency of their involvement so while this over-estimates the familiarisation cost it is a prudent assumption to test that gross costs to business are below £1 million per year. In E&W this cost is estimated to be £0.2 million (PV) over 10 years and £0.03 million (PV) in Scotland.

In Scotland it is expected to affect 6,600 applications and in Northern Ireland it will impact on about 200 applications. It is assumed that wages, timings and proportions of solicitors/applicants for this calculation remain the same for each geography.

For single applicants the familiarisation cost is calculated over 10 years in a similar manner and given for the low, central and high scenarios in E&W as:

(volume of applications x proportion dealt with by single applicants) x additional familiarisation time (hrs) x ASHE 2016 median gross wage for licensed trade employees (SOC 1224) – per year

Low =  $(53,700 \times 0.33 = 17,700) \times 0.01 \times £11.90 = £1,800$  per year

Central =  $(53,700 \times 0.50 = 26,850) \times 0.03 \times £11.90 = £10,800$  per year

High =  $(53,700 \times 0.67 = 36,000) \times 0.07 \times £11.90 = £28,900$  per year

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<sup>12</sup> Note: Calculations are illustrative and rounded figures are used whereas estimates are model based.

For the UK this is estimated to be about £0.1 million (PV) over 10 years, with a low-high range of £0.0 million (PV) to £0.3 million (PV). For E&W the estimates are £0.0 million (PV) to £0.2 million (PV) with a central estimate of £0.1 million (PV). In Scotland this is £0.0 million (PV) in the low and central with a high of £0.03 million (PV).

For E&W (for both solicitors and applicants) private sector familiarisation lies a range of £0.1 million (PV) to £0.5 million (PV), with a central estimate of £0.3 million (PV) over ten years. For Scotland this is estimated to be <£0.1 million (PV) over ten years in the low and central scenarios, and only be £0.1 million (PV) in the high scenario.

For the UK the total private sector familiarisation cost ranges from £0.1 million to £0.6 million (PV) over 10 years, with a central estimate of £0.3 million (PV) over the same period.

### **Public sector familiarisation costs**

Public sector familiarisation costs only occur in year 1 and relate to IE staff (covering all of the UK) and licensing authority staff that deal with applications. The number of IE staff estimated to be involved in these operations is about 1,000 and based on informal consultation with LGA, IoL and some licensing authorities, the maximum number of staff in E&W involved in licensing could be about 6 per cent of all local authority employees. The ASHE data states there are about 92,000 employees in SOC 4113 '*Local government administrative occupations*' and therefore the estimate is based on 5,400 local authority employees. The volume of employees involved in licensing in Scotland is 61 and in Northern Ireland it is 22<sup>13</sup>. The time taken for familiarisation is the same as for private sector applicants in the low, central and high scenarios (0.5 minutes, 2 minutes and 4 minutes). The ASHE 2016 gross median wage for these staff with on-costs is £14.75 for local authority staff and £19.23 for IE staff (from IE Finance). The UK familiarisation costs over 10 years are calculated as:

volume of employees x additional familiarisation time (hrs) x ASHE 2016 median gross wage for these staff – per year

For all relevant public sector staff this is given for the low, central and high scenarios:

Low = (994 and 5,400+61+22) x 0.01 x (£19.23 and £14.02) = £0.0 million

Central = (994 and 5,400+61+22) x 0.03 x (£19.23 and £14.02) = £0.0 million

High = (994 and 5,400+61+22) x 0.07 x (£19.23 and £14.02) = £0.0 million

Public sector familiarisation costs are in Year 1 only, are very small and have little impact on the overall familiarisation cost. Even in the high scenario it is only about £10,000.

### **Total familiarisation costs**

For the UK total familiarisation costs over 10 years range from £0.1 million (PV) to £0.6 million (PV) with a central estimate of £0.3 million (PV).

<sup>13</sup> Source: Liquor Licensing Statistics Scotland 2016, Table 1 (average of five years of 'Staff Employed Statistic') and information from Department of Infrastructure, Northern Ireland Executive, 2016.

## Ongoing costs

### Private sector costs

#### Processing costs

The private sector question processing cost is an ongoing cost over 10 years (including providing copies of documents where needed). The time taken for single applicants to process the additional question is assumed to be 4, 8 and 12 minutes in the low, central and high scenarios. For solicitors/agents it is assumed that they do this in about half of the time because of their specialisation in this type of work. It is calculated over 10 years for solicitors/agents (SOC 2413) and for single applicants (SOC 1224) in E&W as:

(volume of applications x proportion dealt with by solicitors/agents) x additional processing time (hrs) x ASHE 2016 median gross wage for solicitors (SOC 2413) – per year

Low =  $(53,700 \times 0.67 = 36,000) \times 0.03 \times £26.96 = £32,000$  per year

Central =  $(53,700 \times 0.50 = 26,850) \times 0.07 \times £26.96 = £48,000$  per year

High =  $(53,700 \times 0.33 = 17,700) \times 0.10 \times £26.96 = £48,000$  per year

This is an ongoing cost over 10 years and is estimated to be £0.4 million (PV) over 10 years with a low-high range of £0.3 million (PV) to £0.4 million (PV) over the same time period in E&W.

