

**REPORT TO: LICENSING COMMITTEE – 26 FEBRUARY 2010**

**REPORT BY: LICENSING MANAGER**

**REPORT AUTHOR: NICKII HUMPHREYS**

**Department for Culture, Media and Sport - Legislative Reform Order:  
Proposal to amend the Licensing Act 2003 (Personal Licence: relevant offences).**

## **1.0 Purpose of report**

1.1 The purpose of this report is to notify the Committee of a consultation document issued by the Department for Culture, Media and Sport ("DCMS") relating to a proposal to amend the Licensing Act 2003 ("the Act") to update the list of offences that are treated as relevant offences for the purposes of obtaining and holding a personal licence under Part 6 of the Act.

## **2.0 Recommendation**

2.1 **RECOMMENDED** that the Committee note the contents of the report and consider what, if any, formal response should be made.

## **3.0 Background Information**

3.1 In summary, DCMS has received representations from key enforcement partners that there are some offences not currently included in the list of personal licence relevant offences in Schedule 4 to the Act which are considered appropriate to include. The relevant offences relate to the application for a grant or renewal, and the forfeiture or suspension, of a personal licence.

3.2 Broadly, the Government are consulting on whether to include failure to cooperate with a preliminary test when driving and also those offences of conspiracy or attempt which are capable of being committed in connection with the existing relevant offences.

3.3 The Government has met with enforcement authorities including the Association of Chief Police Officers (ACPO), Police Federation, Police Superintendents' Association of England and Wales, Magistrates' Association and Local Authorities Coordinators of Regulatory Services (LACORS) to discuss the proposed new offences which they believe are appropriate for inclusion in the Act. These discussions have informed the list of proposed new offences which form the basis of this consultation. The Government now wishes to consult more widely in order to gauge whether the new offences are considered to be appropriate and whether any of the existing relevant offences should be removed.

- 3.4 The Government have prepared a consultation document which seeks views on a proposal to amend the Act to update the list of offences that are treated as relevant offences for personal licence holders. **The closing date for comments is 12 March 2010.**

A copy of the full consultation document including the Impact Assessment is attached as Appendix A.

The consultation wishes to receive views on a number of specific questions which are summarised on pages 17 and 18 of the consultation document.

#### **4.0 Current Relevant Offences**

- 4.1 Relevant offence means an offence currently listed in Schedule 4 of the 2003 Act. A conviction that is spent for the purposes of the Rehabilitation of Offenders Act 1974 must be disregarded.

- 4.2 The relevant offences can broadly be described as:

- comprising either serious offences which are accepted as attracting societal disapproval (e.g. murder, serious assault, rape and other serious sex offences, drugs offences and theft); or
- relate directly to the types of activities in which those operating licensed premises will be, or have been, involved (e.g. consumer offences involving alcohol, unlawful broadcasting, unlawful gambling, unlicensed security provision, VAT evasion).

- 4.3 A schedule of all existing relevant offences is attached as Appendix B and the proposed additional relevant offences are attached as Appendix C.

#### **5.0 Appendices**

Appendix A – Copy of the Consultation Document issued by DCMS;

Appendix B – Schedule of existing relevant offences; and

Appendix C – Schedule of proposed additional relevant offences.

  
Licensing Manager

There are no background papers associated with this report.



department for  
**culture, media  
and sport**

## Proposal to amend Licensing Act 2003 (Personal Licence: relevant offences)

### Licensing Act 2003

15 December 2009

improving  
the quality  
of life for all

Our aim is to improve the quality of life for all through cultural and sporting activities, support the pursuit of excellence, and champion the tourism, creative and leisure industries.

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# Chapter 1: GENERAL INFORMATION

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## Executive Summary

- 1.1 This Consultation Document seeks your views on a proposal to amend the Licensing Act 2003 (“the Act”) to update the list of offences that are treated as relevant offences for the purposes of obtaining and holding a personal licence under Part 6 of the Act.
- 1.2 The Act came into force on 24<sup>th</sup> November 2005, bringing eight licensing regimes into one. It was a significant change in the way a number of activities were licensed and covers the regulation of the sale and supply of alcohol, public entertainment, theatre, cinema, late night refreshment and late night cafés. In general, the new licensing system appears to be functioning smoothly and has delivered a number of positive outcomes. However, the Government continues to monitor the Act and to listen to the experiences of those it affects.
- 1.3 Our enforcement partners have brought to our attention that there are some offences not currently included in the list of ‘Personal licence: relevant offences’ (“relevant offences”) in Schedule 4 to the Act which they believe should be included. The relevant offences relate to the application for a grant or renewal, and the forfeiture or suspension, of a personal licence. Enforcement authorities believe that there are a number of offences (“new offences”) that should be added to the relevant offences to enable the new offences to be capable of being considered as part of the process for obtaining and holding a personal licence.
- 1.4 The list of relevant offences has already been subject to amendment on two occasions. One amendment was technical (effectively removing a presentational inconsistency) and one amendment was substantive, to revise the list of sexual offences which are relevant offences (in part to bring the Act into line with new criminal justice legislation).
- 1.5 We have met with enforcement authorities including the Association of Chief Police Officers (ACPO), Police Federation, Police Superintendents’ Association of England and Wales, Magistrates’ Association and Local Authorities Coordinators of Regulatory Services (LACORS) to discuss the proposed new offences which they believe are appropriate for inclusion in the Act. These discussions have informed the list of proposed new offences which form the basis of this consultation. The Government now wishes to consult more widely in order to gauge whether the new offences are considered to be appropriate and whether any of the existing relevant offences should be removed.

- 1.6** This consultation seeks your views on:
- a) whether any relevant offences should be removed (see paragraphs 3.20-23 and for all existing relevant offences see Annex A).
  - b) whether the proposed new offences should be added to the relevant offences (see paragraphs 3.6-19 and Annex B)
  - c) two further offences the government is minded to include on the list of relevant offences (see paragraphs 3.24-26)
  - d) two areas for future consideration (see paragraphs 3.27-28)

We have not explicitly included a 'no change' option, but if the responses that we receive favour leaving the relevant offences as they currently stand, this option will be considered.

- 1.7** Broadly, we are consulting on whether to include failure to cooperate with a preliminary test when driving and those offences of conspiracy or attempt which are capable of being committed in connection with the existing relevant offences. For example, theft is an existing relevant offence and we are proposing to add the offences of conspiracy and attempt to commit theft. We also considered adding other offences as new offences but took the view that these were either too wide in scope or that they were not congruent with the nature or gravity of the relevant offences.

- 1.8** We consider that the proposed additions are not contentious but rather strive to ensure a consistent approach to the relevant offences. We have received considerable support for these proposals and are now seeking the opinions of a wider spectrum of those who may be affected.

## **Scope of consultation**

- 1.9** The geographical scope of this consultation is England and Wales as it concerns the Licensing Act 2003, which applies to England and Wales.
- 1.10** This is a public consultation. We particularly seek views from those involved with the granting of personal licences such as licensing authorities, enforcement agencies, prospective and existing personal licence holders and those that work in or manage premises with a licence to sell or supply alcohol. However, we also welcome views from others and all responses will be carefully considered.
- 1.11** The consultation period will run for 12 weeks from 15 December 2009 to 12 March 2010.
- 1.12** Please respond before the closing date. There is a summary of the questions in chapter 4. Please send responses to [licensingconsultation@culture.gsi.gov.uk](mailto:licensingconsultation@culture.gsi.gov.uk). If you do not have access to e mail, please respond to:

Nigel Wakelin  
Licensing Team  
Sport and Leisure Directorate  
2-4 Cockspur Street  
London SW1Y 5DH

- 1.13** As this is a largely technical issue with specialist interests following detailed discussions with enforcement agencies and local authority representatives, this will be a purely written exercise. Please contact the Licensing Policy team if you require any other format e.g. Braille, Large Font or Audio.
- 1.14** For enquiries about the handling of this consultation please contact the DCMS Public Engagement and Recognition Unit (PERU) at the above address or email using the form at [www.culture.gov.uk/contact\\_us](http://www.culture.gov.uk/contact_us) heading your communication "Consultation on proposal to amend list of relevant offences in Licensing Act 2003".
- 1.15** Copies of responses will be published after the consultation closing date on the Department's website: [www.culture.gov.uk](http://www.culture.gov.uk)
- 1.16** Following consideration of the responses to the consultation, if it is decided to go ahead with amending the relevant offences, the Secretary of State may lay an Order before each House of Parliament. In accordance with section 197(3) of the Act, this Order will be subject to the negative resolution procedure.
- 1.17** Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 ("FOIA"), the Data Protection Act 1998 ("DPA") and the Environmental Information Regulations 2004.
- 1.18** If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.
- 1.19** The Department will process your personal data in accordance with the DPA, and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.



**1.20** The consultation is guided by the Government's Code of Practice on Consultation which is available at: <http://www.berr.gov.uk/whatwedo/bre/code/page46954.html>

# Chapter 2: PERSONAL LICENCES AND CURRENT RELEVANT OFFENCES

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## Granting Personal Licences

**2.1** A personal licence authorises an individual to sell alcohol or to authorise the sale of alcohol in accordance with a premises licence. Every premises which sells alcohol is required to (subject to limited exemptions) have a designated premises supervisor (DPS) who holds a valid personal licence, although the DPS is not required to be on the premises at all times. A premises may also have more than one personal licence holder but only one DPS. The requirement to have a DPS does not apply to a community premises which has applied for and obtained the alternative licence condition under sections 25A or 41D of the Act.