For single applicants this is calculated over 10 years in a similar manner:

(volume of applications x proportion dealt with by single applicants) x additional processing time (hrs) x ASHE 2016 median gross wage for licensed trade employees (SOC 1224) – per year

Low =  $(53,700 \times 0.33 = 17,700) \times 0.07 \times £11.90 = £14,000$  per year

Central =  $(53,700 \times 0.50 = 26,850) \times 0.13 \times £11.90 = £43,000$  per year

High =  $(53,700 \times 0.67 = 36,000) \times 0.20 \times £11.90 = £86,000$  per year

For applicants in E&W over 10 years this is estimated to be in a range of £0.1 million (PV) to £0.7 million (PV) with a central estimate of £0.4 million (PV) over the same time period.

In the UK the total cost of processing the additional question is estimated to be £0.9 million (PV) over 10 years. This lies within a range of £0.5 million (PV) to £1.3 million (PV) over a ten year period. In E&W the total cost of processing is estimated to be between £0.4 million (PV) to £1.2 million (PV) over the same time period with a central estimate of £0.8 million (PV). For Scotland the private sector processing cost is estimated to be £0.1 million (PV) in a range of £0.1 million (PV) to £0.1 million (PV).

## Administration costs

Administration costs include photocopying and postage for the 40 per cent<sup>14</sup> of applicants (30% in the low and 50% in the high scenarios) who do not submit applications online (note: those who submit applications online have their applications forwarded to responsible authorities electronically therefore do not incur photocopying and postage costs). These impacts are assessed over 10 years. A low, central and high estimate is included. The cost of copying is given as 2p (in-house), 4p (by a solicitor or agent) and 8p (commercial rate). These estimates are taken from informal discussions with local authorities. The copying cost for the UK is calculated as:

(volume of applications x 0.4) x (photocopying cost + postage cost) (£1.65 for second class, large letter, signed for, up to 100g) for the low, central and high scenarios respectively are: £5,800, £8,000 per year and £11,400 with a ten year cost of £0.05 million (PV), £0.07 million (PV) and £0.1 million (PV) respectively.

## Total ongoing costs to business

The ongoing costs to business are in a range of £0.5 million (PV) to £1.4 million (PV) over 10 years, with a central estimate of £1.0 million (PV) over the same period.

## Public sector ongoing costs

There are ongoing costs to the public sector resulting from additional checking / processing licence applications by Immigration Enforcement staff exercising the role of a responsible authority, and licensing authority staff.

IE staff may check all applications for premises licences (10,500 for the UK) and applications for personal licences where an immigration conviction or civil penalty has been disclosed as they may wish to make a representation to the licensing authority, but only where they believe that to grant a licence will be prejudicial to preventing illegal working and/or immigration crime in a licensed premises. Operational managers state that, all applications will be checked but only those with any risk associated with them will be assessed in more detail. It is estimated that it may take between 2 and 30 minutes to process a case, with a central estimate of 10 minutes. The volume of non-EEA applications is estimated, based on the share of foreign nationals in the labour market. Using Standard Industrial Classification 2007 (SIC 2007) the estimate of non-EEA foreign nationals in the labour market is 6 per cent for the relevant sectors G (selected retail and wholesale services) and I (selected food and accommodation services). For sector I only the estimate is 8 per cent and for the two subsectors where most illegal working is found (sections 56.101, licensed restaurants and 56.103, takeaway food shop and mobile food stands) the estimate is 13 per cent<sup>15</sup>. To get an estimate of the volume applications to check, the volume of applications is multiplied by the share of foreign nationals in the labour market.

Cases can be an administrative check which takes 2 minutes, a straight forward case which takes 10 minutes and a detailed check which takes 30 minutes. The spread of cases is unknown so a set of illustrative proportions are provided in Table 2 for a low, central and

<sup>14</sup> In Scotland the range for the low, central and high scenarios is 40 per cent, 50 per cent and 60 per cent respectively.

<sup>15</sup> Annual Population Survey (2014) ONS, foreign nationals in employment. Low scenario; Sector G: 46.17, 46.342, 46.39, 47.11, 47.19, 47.21-26, 47.29 and 27.81 and sector I (see central scenario). Central scenario; Sector I: 55.10, 55.201, 55.202, 55.209, 55.30, 55.90, 56.101-103, 56.21, 56.29 and 56.301-302. High scenario; I:Sub sectors: 56.101 and 56.103 only.

high scenario. The volume of applications is multiplied by the proportion of the type of check and then by the time spent on that check. The total number of hours spent on checking is then multiplied by the gross median wage to obtain an estimate of the costs for a low, central and high scenario.

**Table 2, Illustrative proportions of case types,**

<b>Proportion of check type</b>	<b>Low</b>	<b>Central</b>	<b>High</b>
Admin check	0.50	0.50	0.33
Background check	0.40	0.25	0.33
Detailed check	0.10	0.25	0.33
<b>Total</b>	<b>1.00</b>	<b>1.00</b>	<b>1.00</b>

Source: Home Office Immigration Checking Service and MBA.

All UK premises licences applications are checked and the estimate is given as (for all scenarios) 10,500 applications x 2 minutes (0.03 hrs) x £19.23 (IE officer wage) giving a cost of £6,700 per year. For personal licences the volume assessed is proxied by the proportion of non-EEA labour but this will be an over-estimate as only those applications with an adverse immigration history or criminal record will be followed up in more detail. The IE local team may then make a representation to the licensing authority if there are concerns about the application. Personal licences are estimated to incur a cost of about £1,700, £4,100 and £13,000 per year in the low, central and high scenarios respectively. This give rise to a total cost (premises and personal applications) of £8,400, £10,800 and £19,600 per year for all applications considered. Over 10 years these estimates are: Low, £72,000, central, £93,000 and high, £169,000 (PV).

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The ICE ongoing cost estimates for the UK over 10 years are calculated as:

((volume of applications x labour migrant share) x proportion of check type) x time taken to check an application x gross median wage for ICE teams – per year

Low = (53,700 x 0.06 = 3,222) x 0.5 x 0.03 x £19.23  
3,222 x 0.4 x 0.17 x £19.23  
3,222 x 0.1 x 0.50 x £19.23  
Sum of these = £1,700 per year

Central = (53,700 x 0.08 = 4,296) x 0.50 x 0.03 x £19.23  
4,296 x 0.25 x 0.17 x £19.23  
4,296 x 0.25 x 0.50 x £19.23  
Sum of these = £ 4,100 per year

High = (53,700 x 0.13 = 6,981) x 0.33 x 0.03 x £19.23  
6,981 x 0.33 x 0.17 x £19.23  
6,981 x 0.33 x 0.50 x £19.23  
Sum of these = £13,000 per year

All applications are processed by licensing authority administrative staff so the estimate of processing cost over 10 years is calculated as:



volume of applications x gross median wage for SOC 4113 'Local government administrative occupations' x time taken to check an application (2, 4 and 6 minutes) – per year

Low =  $53,700 \times 0.03 \times £14.75 = £0.3 \text{ million (PV)}$

Central =  $53,700 \times 0.07 \times £14.75 = £0.5 \text{ million (PV)}$

High =  $53,700 \times 0.10 \times £14.75 = £0.8 \text{ million (PV)}$

The total public sector costs for the UK of processing the additional immigration check is estimated to lie in a range of £0.3 million (PV) to £0.9 million (PV). The central estimate is £0.6 million (PV) or about £70,000 per year.

### **Total ongoing costs**

When all the ongoing costs are summed over the 10 year appraisal period, they lie in a range of £0.8 million (PV) to £2.3 million (PV) with a central estimate of £1.6 million (PV) or £0.2 million per year.

### **Total costs to business**

A low, central and high scenario has been estimated for the costs to business varying the time taken for familiarisation, time taken to prepare applications and photocopying costs. The costs to business are in a range of £0.6 million (PV) to £2.0 million (PV) over 10 years, with a central estimate of £1.3 million (PV) over the same period or £0.2 million per year. The preferred option therefore falls well within scope of the fast-track process threshold, and is in scope for the Business Impact Target in accordance with s.21 of the Small Business, Enterprise and Employment Act 2015. This is a low cost regulatory "IN".

### **Total costs**

The total cost of this policy change is estimated to be in the range, £0.9 million (PV) to £2.9 million (PV). The central estimate is about £1.9 million (PV) or £0.2 million per year.

### **Scotland and Northern Ireland**

Estimates of impact have also been made for Scotland and Northern Ireland. Consultation is still continuing with both of these devolved administrations. However, given the volumes and current information there is no indication that costs in Scotland or Northern Ireland are significantly different from those in England and Wales. These changes remain 'low cost' measures. The total cost in Scotland of these changes lies in a range of £0.1 million (PV) to £0.3 million (PV) with a central estimate of £0.2 million (PV) over 10 years. The BNPV range is from -£0.06 million to -£0.2 million (PV) over 10 years, with a central estimate of -£0.14 million. Total costs for Northern Ireland are <£0.1 million in the low, central and high scenarios as this only applies to about 200 applications (400 from the year 2022/23 onwards due to re-application after 5 years becoming effective<sup>16</sup>).

<sup>16</sup> Note: It is only the immigration check that is additional in a new or re-application. This policy change did not give rise to licence renewal after a five year period.

## **Benefits**

### **Monetised and non-monetised benefits**

There are no monetised benefits in this option.

The main non-monetised benefit from this policy change is that it provides a statutory obligation, which will be consistent across all licensing authorities, to check if an applicant has the right to be in the UK and has the right to work before granting a licence. This should ensure that it is more difficult to operate licensed premises or be employed in positions of responsibility in the alcohol and late night refreshment sectors if an individual does not have the necessary permissions to do so. The role of the Secretary of State as a responsible authority strengthens the ability to intervene in licence applications and to request a review where immigration laws have been broken and, for example, illegal workers employed, to reduce the risk of illegal working in this sector. This supports the Government's approach to making it more difficult for illegal migrants to work and live in the UK. The policy should help to encourage illegal migrants to leave the UK voluntarily and may provide some deterrence effect to those illegal migrants who may consider working in these sectors.