**2.2** A licensing authority must grant an application for a personal licence if:

- The applicant is aged 18 or over;
- The applicant possesses a licensing qualification accredited by the Secretary of State or is a person as prescribed by the Secretary of State by regulations;
- The applicant has not forfeited a personal licence held by them in the 5 years ending with the day the application was made;
- The applicant has paid the appropriate fee to the licensing authority; and
- The police have not given an objection notice about the grant of a personal licence following notification of any unspent relevant offence or foreign offence. (N.B. the licensing authority may still grant the application following such an objection notice if they do not consider it necessary to reject the application on crime prevention grounds.)

## Current Relevant Offences

**2.3** Relevant offence means an offence currently listed in Schedule 4 of the 2003 Act. A conviction that is spent for the purposes of the Rehabilitation of Offenders Act 1974 must be disregarded. If it appears that an applicant for the grant of a personal licence meets the requirements set out in paragraph 2.2 to be granted a personal licence detailed above, save that the applicant has a conviction for a relevant or foreign offence, the chief officer of police is given the opportunity to object to the application on the grounds that its grant would undermine the crime

prevention objective. If the chief officer of police does so object, the licensing authority must hold a hearing to determine the application. Similarly, if an applicant is applying to renew a personal licence and has a conviction for a relevant or foreign offence, the chief officer of police has the same opportunity to make objections and trigger a hearing by the licensing authority.

- 2.4** An unspent conviction does not necessarily preclude a person from being granted or renewing a personal licence, but their application will be scrutinised by the chief of police. In addition, where a court convicts a personal licence holder for a relevant offence, it has power under the Act to declare the licence suspended for a period of up to three months or to declare it forfeit.
- 2.5** The relevant offences can broadly be described as comprising either serious offences which are accepted as attracting societal disapproval (e.g. murder, serious assault, rape and other serious sex offences, drugs offences and theft), or relate directly to the types of activities in which those operating licensed premises will be, or have been, involved (e.g. consumer offences involving alcohol, unlawful broadcasting, unlawful gambling, unlicensed security provision, VAT evasion). For all existing relevant offences, see Annex A.

# Chapter 3: DETAILED PROPOSALS

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- 3.1** This section will set out a list of the proposed new offences. It will explain the scope of each offence, why it is being considered and ask whether it should be included. You can find a summary of the questions in Chapter 4.
- 3.2** We believe that schedule 4 should be kept as concise as possible. For this reason we have subjected the offences that we have considered to the following three tests:
1. Is the offence relevant to carrying out the duties required of a personal licence holder?
  2. Is there evidence that there has been a problem of this offence not being included in schedule 4?
  3. Is the offence of a serious enough nature to sit comfortably with the existing offences in schedule 4?
- 3.3** In order to try and keep the list as concise as possible, we are also welcoming views and evidence of whether any existing relevant offences should be removed.
- 3.4** There are a number of additional offences that have been suggested by stakeholders and which the Government is minded to include, although it is not entirely clear how far they meet the requirements of the three tests, but may warrant inclusion as relevant offences. We would therefore like views on whether these offences should be included as relevant offences now, or at some point in the future when further evidence is available. There are also two further areas for consideration which we would welcome your views on.
- 3.5** For the proposed new offences, please see Annex B.

## **Failure to co-operate with a preliminary test**

- 3.6** The existing list of relevant offences includes three offences under the Road Traffic Act 1988. In essence, these relate to either causing death by careless driving or driving whilst under the influence of alcohol or drugs. However, a noticeable omission is the offence of failing to co-operate with a requirement to provide a preliminary test (whether in relation to alcohol, impairment or drugs). Under section 6 of the Road Traffic Act 1988, a constable may require a person to co-operate with a preliminary test if, for example, a constable reasonably suspects

that the person is driving or has been driving when they have alcohol or a drug in their body, are under the influence of alcohol or a drug, or are impaired. A person commits an offence if without reasonable excuse they fail to co-operate with a preliminary test. A preliminary test includes any of the tests described in sections 6A to 6C of the Road Traffic Act 1988, which include a preliminary breath test (section 6A), a preliminary impairment test (section 6B) and a preliminary drug test (section 6C). We propose that the offence of failing to co-operate with a preliminary test is added to the relevant offences.

- 3.7** We believe that the addition of this offence removes this anomaly and introduces consistency into the existing regime.

## Question

**1. Would you support the inclusion of the ‘Failure to co-operate with a preliminary test’ under section 6 of the Road Traffic Act 1988 in the relevant offences? Please explain your answer.**

## Conspiracy Offences

- 3.8** Many offences also have a related offence of conspiracy to commit that offence.
- 3.9** The crime of conspiracy is the agreement by two or more people to carry out a criminal act. The criminal act with which we are concerned is one or more of the relevant offences. Even if nothing is done beyond the agreement, the offence of conspiracy is complete. The agreement is key to the offence. This cannot be a mere mental operation; it must involve spoken or written words or other overt acts. If the defendant repents and withdraws immediately after the agreement has been concluded, they are still guilty of the offence. There must be an agreement to commit the criminal offence, but the motives of the conspirators are irrelevant.
- 3.10** Conspiracy arises in both statute and common law (common law is essentially the law developed by the courts). The Criminal Law Act 1977 creates and defines the offence of statutory conspiracy. It is not limited to agreements to commit a statutory crime (agreements to commit the common law offence of murder are charged under this offence). Under the common law, it is an offence to agree (a) to defraud, whether or not the fraud amounts to a crime, or (b) to do an act which tends to corrupt public morals or outrage public decency, whether or not the act amounts to a crime. The proposed new offences will not include this latter offence of conspiracy as it does not fall within the range of relevant offences. An agreement to commit a crime involving fraud or dishonesty is both a statutory conspiracy and a conspiracy to defraud.
- 3.11** The Government proposes that the related offences of conspiracy in respect of the existing relevant offences should be added to the list of relevant offences and

therefore capable of being considered by the police in relation to applications for personal licences.

- 3.12** For the list of proposed offences of conspiracy offences which would be added, please see Annex B. We would add that each and every existing relevant offence does not have a corresponding offence of conspiracy as it is not possible to conspire to commit certain existing relevant offences. For example, there is a relevant offence of false trade description of goods in circumstances where the goods in question are or include alcohol under section 1 of the Trade Descriptions Act 1968. It is not possible to conspire to commit this offence. It should be clear from Annex B which relevant offences do have a corresponding offence of conspiracy.

## **Question**

**2. Would you support the inclusion of conspiracy offences related to the offences included in the relevant offences? Please explain your answer.**

## **Attempt Offences**

- 3.13** As with offences of conspiracy considered above, many offences also have a related offence of attempting to commit an offence. A person is guilty of attempting to commit an offence under the Criminal Attempts Act 1981 if they do an act which is more than preparatory to the commission of the offence with the intention of committing an offence.
- 3.14** In each case it is a question of fact whether the accused has gone sufficiently far towards the full offence to have committed the act which is a key part of the attempt. If the accused has passed the preparatory stage, the offence of attempt has been committed and it is no defence that they then withdrew from committing the completed offence.
- 3.15** The Government proposes that the attempt offences in relation to the existing relevant offences should also be added to the list of relevant offences. We believe that the relevant offences are such that a conviction of attempting to commit any one of these offences should also be capable of being considered by the police in relation to applications for personal licences.
- 3.16** For the list of potential attempt offences that would be added, please see Annex B. We would add that each and every relevant offence does not have a corresponding offence of attempt as it is not possible to attempt to commit certain relevant offences. For example, there is a relevant offence of causing death by careless driving while under the influence of drink or drugs under section 3A of the Road Traffic Act 1988, but it is not possible to attempt to commit this offence. It should be clear from Annex B which relevant offences do have a corresponding offence of attempt.

## Question

**3. Would you support the inclusion of attempt offences arising under the Criminal Attempts Act 1981 in the relevant offences? Please explain your answer.**

**4. Do you think that any of the offences suggested in questions 1-3 above are not appropriate to be included in the relevant offences? Please explain your answer.**

### Relevant Offences from Acts that the 2003 Act replaced.

**3.17** There are a number of Acts that the 2003 Act wholly or partly repealed on 24 November 2005. However, as a person could have committed such an offence before the date of repeal and could therefore have held an unspent conviction for one or more of these offences, these were included in the existing list of relevant offences. These include the following Acts:

- London Government Act 1963
- Licensing Act 1964
- Private Places of Entertainment (Licensing) Act 1967
- Theatres Act 1968
- Late Night Refreshment Houses Act 1969
- Local Government (Miscellaneous Provisions) Act 1982
- Licensing (Occasional Permissions) Act 1983
- Cinemas Act 1985
- London Local Authorities Act 1990

**3.18** A person could also have been convicted of a conspiracy or attempt to commit one of these relevant offences. As a result, we have considered including them in the list of new offences. However, we do not believe that any of the relevant offences under these Acts attracted a prison sentence exceeding six months, which means that any such convictions are all capable of becoming 'spent'. Whilst the rehabilitation period would vary from case to case depending on the nature and/or extent of the sentence and it would be possible that there are some convictions for these relevant offences which remain unspent, we have not been given any examples of an unspent conviction for any of these offences. We have therefore decided not to include new offences of attempt and conspiracy related to the relevant offences that were repealed by the 2003 Act.

**3.19** We would welcome views on whether you think that this is an appropriate decision to have taken. We would also welcome any evidence of unspent convictions for the offences concerned.

## Questions

**5. Do you agree that conspiracy and attempt offences related to relevant offences from those Acts repealed by the 2003 Act should not be included in the list of new offences? If not, why not?**

**6. Do you have any evidence of unspent convictions for conspiracy and attempt offences related to relevant offences from those Acts repealed by the 2003 Act.**

## Removal of Offences

**3.20** We are also consulting on whether there are any offences currently included in the list of relevant offences that you feel should be removed. A list of the existing relevant offences is at Annex A.