### **Business Impact Target**

This policy has been designed to effectively combat those who attempt to work illegally in the licensed trade sector and attempts to minimise the burdens on licensing authorities by embedding the immigration safeguards into the existing licensing framework, by amending the relevant licensing legislation. Authorities will, however, have to check the immigration status of all licence applicants so that a licence is not issued to any illegal migrant. The Secretary of State (Immigration Enforcement teams) is added to the list of responsible authorities and this places the onus on IE to make any representations about an individual's application in respect of immigration offences and penalties. Where the IE team does not respond when notified of a new licence application within the stipulated period, the application process will simply continue and the licensing authority will determine the application on the basis of available information but that will also include refusing a licence to someone who is without lawful status.

- This measure would affect about 60,000 applications per year (10,400 new premises applications per year and 50,100 personal licence applications per year).<sup>17</sup>
- Private sector impacts are familiarisation and ongoing costs, comprising staff costs for reviewing the new element of the guidance when a new application is made, additional time taken to complete the extra question and administration costs (if it is not an online application). Total gross costs to business are estimated to be about £150,000 per year or £1.3 million (PV) over 10 years. In the high scenario the estimate is about £230,000 per year or £2.0 million (PV) over 10 years.
- The Home Office has consulted the industry and licensing authorities to find out more about the time taken to complete the additional question, the structure of the

<sup>17</sup> See: Alcohol and Late Night Refreshment Statistics: March 2016, (2010 to 2016 data). Stock and change figures, see Table 1. See Table 6a for new premises applications. See Table 13a for surrendered, lapsed and suspended licences;

For Scotland see, Liquor Licensing Statistics Scotland 2016, Table 1 for both premises and personal licences. For Northern Ireland see, County Court Bulletin, Quarterly, 2016, Research and Statistical Bulletin 2016, Department of Justice, Northern Ireland Executive, Licence section: applications.

licensed trade sector and how licence applications are made to the licensing authority. Other than ad hoc information on small firms given by experienced managers in licensing authorities no further information was obtained on the any impacts on small businesses that would differ from large businesses.

- The main benefit from this policy is to ensure that illegal immigrants cannot obtain premises or personal licences to work in licensed premises and those who employ illegal migrants cannot obtain licences. This is a contribution to making it more difficult for illegal migrants to work in the UK and to encourage voluntary departure. This benefit is hard to quantify. Some licensing authorities report that illegal working is a significant problem in the licensed trade sector, especially the late night refreshment sector and some trade organisations have concerns about maintaining reputation so it is expected that this proposal will be well received by both licensing authorities and the sector. Certainly, nearly all those who were consulted either supported this policy or thought it was a sensible addition to the application that would make effective checking more robust.

### **Small and Medium Sized Business Assessment (SaMBA)**

There are no official statistics that are available to indicate the population of small businesses that may be impacted by this policy change. There has not been any formal assessment of the impact of the policy change on small business. At each consultation meeting the subject of small businesses was raised but no consultee could supply sector specific or firm size specific information on small businesses. Business Population Estimates (Department of Business, Energy and Industrial Strategy, 2016) are available for Accommodation (55) and Food and Beverage Service Activities (56) and for sub-groups of these categories but these do not show which premises are licensed and which are not. It is not possible to identify the small firms impacted by this measure.

For immigration and alcohol policy measures no small firms are given exemptions or are excluded from policy initiatives regarding the regulation of licensable activity or immigration control measures. The Government does not expect there to be a significant impact on small and micro organisations within the licensed sector as previous measures have been applied to large and small firms and there has been no significant reporting of any adverse effects as a result of policy changes. The Home Office has a good relationship with the sector and will continue to monitor activity and the changes so that small businesses are not treated adversely compared to large businesses.

## **F. Risks**

### **OPTION 2 – Introduce an Immigration status check to alcohol and late night refreshment licensing**

Before consulting local authorities, the number of public sector staff involved in alcohol and licensing was assumed to be 10 per cent of all local authority staff (according to LGA and IoL estimates this would be about 9,200). They did caution that the number involved may be lower. Survey evidence now suggests the proportion is about 6 per cent of LA employees, that is 5,400 employees but this is uncertain. Familiarisation costs to the public sector may be lower than the estimates quoted in this impact assessment. However, it is prudent to test what stakeholders assess as the maximum level of LA employment

involved in licensing. There are some uncertainties around some of the assumptions. These include:

- It is assumed that the volume of applications is constant over time as there is no forecast or better projection of applications data available.
- The timings are estimates from licensing authorities using manager experience. These may differ from the actual time taken to process the additional information.
- The proportion of applications that take 2, 10 and 30 minutes for IE officers to process is unknown therefore the assumptions are illustrative only.
- Photocopying costs may be higher than assumed.
- The proportion of applications completed by solicitors / agents and by single applicants are illustrative, although based on licensing managers' estimates. These proportions may differ from those used here.
- The estimate of applicants for personal licences who hold an immigration conviction or are subject to an immigration civil penalty which was not cancelled following an objection or appeal.
- The number of applications to transfer or vary a licence, has not been quantified.

## **G. Enforcement**

This policy will be enforced in line with the Hampton principles. There is a long-standing relationship with licensing authorities and other interest groups concerned with licensing and that is almost certain to continue. The Primary Authority scheme has not been used here because each licensing authority operates independently and the Immigration Act 2016 only introduces an immigration check to the existing licensing legislation. There is no new measure that the legislation introduces that places an enforcement burden on local authorities. Any breaches of a condition of a licence will be dealt with in the same way that licensing authorities / courts currently deal with any breaches: they would conduct a review of the case and that may lead to suspension or revocation of a licence.

## **H. Summary and Recommendations**

The Government's preferred option is to introduce an immigration status check into the alcohol and late night refreshment / catering licence application, to specify the Home Office as a responsible authority for premises license applications, and strengthen the powers to enter licensed premises for immigration enforcement officers. This will ensure that illegal migrants cannot obtain a personal alcohol licence, a premises licence or a late night refreshment / catering licence, and strengthen our ability to deny licenses to businesses that habitually employ illegal workers. This should help to deter illegal migrants seeking employment illegally in these roles within this sector which has a significant degree of illegal working. Employers should continue to conduct right-to-work checks on all employees seeking work in the alcohol and late night refreshment sector. These new measures and continued effective right-to-work checks are designed to ensure this should contribute strengthening the reputation of the sector and encourage voluntary departures. This is a low cost approach which is light touch. It is also an approach favoured by the consultees because the onus to object to an application lies with central government and tries to minimise the additional burden being placed on licensing authorities and on the private sector. Table 3 presents the costs and benefits of the changes arising from Option 2.

Table 3, Summary Costs and Benefits of Option 1, 2017, £ million (Present Value).

10 Year Impact	UK			England & Wales			Scotland			Northern Ireland		
	Low	Central	High	Low	Central	High	Low	Central	High	Low	Central	High
<b>Costs</b>	(£m) PV	(£m) PV	(£m) PV	(£m) PV	(£m) PV	(£m) PV	(£m) PV	(£m) PV	(£m) PV	(£m) PV	(£m) PV	(£m) PV
<b>Set-up costs</b>												
1. Private Sector Familiarisation	£0.10	£0.34	£0.59	£0.08	£0.30	£0.53	£0.01	£0.01	£0.06	£0.00	£0.00	£0.00
2. Public Sector Familiarisation	£0.00	£0.00	£0.01	£0.00	£0.00	£0.01	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00
<b>Total Set-up Costs</b>	<b>£0.10</b>	<b>£0.34</b>	<b>£0.60</b>	<b>£0.09</b>	<b>£0.30</b>	<b>£0.53</b>	<b>£0.01</b>	<b>£0.01</b>	<b>£0.06</b>	<b>£0.00</b>	<b>£0.00</b>	<b>£0.00</b>
<b>Ongoing costs</b>												
3. Private Sector Staff Costs	£0.45	£0.89	£1.31	£0.40	£0.79	£1.16	£0.05	£0.10	£0.14	£0.00	£0.00	£0.01
4. Public Sector Staff Costs	£0.33	£0.61	£0.94	£0.30	£0.55	£0.85	£0.03	£0.06	£0.08	£0.00	£0.00	£0.00
5. Private Sector Admin Costs	£0.05	£0.07	£0.10	£0.04	£0.06	£0.09	£0.00	£0.00	£0.01	£0.00	£0.00	£0.00
<b>Total Ongoing Costs</b>	<b>£0.83</b>	<b>£1.56</b>	<b>£2.35</b>									
<b>Total Staff Costs</b>	<b>£0.88</b>	<b>£1.84</b>	<b>£2.85</b>									
<b>Total costs</b>	<b>£0.93</b>	<b>£1.91</b>	<b>£2.94</b>	<b>£0.83</b>	<b>£1.70</b>	<b>£2.63</b>	<b>£0.09</b>	<b>£0.19</b>	<b>£0.30</b>	<b>£0.01</b>	<b>£0.01</b>	<b>£0.02</b>
<b>Total benefits</b>	<b>£0.00</b>	<b>£0.00</b>	<b>£0.00</b>	<b>£0.00</b>	<b>£0.00</b>	<b>£0.00</b>	<b>£0.00</b>	<b>£0.00</b>	<b>£0.00</b>	<b>£0.00</b>	<b>£0.00</b>	<b>£0.00</b>
<b>BNPV</b>	<b>-£0.60</b>	<b>-£1.30</b>	<b>-£2.00</b>	<b>-£0.53</b>	<b>-£1.15</b>	<b>-£1.78</b>	<b>-£0.06</b>	<b>-£0.14</b>	<b>-£0.21</b>	<b>-£0.01</b>	<b>-£0.01</b>	<b>-£0.01</b>
<b>Net Present Value</b>	<b>-£0.93</b>	<b>-£1.91</b>	<b>-£2.94</b>	<b>-£0.83</b>	<b>-£1.70</b>	<b>-£2.63</b>	<b>-£0.09</b>	<b>-£0.19</b>	<b>-£0.30</b>	<b>-£0.01</b>	<b>-£0.01</b>	<b>-£0.02</b>
<b>BIT Costs (EANCEB)</b>	<b>£0.07</b>	<b>£0.15</b>	<b>£0.23</b>	<b>£0.06</b>	<b>£0.13</b>	<b>£0.20</b>	<b>£0.01</b>	<b>£0.02</b>	<b>£0.02</b>	<b>£0.00</b>	<b>£0.00</b>	<b>£0.00</b>

## **I. Implementation**

The Government plans to implement these changes in England and Wales in spring 2017 whereas they will not be implemented in Scotland and Northern Ireland until October 2017.