**3.21** All relevant offences should be judged against the general benchmark ‘Should the police be capable of considering whether a person who has been convicted of the offence in question be granted a personal licence or might that not be appropriate because, for example it could undermine the crime prevention objective?’ In order to help establish this, we would also encourage you to consider them against the three tests identified in paragraph 3.2. These are:

1. Is the offence relevant to carrying out the duties required of a personal licence holder?
2. Is there evidence that there has been a problem of this offence not being included in schedule 4?
3. Is the offence of a serious enough nature to sit comfortably with the existing offences in schedule 4?

**3.22** There may also be relevant offences that you feel should not be included because the number of prosecutions for the particular offence is so low that their inclusion is not necessary.

**3.23** It is our opinion that the list of relevant offences should be as concise as possible. Whilst we need to make sure that it contains all necessary protection to the public, we also believe that in order to develop a good working understanding of the offences, it should not contain any superfluous or unnecessary offences. We feel that it is important that police time is not wasted in considering offences that are either irrelevant to the duties of a personal licence holder or are of a minor nature which does not impact on the personal licence holder’s duties. We would also not wish to deter people from applying for a personal licence unnecessarily. For these reasons, we would be particularly interested in hearing the views of the enforcement agencies.



## Questions

**7. Are there any offences in the relevant offences that you feel should be removed from the list? If so, why?**

## Additional Offences

- 3.24** In addition to consulting on whether there are any offences in the relevant offences that you feel should be removed from the list, the Government is minded to include a further two offences, drunk and disorderly behaviour in a public place and possession of a controlled drug. Although we are mindful that the list of relevant offences should be as concise as possible, we feel there may be reason to include these offences even though it is not entirely clear at the present time that they pass the three tests.
- 3.25** A conviction for drunk and disorderly behaviour under section 91 of the Criminal Justice Act 1967 may indicate an irresponsible attitude towards alcohol. This offence will often be dealt with through the issue of a £80 penalty notice (which is not recorded as a conviction) which may suggest that it does not carry the same level of seriousness as existing relevant offences. However, it can be argued that, in more serious instances, there may be a prosecution and conviction which would then allow the police to consider the suitability of the offender to act as a personal licence holder. But it is also the case that a conviction may have resulted from an individual exercising their right to have the case heard in court (as opposed to accepting a penalty notice) rather than be an indication of the seriousness of the offence.
- 3.26** The existing relevant offences already recognise that licensed premises can be associated with drug dealing. Although the Government is proposing to add the offences of conspiracy and attempt to produce and/or supply a controlled drug to the list of relevant offences, it has been suggested that an unspent conviction for possession of a controlled drug under the Misuse of Drugs Act 1971, might also be a legitimate reason for the police to consider the suitability of a prospective personal licence holder, for example, if that individual is known to associate with drug dealers. As one of the three tests concerns the severity of the offence, the Government is particularly interested in views on whether possession of all classes of a controlled drug should be considered a relevant offence.

## Questions

**8. Should an unspent conviction for drunk and disorderly behaviour in a public place be included in the list of relevant offences? Please include the reasons for your view.**

**9. Should an unspent conviction for the possession of a controlled drug be included in the list of relevant offences and, if so, which classes of a controlled drug should be included. Please include the reasons for your view.**

### **Areas for further consideration**

- 3.27** The Government has recently introduced new arrangements to deal with persistent sales of tobacco to under 18s and is considering whether such sales should be considered as a relevant offence. As this is a relatively new measure, will look at this again in the near future once its use and impact becomes clearer.
- 3.28** There are also offences under the Food Safety Act that are being considered as a part of the Government's work on a code of practice for the retail of alcohol. These offences are not yet part of legislation. Should they become statutory offences, Government is minded to consider whether these offences meet the three tests laid out above and to consider whether they are therefore appropriate to be included as 'relevant offences' under Schedule 4 of the Act

### **Question**

**10. Do you have any views on whether persistent sales of tobacco to under 18s and offences under the Food Safety Act should be reflected in the relevant offences?**

### **Impact Assessment**

- 3.29** An Impact Assessment accompanies this consultation at Annex C. For a more detailed explanation of the costs and benefits, please see this. We believe that the amendments proposed will have a marginal cost to businesses.
- 3.30** We have not been able to calculate the number of people that the new amendments will affect. This is largely because, other than failure to cooperate with a preliminary breath test, it has not been possible to obtain the data for how many people are convicted of the new offences.
- 3.31** In the case of the offence of failing to cooperate with a preliminary test, we were able to obtain data for the number of people convicted for failing to cooperate with a preliminary breath test. We could then calculate how many of these people are likely to apply for a personal licence. We then used this to base an estimate of the number of people likely to apply for a personal licence with a conviction for failing to cooperate with a preliminary impairment test or a preliminary drugs test. This supported our belief that a very small number of people would be affected.

For details of our findings, please see the Impact Assessment that accompanies this consultation at Annex C.

- 3.32** In respect of the proposed addition of the related offences of conspiracy and attempt, it has not been possible obtain statistics for offences of conspiracy other than conspiracy to murder because this is the only offence of conspiracy for which separate statistics are available; the figures for the number of convictions of other offences of conspiracy is not separated out from the related substantive offence. Basing an estimate on the incidence of conspiracy to murder alone would not provide us with an accurate indication of the incidence of the new offences as a whole, as the numbers of convictions for these is likely to vary significantly from offence to offence. The Ministry of Justice, which is responsible for compiling these statistics, has also advised that trying to collate data about the number of convictions for the new offences would take a disproportionate amount of time and effort in view of the small numbers of people likely to be affected.
- 3.33** Furthermore, having this data would not make it possible to calculate accurately how many of these people are likely to apply for a personal licence. It should also be taken into account that having an unspent conviction for a relevant offence does not preclude a person from being granted a personal licence, but instead means that the police will consider the application in light of such a conviction.
- 3.34** We do however estimate that the number of people affected by these proposals will be very small. Between April 2006 and March 2008, an average of 388 applications for a personal licence were refused per annum, representing 0.7% of all personal licence applications. The Government does not estimate that this would be significantly increased by the proposed changes. The changes will only affect those who would like to apply for or renew a personal licence and who have an unspent conviction for one or more of the proposed new offences.
- 3.35** There will be an application cost for those people that apply for a personal licence and are refused as a result of a new offence, which we estimate to be £284 per application (for a full break-down of this cost, please see the Impact Assessment at Annex C). It is however possible that some people with an unspent conviction for the new offences may be deterred from applying for a personal licence.
- 3.36** There is also a potential loss of earnings cost for those that are prevented or deterred from obtaining a personal licence based on the assumption that a person could command higher wages as a personal licence holder. However, these proposals would not preclude them from working in licensed premises and would not affect them in other employment fields. We therefore feel that the effect of this will be very small.

## **Benefits**

- 3.37** The benefits of the proposal will be social rather than directly financial. The offences proposed are designed to enable greater scrutiny of people who have an unspent conviction of the offences proposed in order to help ensure that they uphold and promote the licensing objectives. This will allow the police to advise the licensing authority to refuse applications for a personal licence from persons

that they consider unfit to fulfill the duties and responsibilities of a personal licence holder. This will help to ensure that licensed premises are responsibly run.

- 3.38** There could also be indirect benefits as if a licensed premises is responsibly run, the likelihood that it will have problems which could lead to a licence review and possibly to conditions being added to its premises licence is reduced. This would avoid a potentially costly and burdensome process.

## **Questions**

**11. Do you agree with the assumptions that we have made in calculating the costs of the proposals? Do you have any evidence to support your opinion?**

**12. Do you agree that the suggested costs and benefits set out in the Impact Assessment are a reasonable estimate of the potential costs and benefits?**

**13. Are you able to provide us with data that will help us to calculate the costs and benefits of the proposals?**

# Chapter 4: SUMMARY OF QUESTIONS

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1. Would you support the inclusion of the 'Failure to co-operate with a preliminary test' under section 6 of the Road Traffic Act 1988 in the relevant offences? Please explain your answer.
2. Would you support the inclusion of conspiracy offences related to the offences included in the relevant offences? Please explain your answer.
3. Would you support the inclusion of attempt offences arising under the Criminal Attempts Act 1981 in the relevant offences? Please explain your answer.
4. Do you think that any of the offences suggested in questions 1-3 above are not appropriate to be included in the relevant offences? Please explain your answer.
5. Do you agree that conspiracy and attempt offences related to relevant offences from those Acts repealed by the 2003 Act should not be included in the list of new offences? If not, why not?
6. Do you have any evidence of unspent convictions for conspiracy and attempt offences related to relevant offences from those Acts repealed by the 2003 Act?
7. Are there any offences in the relevant offences that you feel should be removed from the list? If so, why?