## **J. Monitoring and Evaluation**

The effectiveness of the new regime would be monitored by local authorities and Immigration Enforcement (IE). As IE is a part of the Home Office, management information data will be available to policy officials one year after the implementation of the policy. The Home Office has an ongoing relationship with local authorities. It also consults relatively regularly with the Local Government Association (LGA) and the Institute of Licensing (IoL). The data and any other factors noted by IE or licensing authorities will be used in the monitoring and evaluation. After one year only a light touch evaluation is planned and policy officials would need to see the scheme in place for a longer time period to conduct a more robust evaluation. It is proposed to do this, three years after the implementation of the policy measures.

## **K. Feedback**

The Home Office will maintain channels of communication with licensing authorities, the LGA and the IoL. Feedback from IE will also be used. The feedback from these organisations will be used in the light touch evaluation after one year and in the formal review after three years.

## **L. References**

Department of Business, Innovation and Skills (2016) *Better Regulation Framework Manual and Toolkits, Practical Guidance for UK Government Officials*, BETA version, Better Regulation Executive, July, London.

Department of Business, Innovation and Skills (2013) *One-In, Two-Out (OITO) Update (update on One-In One-Out Methodology from 2011)*, January, London.

The Home Office (2014) *User Guide to Alcohol and Late Night Refreshment Licensing Statistics*, December, London.

The Home Office (2014) *Alcohol and Late Night Refreshment Statistics: March 2014*, December, London.

HM Treasury (2003) *The Green Book, Appraisal and Evaluation in Central Government*, (2003 version includes amendments made in July 2011), London.

## Annex 1 Powers of Entry

### POWERS OF ENTRY GATEWAY:

#### Introduction

In September 2015 an application was made for approval to amend the existing power of entry in relation to licensable activities.

In accordance with the usual requirements, the application had to demonstrate that a power of entry was necessary to deliver the policy objective and that the power contains appropriate safeguards that are proportionate to the circumstances. Judicial authorisation, usually a magistrate's warrant, is an appropriate safeguard in all but the most serious circumstances.

#### Licensable activities (amendment)

The Immigration Act 2016 contains a package of measures to tackle illegal working. This includes amendments to the Licensing Act 2003 ('the 2003 Act', and equivalent legislation applying to Scotland and Northern Ireland) to ensure that holding personal and premises licences to sell alcohol, such as a pub or off licence and late night takeaways, is conditional on not breaching immigration laws, including having a lawful immigration status and right to work as well as not employing illegal workers.

In order to enforce the changes it is necessary for Immigration Enforcement to enter premises and undertake investigations in a similar manner to existing licensing officers. The amendment extended the power of entry under s179 of the 2003 Act to enable this. The power allows for entry to premises being used, or believed to be being used for licensable activity. It is a power that was agreed to be necessary and proportionate during the powers of entry review.

The amended power will allow immigration officers to have a similar power of entry when accompanying local authority licensing staff or, if the circumstances require it, without. The intention is that immigration officers will normally exercise this power when accompanying local authority licensing staff and aligning the entry powers will facilitate joint operations. However, there may be circumstances which may require immigration officers to visit premises outside an organised licensing authority-led inspection. Extending this power of entry gives them the operational flexibility to do so. **This change does not increase the number of powers of entry.**

There is no intention to have extra/longer inspections on compliant businesses therefore compliant businesses will not bear any additional costs due to this. There is no impact on costs for the Home Office arising from implementation of amended powers of entry proposals under the Immigration Act 2016. The costs associated with this policy are set out in this validation impact assessment but none arise out of amending the powers of entry.



## Licensing Act 2003

### Representation by a Responsible Authority following an Application to Review Premises Licence or Club Premises Certificate

Representations may be made at any time during a period of 28 consecutive days starting on the day after the application for review was given to the Licensing Authority.

Representations must be relevant to the application. To be relevant they must relate to at least one of the four **Licensing Objectives** listed below:

- **The Prevention of Crime and Disorder**
- **Public Safety**
- **Prevention of Public Nuisance**
- **The Protection of Children from Harm**

**Note:** Please be aware that this form cannot be treated as confidential. Your representation will be passed to the Applicant or to the representative of the Applicant to allow them the opportunity of addressing your concerns. This form will also be published on the council's website and read out in public at the sub-committee hearing.

☒ **By ticking this box, I agree to my contact details being made public.** (Please note if you do not wish for your information to be made public, your representation may not be accepted or requested that it be withdrawn). Email addresses and contact telephone numbers will not be publicly available.

Please enter your details below:

Responsible Authority:	HUMBERSIDE POLICE
Contact Officer:	ALISON SAXBY
Address:	394 CROMWELL ROAD, GRIMSBY, DN31 2BN
Telephone:	01472 721267
E-Mail:	alison.saxby@humberside.pnn.police.uk

**Please tick this box** if you consent to any notice of any hearing being sent to you to the e-mail address provided by you above. ☒

Please provide details of the review application to which your representation refers:

Name:	SPICE OF LIFE
Address:	8-12 WELLOWGATE, GRIMSBY, DN32 0RA
Date Application Received:	16/11/2020
Date of Representation:	04/12/2020

Please provide details of your representation in the box below. Indicate which of the Licensing Objectives your representation refers to by ticking the relevant box/es:

- **The Prevention of Crime and Disorder** ☒
- **Public Safety** ☐
- **Prevention of Public Nuisance** ☐
- **The Protection Children from Harm** ☐

Objectives	Evidence
The Prevention of Crime and Disorder	<p>Humberside Police support Immigration in seeking a review of this Premises Licence as during an Immigration visit to the premises on 23/08/19, they found that the premises was employing 2 illegal workers. The son of the owner, who identified as the manager was verbally aggressive to the Immigration team in attendance. The illegal workers attempted to flee the premises to avoid being caught. In 2 previous visits, illegal workers were found at the premises</p> <p>For this occasion, a Civil Penalty was subsequently issued to the Premises Licence Holder in relation to the illegal workers being found at the premises.</p> <p>Immigration offences, including Civil Penalties, are a clear breach of the Crime and Disorder Licensing Objective.</p> <p>Humberside Police reserve the right to serve further evidence in due course.</p>
Public Safety	
Prevention of Public Nuisance	

The Protection of Children from Harm	
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If possible please suggest alterations to the application that would resolve the problem mentioned above, again paying attention to the licensing objectives

	Y	N
Have you contacted the review applicant to discuss this representation?	Y	
Have you contacted the Licensing Section to discuss this representation?	Y	
Do you consider further discussion could resolve the issue?		N
Do you intend to attend or be represented at any sub-committee hearing?	Y	

Please return this form to the following address:

**The Licensing Manager, Doughty Road Depot, Doughty Road, Grimsby, DN32 0LL**  
**[licensing@nelincs.gov.uk](mailto:licensing@nelincs.gov.uk)**

**CHIEF CONSTABLE OF HUMBERSIDE POLICE**

**Applicant**

**-and-**

**MOHAMMED ABDUL SALIQUE & ABDUL SOMIR**

**Respondent**

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**STATEMENT OF  
ALISON KATE SAXBY**

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**Introduction**

1. My name is Alison Kate Saxby and I am a Licensing Officer in the Licensing Section of the Humberside Police based at Cromwell Road Police Station, Grimsby. I cover the county of North East Lincolnshire. I am under the direction and control of the Chief Constable of Humberside Police ('the Chief Constable'). My duties include consideration of the impact of crime and disorder and the Chief Constable's response to licensing matters.
2. I have been a Licensing Officer since April 2018, prior to which I was a Finance Assistant for 4 years, a Public Service Officer for 2 years and an Anti Social Behaviour Researcher for 2 ½ years. I have worked for Humberside Police for 10 years, and I am familiar with problems of alcohol related crime and disorder in both in my current and previous roles.
3. The Respondents, Mr Mohammed Abdul SALIQUE & Mr Abdul SOMIR, are the premises licence holders for the premises licence granted under Part 3 of the Licensing Act 2003 ('the Act') in respect of the premises known as Spice of Life, situated at 8-12 Wellowgate,

Grimsby, North East Lincolnshire. Premises Licence PM000228 relates to the premises.

4. I make this statement in support of the Chief Constable's application for the review of the premises licence under Section 51 of the Licensing Act 2003 and is in addition to those papers already served on the authority. This is also submitted in support of the review papers submitted by Immigration. The information in this statement is either within my personal knowledge or is taken from files maintained by the Chief Constable.

### **Background**

5. The Respondents are the holders of the Premise Licence, having held the licence since before 2005, with the licence being transferred under grandfather rights on the introduction of the Licensing Act 2003. The DPS is also Mohammed SALIQUE.
6. The premises is situated in a retail and residential area in Grimsby. Other retail premises nearby include café's, takeaways, tattoo parlour, hotel, along with other local trader stores. It is near to the Town Centre. **(EXHIBIT AKS/01)**
7. The premises licence permits the sale of alcohol and Late Night Refreshment on Sunday to Thursday 1200hrs to 1400hrs and 1700hrs to 0100hrs, and on Friday and Saturday 1200hrs to 1400hrs and 1700hrs to 0200hrs. There is a Non Standard timing for Christmas Day which allows licensable activity from 1200hrs to 1730hrs. **(EXHIBIT AKS/02)**
8. The licence is subject to 3 conditions in addition to those that are mandatory. They are listed in Annex 2 of the licence.