**8. Should an unspent conviction for Drunk and Disorderly be included in the list of relevant offences? Please include the reasons for your view.**

**9. Should an unspent conviction for Possession of Controlled Drugs be included in the list of relevant offences and, if so, which classes of controlled substances should be included. Please include the reasons for your view.**

**10. Do you have any views on whether persistent sales of tobacco to under 18s and offences under the food safety act should be reflected in the relevant offences?**

**11. Do you agree with the assumptions that we have made in calculating the costs of the proposals? Do you have any evidence to support your opinion?**

**12. Do you agree that the suggested costs and benefits set out in the Impact Assessment are a reasonable estimate of the potential costs and benefits?**

**13. Are you able to provide us with data that will help us to calculate the costs and benefits of the proposals?**

# ANNEX A: SCHEDULE 4 OF THE ACT

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## SCHEDULE 4

Section 113

### PERSONAL LICENCE: RELEVANT OFFENCES

- 1** An offence under this Act.
- 2** An offence under any of the following enactments—
  - (a) Schedule 12 to the London Government Act 1963 (c 33) (public entertainment licensing);
  - (b) the Licensing Act 1964 (c 26);
  - (c) the Private Places of Entertainment (Licensing) Act 1967 (c 19);
  - (d) section 13 of the Theatres Act 1968 (c 54);
  - (e) the Late Night Refreshment Houses Act 1969 (c 53);
  - (f) section 6 of, or Schedule 1 to, the Local Government (Miscellaneous Provisions) Act 1982 (c 30);
  - (g) the Licensing (Occasional Permissions) Act 1983 (c 24);
  - (h) the Cinemas Act 1985 (c 13);
  - (i) the London Local Authorities Act 1990 (c vii).
- 3** An offence under the Firearms Act 1968 (c 27).
- 4** An offence under section 1 of the Trade Descriptions Act 1968 (c 29) (false trade description of goods) in circumstances where the goods in question are or include alcohol.
- 5** An offence under any of the following provisions of the Theft Act 1968 (c 60)—
  - (a) section 1 (theft);
  - (b) section 8 (robbery);
  - (c) section 9 (burglary);
  - (d) section 10 (aggravated burglary);

- (e) section 11 (removal of articles from places open to the public);
  - (f) section 12A (aggravated vehicle-taking), in circumstances where subsection (2)(b) of that section applies and the accident caused the death of any person;
  - (g) section 13 (abstracting of electricity);
  - (h) section 15 (obtaining property by deception);
  - (i) section 15A (obtaining a money transfer by deception);
  - (j) section 16 (obtaining pecuniary advantage by deception);
  - (k) section 17 (false accounting);
  - (l) section 19 (false statements by company directors etc);
  - (m) section 20 (suppression, etc of documents);
  - (n) section 21 (blackmail);
  - (o) section 22 (handling stolen goods);
  - (p) section 24A (dishonestly retaining a wrongful credit);
  - (q) section 25 (going equipped for stealing etc).
- 6** An offence under section 7(2) of the Gaming Act 1968 (c 65) (allowing child to take part in gaming on premises licensed for the sale of alcohol).
- 7** An offence under any of the following provisions of the Misuse of Drugs Act 1971 (c 38)—
- (a) section 4(2) (production of a controlled drug);
  - (b) section 4(3) (supply of a controlled drug);
  - (c) section 5(3) (possession of a controlled drug with intent to supply);
  - (d) section 8 (permitting activities to take place on premises).
- 8** An offence under either of the following provisions of the Theft Act 1978 (c 31)—
- (a) section 1 (obtaining services by deception);
  - (b) section 2 (evasion of liability by deception).
- 9** An offence under either of the following provisions of the Customs and Excise Management Act 1979 (c 2)—
- (a) section 170 (disregarding subsection (1)(a)) (fraudulent evasion of duty etc);
  - (b) section 170B (taking preparatory steps for evasion of duty).



- 10** An offence under either of the following provisions of the Tobacco Products Duty Act 1979 (c 7)—
  - (a) section 8G (possession and sale of unmarked tobacco);
  - (b) section 8H (use of premises for sale of unmarked tobacco).
- 11** An offence under the Forgery and Counterfeiting Act 1981 (c 45) (other than an offence under section 18 or 19 of that Act).
- 12** An offence under the Firearms (Amendment) Act 1988 (c 45).
- 13** An offence under any of the following provisions of the Copyright, Designs and Patents Act 1988 (c 48)—
  - (a) section 107(1)(d)(iii) (public exhibition in the course of a business of article infringing copyright);
  - (b) section 107(3) (infringement of copyright by public performance of work etc);
  - (c) section 198(2) (broadcast etc of recording of performance made without sufficient consent);
  - (d) section 297(1) (fraudulent reception of transmission);
  - (e) section 297A(1) (supply etc of unauthorised decoder).
- 14** An offence under any of the following provisions of the Road Traffic Act 1988 (c 52)—
  - (a) section 3A (causing death by careless driving while under the influence of drink or drugs);
  - (b) section 4 (driving etc a vehicle when under the influence of drink or drugs);
  - (c) section 5 (driving etc a vehicle with alcohol concentration above prescribed limit).
- 15** An offence under either of the following provisions of the Food Safety Act 1990 (c 16) in circumstances where the food in question is or includes alcohol—
  - (a) section 14 (selling food or drink not of the nature, substance or quality demanded);
  - (b) section 15 (falsely describing or presenting food or drink).
- 16** An offence under section 92(1) or (2) of the Trade Marks Act 1994 (c 26) (unauthorised use of trade mark, etc in relation to goods) in circumstances where the goods in question are or include alcohol.
- 17** An offence under the Firearms (Amendment) Act 1997 (c 5).
- 18** A sexual offence, being an offence—

- (a) listed in Part 2 of Schedule 15 to the Criminal Justice Act 2003, other than the offence mentioned in paragraph 95 (an offence under section 4 of the Sexual Offences Act 1967 (procuring others to commit homosexual acts));
  - (b) an offence under section 8 of the Sexual Offences Act 1956 (intercourse with a defective);
  - (c) an offence under section 18 of the Sexual Offences Act 1956 (fraudulent abduction of an heiress).
- 19** A violent offence, being any offence which leads, or is intended or likely to lead, to a person's death or to physical injury to a person, including an offence which is required to be charged as arson (whether or not it would otherwise fall within this definition).
- 20** An offence under section 3 of the Private Security Industry Act 2001 (c 12) (engaging in certain activities relating to security without a licence).
- 21** An offence under section 46 of the Gambling Act 2005 if the child or young person was invited, caused or permitted to gamble on premises in respect of which a premises licence under this Act had effect.
- 22** An offence under the Fraud Act 2006.
- 22** An offence under regulation 6 of the Business Protection from Misleading Marketing Regulations 2008 (offence of misleading advertising) in circumstances where the advertising in question relates to alcohol or to goods that include alcohol.
- 23** An offence under regulation 8, 9, 10, 11 or 12 of the Consumer Protection from Unfair Trading Regulations 2008 (offences relating to unfair commercial practices) in circumstances where the commercial practice in question is directly connected with the promotion, sale or supply of alcohol or of a product that includes alcohol.

# ANNEX B: OFFENCES PROPOSED TO BE ADDED

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## Failure to co-operate with a preliminary test

Road Traffic Act 1988 – Section 6(6).

A person commits an offence if without reasonable excuse he fails to co-operate with one or more of the preliminary tests described in sections 6A to 6C of the Road traffic Act 1988 in the circumstances set out in section 6(2) to (5) of that Act.

These tests are:

- A – Preliminary breath test
- B – Preliminary impairment test
- C – Preliminary drug test

## Attempt and conspiracy offences

The table below sets out potential new offences as a result of adding attempt and conspiracy to the list of relevant offences

Sch.4 s.	Offence	Attempt*	Conspiracy*
			*with text where explicit
3	Firearms Act 1968	<b>3 Business and other transactions with firearms and ammunition</b>	<b>3 Business and other transactions with firearms and ammunition</b>
		<b>5 Weapons subject to general prohibition</b>	<b>5 Weapons subject to general prohibition</b>
		<b>6 Power to prohibit movement of arms and ammunition</b>	<b>6 Power to prohibit movement of arms and ammunition</b>
		<b>17 Use of firearm to resist arrest</b>  (1) It is an offence for a person to make or attempt to make any use whatsoever of a firearm or imitation firearm with intent to resist or prevent the lawful arrest or detention of	

		himself or another person.	
		<b>21 Possession of firearms by persons previously convicted of crime (inc supply)</b>	
		<b>24 Supplying firearms to minors</b>	<b>24 Supplying firearms to minors</b>
		<b>25 Supplying firearm to person drunk or insane</b>	<b>25 Supplying firearm to person drunk or insane</b>
		<b>46 Power of search with warrant</b>	
5	Theft Act 1968	<b>1 Basic definition of theft</b>	<b>1 Basic definition of theft</b>
		<b>8 Robbery</b>	<b>8 Robbery</b>
		<b>9 Burglary</b>	<b>9 Burglary</b>
		<b>10 Aggravated burglary</b>	<b>10 Aggravated burglary</b>
		<b>11 Removal of articles from places open to the public</b>	<b>11 Removal of articles from places open to the public</b>
		<b>12A Aggravated vehicle-taking</b>	<b>12A Aggravated vehicle-taking</b>
		<b>13 Abstracting of electricity</b>	<b>13 Abstracting of electricity</b>
		<b>15 Obtaining property by deception</b>	<b>15 Obtaining property by deception</b>
		<b>15A Obtaining a money transfer by deception</b>	<b>15A Obtaining a money transfer by deception</b>
		<b>16 Obtaining pecuniary advantage by deception</b>	<b>16 Obtaining pecuniary advantage by deception</b>
		<b>20 Suppression, etc of documents</b>	<b>20 Suppression, etc of documents</b>
		<b>21 Blackmail</b>	<b>21 Blackmail</b>
		<b>22 Handling stolen goods</b>	
7	Misuse of Drugs Act 1971	<b>4(2) Production of a controlled drug</b>	<b>4(2) Production of a controlled drug</b>
		<b>4(3) Supply of a controlled drug</b>	<b>4(3) Supply of a controlled drug</b>

8	Theft Act 1978	<b>1 Obtaining services by deception</b>	<b>1 Obtaining services by deception</b>
		<b>2 Evasion of liability by deception</b>	<b>2 Evasion of liability by deception</b>
9	Customs and Excise Management Act 1979	<b>170 Fraudulent evasion of duty</b>	
10	Tobacco Products Duty Act 1979	<b>8G Possession and sale of unmarked tobacco</b>	<b>8G Possession and sale of unmarked tobacco</b>
11	Forgery and Counterfeiting Act 1981		<b>1 The offence of forgery</b>
			<b>2 The offence of copying a false instrument</b>
		<b>3 The offence of using a false instrument</b>	<b>3 The offence of using a false instrument</b>
		<b>4 The offence of using a copy of a false instrument</b>	<b>4 The offence of using a copy of a false instrument</b>
			<b>14 Offences of counterfeiting notes and coins</b>
		<b>15 Offences of passing etc. counterfeit notes and coins</b>	<b>15 Offences of passing etc. counterfeit notes and coins</b>
		<b>17 Offences involving the making or custody or control of counterfeiting materials and implements</b>	<b>17 Offences involving the making or custody or control of counterfeiting materials and implements</b>
		<b>20 Prohibition of importation of counterfeit notes and coins</b>	<b>20 Prohibition of importation of counterfeit notes and coins</b>
		<b>21 Prohibition of exportation of counterfeit notes and coins</b>	<b>21 Prohibition of exportation of counterfeit notes and coins</b>
12	Firearms (Amendment) Act 1988	<b>5 Restriction on sale of ammunition for smooth-bore guns</b>	<b>5 Restriction on sale of ammunition for smooth-bore guns</b>
		<b>6 Shortening of barrels</b>	
		<b>15 Rifle and pistol clubs</b>	
		<b>Sch 4 Offences and enforcement (1) (museum causing person to fail to comply with condition for licence)</b>	

13	Copyright, Designs and Patents Act 1988		<b>107(1)(d)(iii) Public exhibition in the course of a business of article infringing copyright</b>
			<b>107(1)(d)(iii) Public exhibition in the course of a business of article infringing copyright</b>
			<b>198(2) Broadcast etc of recording of performance made without sufficient consent</b>
		<b>297(1) Fraudulent reception of transmission</b>	<b>297(1) Fraudulent reception of transmission</b>
			<b>297A(1) Supply etc of unauthorised decoder</b>
15	Food Safety Act 1990	<b>14 Selling food or drink not of the nature, substance or quality demanded</b>	<b>14 Selling food or drink not of the nature, substance or quality demanded</b>
16	Trade Marks Act 1994	<b>92(1) Unauthorised use of trade mark, etc in relation to goods (in circumstances where the goods in question are or include alcohol)</b>	<b>92(1) Unauthorised use of trade mark, etc in relation to goods (in circumstances where the goods in question are or include alcohol)</b>
18	Criminal Justice Act 2003 (Sexual Offences Act 1956)	<b>66 An offence under section 1 of the Sexual Offences Act 1956 (rape)</b>	<b>66 An offence under section 1 of the Sexual Offences Act 1956 (rape)</b>
		<b>67 An offence under section 2 of that Act (procurement of woman by threats)</b>	<b>67 An offence under section 2 of that Act (procurement of woman by threats)</b>
		<b>68 An offence under section 3 of that Act (procurement of woman by false pretences)</b>	<b>68 An offence under section 3 of that Act (procurement of woman by false pretences)</b>
		<b>69 An offence under section 4 of that Act (administering drugs to obtain or facilitate intercourse)</b>	<b>69 An offence under section 4 of that Act (administering drugs to obtain or facilitate intercourse)</b>
		<b>70 An offence under section 5 of that Act (intercourse with girl under thirteen)</b>	
		<b>71 An offence under section 6 of that Act (intercourse with girl under 16)</b>	
		<b>72 An offence under section 7 of that Act (intercourse with a defective)</b>	

		<b>73 An offence under section 9 of that Act (procurement of a defective)</b>	<b>73 An offence under section 9 of that Act (procurement of a defective)</b>
		<b>74 An offence under section 10 of that Act (incest by a man)</b>	
		<b>75 An offence under section 11 of that Act (incest by a woman)</b>	
		<b>79 An offence under section 17 of that Act (abduction of woman by force or for the sake of her property)</b>	<b>79 An offence under section 17 of that Act (abduction of woman by force or for the sake of her property)</b>
		<b>80 An offence under section 19 of that Act (abduction of unmarried girl under eighteen from parent or guardian)</b>	<b>80 An offence under section 19 of that Act (abduction of unmarried girl under eighteen from parent or guardian)</b>
		<b>81 An offence under section 20 of that Act (abduction of unmarried girl under sixteen from parent or guardian)</b>	<b>81 An offence under section 20 of that Act (abduction of unmarried girl under sixteen from parent or guardian)</b>
		<b>82 An offence under section 21 of that Act (abduction of defective from parent or guardian)</b>	<b>82 An offence under section 21 of that Act (abduction of defective from parent or guardian)</b>
		<b>83 An offence under section 22 of that Act (causing prostitution of women)</b>	
		<b>84 An offence under section 23 of that Act (procuration of girl under twenty-one)</b>	<b>84 An offence under section 23 of that Act (procuration of girl under twenty-one)</b>
		<b>89 An offence under section 28 of that Act (causing or encouraging the prostitution of, intercourse with or indecent assault on girl under sixteen)</b>	
		<b>90 An offence under section 29 of that Act (causing or encouraging prostitution of defective)</b>	
			<b>92 An offence under section 33 of that Act (keeping a brothel)</b>
	Criminal Justice Act 2003 (Mental Health Act 1959)	<b>92 An offence under section 128 of the Mental Health Act 1959 (sexual intercourse with patients)</b>	

	Criminal Justice Act 2003 (Theft Act 1968)	<b>97 An offence under section 9 of the Theft Act 1968 of burglary with intent to commit rape</b>	
	Criminal Justice Act 2003 (Criminal Law Act 1977)	<b>98 An offence under section 54 of the Criminal Law Act 1977 (inciting girl under sixteen to have incestuous sexual intercourse)</b>	
	Criminal Justice Act 2003 (Protection of Children Act 1978)	<b>99 An offence under section 1 of the Protection of Children Act 1978 (indecent photographs of children)</b>	
	Criminal Justice Act 2003 (Sexual Offences Act 2003)	<b>102 An offence under section 1 of the Sexual Offences Act 2003 (rape)</b>	
		<b>103 An offence under section 2 of that Act (assault by penetration)</b>	
		<b>106 An offence under section 5 of that Act (rape of a child under 13)</b>	
		<b>107 An offence under section 6 of that Act (assault of a child under 13 by penetration)</b>	
		<b>109 An offence under section 8 of that Act (causing or inciting a child under 13 to engage in sexual activity)</b>	
		<b>110 An offence under section 9 of that Act (sexual activity with a child)</b>	
		<b>111 An offence under section 10 of that Act (causing or inciting a child to engage in sexual activity)</b>	
			<b>112 An offence under section 11 of that Act (engaging in sexual activity in the presence of a child)</b>
		<b>113 An offence under section 12 of that Act (causing a child to watch a sexual act)</b>	
		<b>114 An offence under section 13 of that Act (child sex offences committed by children or young persons)</b>	<b>114 An offence under section 13 of that Act (child sex offences committed by children or young persons)</b>
		<b>116 An offence under section 15 of that Act (meeting a child following sexual grooming etc.)</b>	
		<b>117 An offence under section 16 of that Act (abuse of</b>	<b>117 An offence under section 16 of that Act (abuse of</b>



		<b>position of trust: sexual activity with a child)</b>	<b>position of trust: sexual activity with a child)</b>
		<b>120 An offence under section 19 of that Act (abuse of position of trust: causing a child to watch a sexual act)</b>	
		<b>121 An offence under section 25 of that Act (sexual activity with a child family member)</b>	
		<b>123 An offence under section 30 of that Act (sexual activity with a person with a mental disorder impeding choice)</b>	
			<b>125 An offence under section 32 of that Act (engaging in sexual activity in the presence of a person with a mental disorder impeding choice)</b>
		<b>126 An offence under section 33 of that Act (causing a person with a mental disorder impeding choice to watch a sexual act)</b>	<b>126 An offence under section 33 of that Act (causing a person with a mental disorder impeding choice to watch a sexual act)</b>
		<b>128 An offence under section 35 of that Act (causing a person with a mental disorder to engage in or agree to engage in sexual activity by inducement, threat or deception)</b>	
		<b>130 An offence under section 37 of that Act (causing a person with a mental disorder to watch a sexual act by inducement, threat or deception)</b>	<b>130 An offence under section 37 of that Act (causing a person with a mental disorder to watch a sexual act by inducement, threat or deception)</b>
		<b>131 An offence under section 38 of that Act (care workers: sexual activity with a person with a mental disorder)</b>	
		<b>132 An offence under section 39 of that Act (care workers: causing or inciting sexual activity)</b>	
		<b>134 An offence under section 41 of that Act (care workers: causing a person with a mental disorder to watch a sexual act)</b>	
			<b>135 An offence under section 47 of that Act (paying for sexual services of a child)</b>

			137 An offence under section 49 of that Act (controlling a child prostitute or a child involved in pornography)
		139 An offence under section 52 of that Act (causing or inciting prostitution for gain)	
		141 An offence under section 57 of that Act (trafficking into the UK for sexual exploitation)	141 An offence under section 57 of that Act (trafficking into the UK for sexual exploitation)
		142 An offence under section 58 of that Act (trafficking within the UK for sexual exploitation)	142 An offence under section 58 of that Act (trafficking within the UK for sexual exploitation)
		143 An offence under section 59 of that Act (trafficking out of the UK for sexual exploitation)	143 An offence under section 59 of that Act (trafficking out of the UK for sexual exploitation)
		144 An offence under section 61 of that Act (administering a substance with intent)	144 An offence under section 61 of that Act (administering a substance with intent)
		145 An offence under section 62 of that Act (committing an offence with intent to commit a sexual offence)	145 An offence under section 62 of that Act (committing an offence with intent to commit a sexual offence)
		147 An offence under section 64 of that Act (sex with an adult relative: penetration)	
		151 An offence under section 69 of that Act (intercourse with an animal)	
		152 An offence under section 70 of that Act (sexual penetration of a corpse)	
		153 An offence of—  (a) aiding, abetting, counselling, procuring or inciting the commission of an offence specified in this Part of this Schedule, (b) conspiring to commit an offence so specified, or (c) attempting to commit an offence so specified.	153 An offence of—  (a) aiding, abetting, counselling, procuring or inciting the commission of an offence specified in this Part of this Schedule, (b) conspiring to commit an offence so specified, or (c) attempting to commit an offence so specified.
19	Violent offences	The attempt to commit any offence leading, intended to lead or likely to lead to a person's death or to physical injury to a person, including arson (whether or not it would otherwise	The attempt to commit any offence leading, intended to lead or likely to lead to a person's death or to physical injury to a person, including arson (whether or not it would otherwise

		fall within this definition)	fall within this definition)
20	Private Security Industry Act 2001	None	<b>3 Engaging in certain activities relating to security without a licence</b>
22	Fraud Act 2006		<b>2 Fraud by false representation</b>
			<b>3 Fraud by failing to disclose information</b>
			<b>11 Obtaining services dishonestly</b>
22	Business Protection from Misleading Marketing Regulations 2008		<b>6 Misleading advertising (where the advertising in question relates to alcohol or goods including alcohol)</b>
23	Consumer Protection from Unfair Trading Regulations 2008		<b>8 Commercial practice contravening professional due diligence distorting the economic behaviour of the consumer</b>
			<b>11 Aggressive commercial practice</b>