## **History**

9. On 17<sup>th</sup> March 2020, whilst discussing a different premises with Immigration, Humberside Police were informed about a recent visit to the Spice of Life where Immigration officers found illegal workers on the premises. It was discussed that the premises would need to be reviewed on this basis, and that Immigration would lead the review.
10. The information provided regarding the incident was that on 23<sup>rd</sup> August 2019, Immigration attended the Spice of Life after they had received intelligence that illegal workers were being employed at the premises.
11. Immigration had received previous intelligence on a number of occasions since 2008, and had made arrests on 2 other visits to the premises in 2012 and 2015.
12. It had been noted that there would likely be some resistance from the manager at the premises, who is the owners' son, after verbal aggression was shown on previous visits.
13. On the Immigration visit, officers positioned themselves around the building in case anyone decided to run out to avoid detection. This was found to be accurate, as 2 people were seen to leave the kitchen, running into the rear yard.
14. On speaking to the manager, it was found that he was indeed the owners' son. He went to speak to his solicitor and didn't return to speak to the officers. On being relocated by the officers, he began displaying aggressive behaviour, swearing at the officers. He also denied knowing anything about the arrested people that had been seen leaving the kitchen, stating they must have come from the flat

above. The behaviour that was continuously displayed was described as verbally aggressive in order to intimidate and prevent the officers from doing their job.

15. Due to the behaviour displayed, officers did not feel comfortable dealing with the manager on their own, so further interactions were dealt with double crewed.
16. When further questioning was being attempted about the arrested males, the manager refused to answer any questions, other than to say "no comment".
17. On the 2 males leaving the kitchen, one was detained immediately. Upon being questioned by Immigration Officers, he admitted that he had previously had a Working Holiday Maker Visa, which had expired a number of years earlier, on 21<sup>st</sup> May 2011, and made no attempt to obtain further leave to remain.
18. The male was also dressed as a chef and confirmed that he had been working at the premises for 3-4 weeks, was being paid in cash and showed no passport or documentation on his right to work before starting work. He stated that the person who pays him was the son of the owner of the restaurant.
19. The second male that was arrested went into the flat, and on being followed by Immigration Officers, was located hiding on a roof after escaping through a Velux window. After being spoken to, he nervously re-entered the flat.
20. During the interview, the second male confirmed that his student visa had expired in 2016, and that he was living at the flat above the premises. He stated he was working at the restaurant, and had no choice as no one would give him a job. He admitted that he works at the premises doing pots, preparing food and putting the bins out,



and in return he is given food when he wants. Money is only given occasionally and he is also given accommodation.

21. He also confirmed that no documents were provided to prove the right to work or identity.
22. Upon leaving the premises, a delivery driver for the premises blocked the Immigration team from leaving, after previously being described as wondering around displaying extremely angry and aggressive body language.
23. From this visit, Spice of Life have since been issued with a fine for £30000 which, at the time of writing, has not been paid. This was reported to be higher due to non-cooperation. This is not the first time they have employed illegal workers, with Immigration stating they have found and arrested individuals working at the premises in 2012 and 2015.
24. Upon Police and the Council serving the papers on the premises, after being let in by a worker, another male arrived referred to as "the Boss". He identified himself as the owner and briefly spoke to the Officers, however when the reason behind the visit was explained, the male became argumentative and dismissive of officers and left. After around 1-2 minutes, the initial shop worker received a call from the owner (his Boss) had phoned to speak to the officers. He was described as generally abusive in his tone, although he did not swear. He asked if we had finished what we were doing and then said 'well get out then, I don't want you in my shop, you shouldn't be there anyway'.
25. Under Section 182 of the Licensing Act 2003 (revised Guidance April 2018), section 2 refers to the Licensing Objectives, starting with Crime and Disorder. Subsection 2.6 specifies "The prevention of crime includes the prevention of immigration crime including the

prevention of illegal working in licenced premises". This is a clear undermining of the Licencing Objective.

26. Subsection 11.27 refers to certain criminal activity in a licenced premises that should be treated particularly seriously, one of which is for employing a person who is disqualified that from that work by reason of their immigration status in the UK.
27. It goes on further, in 11.28 to state that if it is determined that the crime prevention objective is undermined, it is expected that revocation of the licence – even in the first instance – should be seriously considered.
28. The Impact assessment from The Home Office for the Introduction of an Immigration Check to Alcohol and Late Night Refreshment Licence Application states that illegal working often results in abusive and exploitative behaviour, tax evasion, undercutting legitimate business and adverse impacts on the employment of lawful workers. It also states that firms who exploit illegal labour are denied access to it. **(EXHIBIT AKS/03)**
29. Humberside Police make this representation in support of the Immigration Service representation.

### **Submissions**

30. The view of the Chief Constable is that given there has been a clear breach of the legislation in regards to employing illegal workers, not one but two. Both workers admitted that they were aware they did not hold the relevant work permit, and they also confirmed that no checks had been done by the business. The manager at the premises did not assist the Immigration Service, and instead displayed behaviour that was intimidating.

31. There have also been repeated incidents whereby the manager at the premises has displayed verbally abusive or intimidating behaviour when dealing with authorities.
32. It is clear, due to repeated failings, that the relevant employment checks are not being conducted at the premises. On previous visits by Immigration there have been arrests made.
33. The Chief Constable requests that the Licensing Committee consider the points made within this statement and asks that they revoke this Premises Licence.

I believe the contents of this statement to be true.

Signed: ...  
Mrs Alison Saxby

Dated: 14/12/20.....