# ANNEX C: IMPACT ASSESSMENT

## Summary: Intervention & Options

<b>Department /Agency:</b> <b>■ Department of Culture, Media and Sport</b>		<b>Title:</b> <b>■ Impact Assessment for proposals to amend the list of relevant offences in schedule 4 of the Licensing Act 2003.</b>	
<b>Stage:</b> Consultation	<b>Version:</b> 1.3	<b>Date:</b> 07/10/2009	
<b>Related Publications:</b>			

Available to view or download at:

<http://www.>

**Contact for enquiries:** Anna Woodham

**Telephone:** 0207 211 6435

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

The Government would like to consult on amending the list of 'Personal licence: relevant offences' in Schedule 4 to the Licensing Act 2003 ("the 2003 Act"), which result in an individual's application for a personal licence being considered against the crime prevention objective by the police. The current sections of the Act relating to relevant offences are working well but following representations from enforcement stakeholders, it was brought to our attention that there are several offences not currently included that there is good reason to include. We are consulting on whether certain offences should be added to the list and whether any should be taken away.

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

Having examined requests from key enforcement partners, the Government believes that there are some offences that should be included in the list of relevant offences in the Act but which aren't currently included. The Government agrees that an application for a personal licence submitted by a person with an unspent conviction for one or more of the proposed offences should be more carefully scrutinised than that of other applicants. There may also be some offences included in the list that are either little used, considered outdated, or not directly relevant to a person's suitability to hold a personal licence.

### What policy options have been considered? Please justify any preferred option.

The Government has explored which offences to include with relevant stakeholders. We have only included those that satisfy tests identified below in order to establish if offences are appropriate to be included in schedule 4. Broadly speaking, the tests are that the offence is relevant to carrying out the duties of a personal licence holder; that there is evidence that supports including the offence; and that they are of a similar nature and gravity as the existing relevant offences. For the most part, we have added the corresponding offences for 'conspiracy' and 'attempt' (where appropriate) to the offences currently in the list. We are also proposing that the offences for failing to cooperate with a preliminary test under section 6(6) of the Road Traffic Act 1988 be included as this is a notable omission. See Annex B for a full list of proposed offences.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

We will review the actual costs and benefits of the proposals three calendar years after implementation (subject to Parliament) if necessary and appropriate.

**Ministerial Sign-off** For Consultation Stage Impact Assessments:

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

Signed by the responsible Minister:

..... Date:

## Summary: Analysis & Evidence

<b>Policy Option: Relevant Offences</b>	<b>Description: Proposed amendments to schedule 4 of the Licensing Act 2003.</b>
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<b>COSTS</b>	<b>ANNUAL COSTS</b>	Description and scale of <b>key monetised costs</b> by 'main affected groups' The proposals will only affect a small number of individuals, so the cost to businesses will be marginal. It has not been possible to obtain data of how many people have unspent convictions for each offence and this would not provide us with a reliable basis as it is difficult to predict accurately how many of these people may apply for a personal licence in the future.
	One-off (Transition) <span style="float: right;">Yrs</span> <b>£ Marginal</b>	
	Average Annual Cost (excluding one-off) <b>£ Marginal</b>	
	<b>Total Cost (PV)</b>	
Other <b>key non-monetised costs</b> by 'main affected groups': N/A		

<b>BENEFITS</b>	<b>ANNUAL BENEFITS</b>	Description and scale of <b>key monetised benefits</b> by 'main affected groups' Largely social. Greater scrutiny for personal licence applicants convicted of the proposed offences helping to ensure that personal licence holders uphold / promote the licensing objectives.
	One-off <span style="float: right;">Yrs</span> <b>£ Marginal</b>	
	Average Annual Benefit (excluding one-off) <b>£ Marginal</b>	
	<b>Total Benefit (PV)</b>	
Other <b>key non-monetised benefits</b> by 'main affected groups': Largely social. Greater scrutiny for personal licence applicants convicted of the proposed offences helping to ensure that personal licence holders uphold / promote the licensing objectives.		

### Key Assumptions/Sensitivities/Risks

- That the number of people affected will be very small
- That there will be applications for a personal licence made by people with unspent convictions of the proposed offences in the future.

Price Base Year	Time Period Years 10	<b>Net Benefit Range (NPV)</b> £	<b>NET BENEFIT (NPV Best estimate)</b> £
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What is the geographic coverage of the policy/option?	England and Wales				
On what date will the policy be implemented?	Subject to Parliament				
Which organisation(s) will enforce the policy?	Licensing Authorities				
What is the total annual cost of enforcement for these organisations?	<b>Marginal</b>				
Does enforcement comply with Hampton principles?	Yes				
Will implementation go beyond minimum EU requirements?	N/A				
What is the value of the proposed offsetting measure per year?	£ n/a				
What is the value of changes in greenhouse gas emissions?	£ n/a				
Will the proposal have a significant impact on competition?	No				
Annual cost (£-£) per organisation (excluding one-off)	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; text-align: center;">Micro Marginal</td> <td style="width: 25%; text-align: center;">Small Marginal</td> <td style="width: 25%; text-align: center;">Medium Marginal</td> <td style="width: 25%; text-align: center;">Large Marginal</td> </tr> </table>	Micro Marginal	Small Marginal	Medium Marginal	Large Marginal
Micro Marginal	Small Marginal	Medium Marginal	Large Marginal		
Are any of these organisations exempt?	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; text-align: center;">No</td> <td style="width: 25%; text-align: center;">No</td> <td style="width: 25%; text-align: center;">N/A</td> <td style="width: 25%; text-align: center;">N/A</td> </tr> </table>	No	No	N/A	N/A
No	No	N/A	N/A		

<b>Impact on Admin Burdens Baseline</b> (2005 Prices)		(Increase - Decrease)	
Increase of	£ Marginal	Decrease of	£ Marginal
<b>Net Impact</b>		£ Marginal	

Key: Annual costs and benefits: Constant Prices (Net) Present Value

## Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

### The Issue

1. The 2003 Act provides that individuals who may be engaged in making and authorising the sale of alcohol require a personal licence. This is because such a person has a large responsibility and a potential impact on crime and anti-social behaviour. Not every person retailing alcohol at a premises licensed for that purpose needs to hold a personal licence, but every sale or supply of alcohol must at least be authorised by such a holder. Each premises with a licence to sell alcohol must have at least one personal licence holder, but may have several.
2. The responsibility of a personal licence holder means that the application process has several requirements such as that they must possess an accredited licensing qualification and they must be over 18. They are also required to provide a criminal records check with details of any unspent convictions they have. If an applicant does have an unspent conviction for a relevant or foreign offence, then the application is examined by the police who decide whether the applicant is suitable to hold the responsibilities of a personal licence holder. An unspent conviction does not necessarily preclude a person from being granted a personal licence, but does require that they are more thoroughly scrutinised.
3. The relevant offences in Schedule 4 to the Act are included because it is felt that they are offences that are either of a serious enough nature, or in some way related to the responsibilities of a personal licence holder to mean that their application to hold a personal licence should be more thoroughly considered. See Annex A for a full list of the existing relevant offences.
4. Key enforcement partners have alerted Government to the fact that there are some offences not currently included in the list of relevant offences but which they feel should be included. The Government has discussed the suggestions and considered the implications and would like to consult on whether certain offences should be included.
5. The Government is also concerned that there may be some offences currently included which are not appropriate for inclusion in this list. This may be because they are extremely little used, outdated, or not relevant to a person's suitability to hold a personal licence. We are also consulting on whether any offences should be removed.

### Objectives and Intended Effects

6. The inclusion of additional offences is intended to tighten up the list of offences in order to make the 2003 Act more robust. The inclusion of some additional offences should achieve this. The intended effect is that the system for applying for a personal licence has an adequate level of scrutiny and ensures that personal licence holders uphold and promote the licensing objectives.
7. On the other hand, the list of relevant offences should not contain any unnecessary or disproportionate offences as this would be against the principles of better regulation. Whilst we need to make sure that it contains all necessary protection to the public, we also believe that in order to develop a good working understanding of the offences, it should not contain any superfluous or unnecessary offences. It is important that police

time is not wasted in considering offences that are not relevant to the duties of a personal licence holder. We would also not wish to deter people from applying for a personal licence unnecessarily.

8. In order to strike this balance, we have drawn up three tests to judge each proposed new offence against. These are:
  1. Is the offence relevant to carrying out the duties required of a personal licence holder?
  2. Is there evidence that there has been a problem of this offence not being included in schedule 4?
  3. Is the offence of a serious enough nature to sit comfortably with the existing offences in schedule 4?

### The Government's Proposals

9. We are consulting whether the following offences should be added to the list of Relevant Offences:
  - Failure to cooperate with a preliminary test (section 6(6) of Road Traffic Act 1988)
  - Conspiracy offences relating to offences listed in Schedule 4
  - Attempt offences relating to offences listed in Schedule 4.
10. The Government has considered the proposed offences carefully and believes they satisfy these tests and is therefore in favour of including them as Relevant Offences for the purposes of obtaining a personal licence under the 2003 Act.
11. Any offences that are added to the list of relevant offences will apply to new applications and to applications for the renewal of a personal licence. It will not affect those who already hold a valid personal licence.
12. We would also like to consult on whether there are any offences in the current list that should be removed and two areas for further consideration, persistent sales of tobacco to under 18s and offences under the Food Safety Act.
13. The Government is also minded to include the offences drunk and disorderly behavior under section 91 of the Criminal Justice Act 1967 and an unspent conviction for possession of a controlled drug under the Misuse of Drugs Act 1971.
14. We have not explicitly included a 'no change' option, but if the responses that we receive favour leaving the relevant offences as they currently stand, this option will be considered.

### Costs and Benefits

15. It has been extremely difficult to gather reliable data on which to base an accurate estimate of the costs and benefits of the proposals.
16. This is largely because we have not been able to calculate accurately the number of people that the new amendments will affect as, other than failure to cooperate with a preliminary breath test, it has not been possible to obtain the data for how many people



are convicted of the new offences per annum. A more detailed explanation as to why this has not been possible can be found in the relevant sections below.

## Benefits

17. The benefits of the proposal will be social rather than directly financial. The offences proposed are designed to enable greater scrutiny of people who have an unspent conviction of the offences proposed in order to help ensure that they uphold and promote the licensing objectives. This will allow the police to object to the application for a personal licence on the grounds of crime prevention i.e. that they consider the person unfit to fulfill the duties and responsibilities of a personal licence holder. This will help to ensure that licensed premises are responsibly run.
18. There could also be indirect financial benefits as if a licensed premises is responsibly run, the likelihood that it will have problems which could lead to a licence review and possibly to conditions being added to its premises licence is reduced. This would avoid a potentially costly process.

## Costs

### Failure to Cooperate with a Preliminary Test

19. In the case of the offence of failing to cooperate with a preliminary test, we have been able to obtain data for the number of people convicted of failing to cooperate with a preliminary breath test between 2003 and 2007 from the Ministry of Justice's Office for Criminal Justice Reform Evidence and Analysis Unit. These figures show that 4,696 people were convicted of this offence over five years, an average of 939 per annum.
20. We can also calculate how many of these are likely to apply for a personal licence. Between April 2006 and March 2008, an average of 0.14% of the working population applied for a personal licence. Assuming that the same proportion of people that failed to cooperate with a breath test apply for a personal licence, 1.3  $[(0.14 \times 939) / 100]$  members of this group would apply for a personal licence and could be refused as a result of their conviction.
21. This represents a worst case scenario as a result of the following assumptions that we have made in reaching this figure are taken into account:
  - a. That this group is not deterred from applying for a personal licence as a result of a conviction for this new relevant offence.
    - That all of those that have an unspent conviction for this offence and apply for a personal licence have their application refused (this is not necessarily the case as an unspent conviction for a relevant offence does not preclude a person from being granted a personal licence, but rather means the police will consider the application in light of such a conviction).
22. This only represents failure to cooperate with a breath test, whereas section 6(6) of the Road Traffic Act also contains the offences of failure to cooperate with a preliminary impairment test and failure to cooperate with a preliminary drugs test. Although we have been unable to obtain data for these additional offences, we are told anecdotally that numbers of convictions for failing to cooperate with a preliminary impairment test or a preliminary drug test would be significantly smaller. However, in order to represent a worst case scenario, we have assumed that the same number of people are convicted

for both of these offences individually as for failing to cooperate with a preliminary breath test. This means that our estimated total of people per annum who would apply for a personal licence and might be affected by our proposals as a result of their conviction for this offence is 3.5 people

23. This is a very small number and in light of the assumptions that we have outlined above, the actual number is likely to be even smaller.

### Conspiracy and Attempt Offences

24. In respect of the proposed addition of the related offences of conspiracy and attempt, the Ministry of Justice, which is responsible for compiling these statistics, has informed us that they cannot separately identify conspiracies or attempts unless the statute specifically states the offence i.e. 'conspiracy to...'. Of the offences that we propose, this is only true for conspiracy to murder; the figures for the number of convictions of other offences of conspiracy or attempt are not separated out from the related substantive offence. Basing an estimate on the incidence of conspiracy to murder alone would not provide us with an accurate indication of the incidence of the new offences as a whole as the numbers of convictions for these is likely to vary significantly from offence to offence.
25. It has not been possible therefore to accurately estimate the number of convictions for related attempt and conspiracy offence. We believe the numbers will be very small, but if you have any data that may be useful to us in calculating the number of people likely to be affected, please submit it with your response.

### Groups Affected

26. Between April 2006 and March 2008, an average of 388 applications for a personal licence were refused per annum, representing 0.7% of all personal licence applications. Due to the small number of people that we anticipate will be affected, the Government does not estimate that this would be significantly increased by the proposed changes.
27. We believe that any costs will be felt by two groups, individuals and local authorities.

### **Individuals**

28. We are basing our costs to individuals on the following calculations:

Time to complete the necessary forms – estimated to be 1 hour	£10.61 <sup>1</sup>
Cost of applying and paying for a certificate that reveals the individual's	£23 (Disclosure

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<sup>1</sup> Based on Office of National Statistics' annual survey of hours and earnings, which values the hourly pay for all employee jobs at £10.61.

criminal record or lack of one.	Scotland)
Cost of paying a fee	£37
Cost of time to attend a course for one day – estimated to be 6 hours	£63.66
Cost of the course	£150 (average cost)
<b>Total</b>	<b>£284</b>

29. The cost to individuals whose application is refused is £284.
30. In reality however, we believe that many people with an unspent conviction for a relevant offence will be deterred from applying and will not incur any costs.
31. There is a potential loss of earnings cost for those that are prevented or deterred from obtaining a personal licence based on the assumption that a person could command higher wages as a personal licence holder. However, these proposals would not preclude them from working in licensed premises and would not affect them in other employment fields. We therefore feel that the effect of this will be marginal.

### **Local authorities**

32. Through increasing the number of relevant offences, the cost of an increase in the numbers of refused applications for local authorities would be represented in an increase in hearings.
33. When the fee levels were decided, they were established on the basis that the fee would cover the costs for processing and printing etc. However, the costs for disputes involving police intervention were also factored in, with the fee for all applicants designed to cover the small number of disputed costs and the administrative costs associated with the surrender of licences. As the assumption that the number of disputed cases would be small has been reflected in the statistics collected (an average of 0.53% of applications for a personal licence per annum went to a hearing between April 2006 and March 2008), and spread over the 378 local authorities, this cost should be covered by the personal licence application fees.
34. We therefore believe that the costs of the proposals for local authorities will be marginal.

### **Conclusions**

35. Other than failure to cooperate with a preliminary breath test, we have not been able to gather reliable data for convictions for the new offences on which to base predictions for the increase in refused personal applications that the new offences are likely to result in. Through talking to our partners and the research that we have carried out to investigate these proposals, we have come to the conclusion that a very small number of people will be affected by our proposals. We would however welcome any input that can help us to calculate this more accurately.

36. As a result of the small number of people that we estimate will be affected, we believe that costs of the proposals will be so small as to be recorded as **marginal** and that they will be outweighed by the benefits of increased scrutiny for personal licence holders.

### **Questions**

(N.B. These questions can also be found in the main body of the consultation.)

**Do you agree with the assumptions that we have made in calculating the costs of the proposals? Do you have any evidence to support your opinion?**

**Do you agree that the suggested costs and benefits set out in the Impact Assessment are a reasonable estimate of the potential costs and benefits?**

**Are you able to provide us with data that will help us to calculate the costs and benefits of the proposals?**

### **Key Assumptions**

37. Specific assumptions have been laid out in the sections above. We have also however made the following general assumptions:
38. As this will only apply to future applications and future applications for renewal, this consultation makes the assumption that there will be applications for personal licences made by people with unspent convictions for the offences proposed in this consultation in the future. Were this not the case, then it would not be necessary to include these offences. Our partners in the enforcement agencies have supported the need for these offences to be included and consider that it is necessary to include these offences. We are also however assuming that the number of people affected will be small.

### **Responses from Stakeholders**

39. This consultation has been preceded by discussions with law enforcement agencies and agreement has been reached on which offences to put forward. Whilst several other offences were considered, it was felt that they did not meet the requirements. There was general consensus that the offences that we are proposing were the most appropriate.

### **Specific Impact Tests**

### **Competition Assessment**

40. As this will be an amendment that will apply to all licensed premises equally, we do not believe that there will be an impact on competition.

### Small Firms Impact Test

41. As it is already a requirement that all licensed premises have at least one personal licence holder, we do not believe that the proposals will place a significant extra burden on small licensed premises. The proposals will only apply to new applications for a personal licence or renewals, so there will be no affect on existing premises until the personal licence holder needs to renew their licence, or there is a change in personal licence holder and this person has an unspent conviction for a new relevant offence. However, if this were the case, then it would be possible for the premises to nominate an employee without such a conviction.
42. There is a possibility that small firms with very few employees could be affected as if the personal licence holder were to have an unspent conviction for a relevant offence and need to renew their personal licence, they may need to hire an alternative employee and retrain them.
43. However, we have discussed this with stakeholders and they agree that this scenario will be rare and that well run companies will understand the reasoning behind these proposals.

### Rural Proofing

44. We do not believe that this will affect rural areas more than urban areas, but would be interested to know whether you think that small rural areas with very few licensed premises would be disproportionately affected.

### **Question**

**Do you believe that the proposals will affect rural areas differently? If so, why?**

### Health Impact Assessment Screening

45. We have answered the screening questions for a health impact assessment and do not believe a health impact assessment is necessary. The proposal only proposes adding one substantive offence (failure to cooperate with a preliminary test) and we do not believe that this will have a health impact.

**Department for Culture, Media and Sport: Equality Impact Assessment – Initial Screening**

Section	Notes
<p>1. Name of the function/policy to be assessed:</p> <p><b>Proposal to amend the list of relevant offences in Schedule 4 of the Licensing Act 2003</b></p>	
<p>2. What is the aim, objective or purpose of the policy?</p> <p><b>To give greater scrutiny over applicants for a personal licence who have unspent convictions for certain offences.</b></p> <p><b>To consult on whether to remove any offences currently in Schedule 4.</b></p>	
<p>3. What are the intended outcomes?</p> <p><b>To provide greater public protection through allowing police scrutiny of personal licence applicants who have been convicted of offences that may affect their ability to carry out the responsibilities of a personal licence holder in a satisfactory manner.</b></p> <p><b>To remove any unnecessary offences in Schedule 4 in order to cut unnecessary bureaucracy.</b></p>	<p><i>Consider:</i></p> <ul style="list-style-type: none"> <li>• <b><i>How will you monitor progress towards these outcomes?</i></b></li> <li>• <b><i>Do the outcomes support or hinder other policies, values or objectives within the Department?</i></b></li> <li>• <i>If they hinder other work is this justifiable?</i></li> </ul>
<p>4. Who are the key stakeholders?</p> <p><b>Enforcement authorities, such as police, licensing authorities and magistrates.</b></p> <p><b>Those involved with licensing policy implementation such as LACORS and LGA.</b></p> <p><b>Licensed premises and their representatives.</b></p> <p><b>Personal licence holders.</b></p>	<ul style="list-style-type: none"> <li>• <i>Who are the groups/individuals likely to be affected by the function or policy?</i></li> <li>• <i>Who else might have a significant interest in the implementation of this policy?</i></li> <li>• <i>Who else might have knowledge of the impact or potential impact of the policy or function?</i></li> </ul>
<p>5. Is the aim of the policy or any of its intended outcomes designed specifically to meet the Public Duties, for example to:</p> <ul style="list-style-type: none"> <li>➢ Eliminate discrimination?</li> <li>➢ Promote equality of opportunity?</li> <li>➢ Promote good relations between different groups?</li> </ul> <p><b>NO</b></p> <p><i>[Most functions, policies and practices will not be designed <b>specifically</b> to meet the Public Duties.]</i></p>	<ul style="list-style-type: none"> <li>• <i>For example, a policy that has the aim of preventing harassment and bullying</i></li> <li>• <i>If the answer is <b>YES</b> to any of the questions, then you are required to proceed to a full impact assessment. You should turn to section 13, though please note that sections 7-12 will help you to conduct a full assessment</i></li> </ul>

<p>You need only answer 'yes' if the <b>specific intent</b> of the function, policy or practice is to meet the public duties. Otherwise, move on to section 6]</p>	
<p>6. Does the function or policy involve or have consequences for members of the public or staff employed by the Department?</p> <p><b>YES</b></p>	<ul style="list-style-type: none"> <li>• If the answer is YES proceed to section 7</li> <li>• If the answer is NO list the evidence or other justification opposite or on an attached sheet that identifies why the function or policy has no consequences for members of the public or for staff employed by the Department</li> <li>• If the evidence that you have indicates that there is no impact or likely impact you do not need to conduct an impact assessment but you do need to monitor the implementation of the policy over time to ensure that there continues to be no impact on people. At a minimum this should be every three years</li> <li>• If you are sure the answer is NO, proceed to sections 13 and 14</li> </ul>
<p>7. Is there any evidence that tells you how the function or policy is working or is intended to work for the intended stakeholders?</p> <p><b>YES</b></p> <p><b>Schedule 4 of the Licensing Act 2003 already lists certain offences that result in police scrutiny for a personal licence applicant who has an unspent conviction for any of these offences. DCMS's statistical bulletins show that the number of people affected is very small – an average of 393.65 per annum. The Government proposes adding one stand alone offence under section 6 of the Road Traffic Act 1988 and offences of attempt and conspiracy in relation to those offences already listed in Schedule 4.</b></p> <p><b>We have not been able to obtain reliable data to estimate the exact number of people affected by the new offences, but we believe that it will be small and have some evidence to support this.</b></p>	<ul style="list-style-type: none"> <li>• If you have no evidence available, then you will not be able to assess if the policy is relevant to equality</li> <li>• You will need to gather evidence about the effects of the policy on stakeholders. (Please refer to section 2 of the guidance notes on gathering evidence)</li> <li>• You should also consider consulting with stakeholder groups and involving disabled people at this stage (Please refer to section 5 on consulting and involving)</li> <li>• When you have gathered evidence of the effects of the policy on the intended stakeholders, you can then proceed with the initial screening</li> <li>• You should ensure that the actions necessary to collect the evidence are identified in an action plan</li> </ul>
<p>8. From the available evidence, is there any reason to believe that people are affected differently or are likely to be affected differently according to any of the listed equality strands, for example, because they have different needs or priorities?</p>	<ul style="list-style-type: none"> <li>• If the answer to any of these questions is Yes for any of the strands, you will need to proceed to a full impact assessment. In which case, proceed to section 13, though please note that sections 9-12 will</li> </ul>

	Yes	No	Not known
Age		X	
Disability		X	
Gender		X	
Race		X	
Religion		X	
Sexual Orientation		X	

Please summarise what the evidence shows and attach the evidence more fully to this screening document or reference where the evidence is available

**We have heard from stakeholders that the process of applying for a personal licence does not currently affect any of the above strands differently and see no reason why the proposed changes would do so.**

*help you to conduct a full assessment*

- If the answer is No and the evidence supports this, proceed to section 9*
- If your evidence is not enabling you to identify the impact on different groups, you will need to gather more evidence that allows you to do this. Refer back to section 7 above*

9. Is there any evidence that the function or policy in any way discriminates or might discriminate unlawfully, directly or indirectly against people from any of the listed strands, for example, in terms of access to a service, or the ability to take advantage of an opportunity?

	Yes	No	Not Known
<b>Age</b>		X	
<b>Disability</b>		X	
<b>Gender</b>		X	
<b>Race</b>		X	
<b>Religion</b>		X	
<b>Sexual Orientation</b>		X	

Please summarise what the evidence shows and attach the evidence more fully to this screening document or reference where the evidence is available

**As in Section 8, stakeholders have told us that the way that the system currently operates does not affect any of these strands differently. We see no reason why the proposed changes would do so.**

- If the answer to any of these questions is Yes for any of the strands, you will need to proceed to a full impact assessment. In which case, proceed to section 13, though please note that sections 10-12 will help you to conduct a full assessment*
- If the answer is No and the evidence supports this, proceed to section 10*
- If your evidence is not enabling you to identify the impact on different groups, you will need to gather more evidence that allows you to do this. Refer back to section 7 above*

10. Are there Specific ways in which this policy positively promotes equality and inclusion. Mark down specific ways it already does, or will do this? Groups to consider: Disabled, Black and Minority Ethnic, Woman, Men, Transgender, Older, Younger, Faith Groups,

- If the answer to any of these questions is Yes for any of the strands, you will need to proceed to a full impact assessment. In which case, proceed to section 13, though please note that sections 11-12 will*



<p>Gay Lesbian and Bisexual.</p> <p><b>No.</b>  <b>As in sections 8 and 9, we do not believe that this policy will affect these groups differently. This view has been supported by stakeholders.</b></p>	<p><i>help you to conduct a full assessment</i></p> <ul style="list-style-type: none"> <li>• <i>If the answer is No and the evidence supports this, proceed to section 11</i></li> <li>• <i>If your evidence is not enabling you to identify the impact on different groups, you will need to gather more evidence that allows you to do this. Refer back to section 7 above</i></li> </ul>																												
<p>11. Is there any evidence that people from the groups covered by the listed strands have or may have different expectations of the function or policy in questions?</p> <table border="1" data-bbox="135 698 804 978"> <thead> <tr> <th></th> <th>Yes</th> <th>No</th> <th>Not Known</th> </tr> </thead> <tbody> <tr> <td><b>Age</b></td> <td></td> <td>X</td> <td></td> </tr> <tr> <td><b>Disability</b></td> <td></td> <td>X</td> <td></td> </tr> <tr> <td><b>Gender</b></td> <td></td> <td>X</td> <td></td> </tr> <tr> <td><b>Race</b></td> <td></td> <td>X</td> <td></td> </tr> <tr> <td><b>Religion</b></td> <td></td> <td>X</td> <td></td> </tr> <tr> <td><b>Sexual Orientation</b></td> <td></td> <td>X</td> <td></td> </tr> </tbody> </table> <p>Please summarise what the evidence shows and attach the evidence more fully to this screening document or reference where the evidence is available</p> <p><b>Stakeholders do not believe that any of the groups above will have different expectations of the proposed regulatory change.</b></p>		Yes	No	Not Known	<b>Age</b>		X		<b>Disability</b>		X		<b>Gender</b>		X		<b>Race</b>		X		<b>Religion</b>		X		<b>Sexual Orientation</b>		X		<ul style="list-style-type: none"> <li>• <i>If the answer to any of these questions is Yes for any of the strands, you will need to proceed to a full impact assessment. In which case, proceed to section 13, though please note that sections 11-12 will help you to conduct a full assessment</i></li> <li>• <i>If the answer is No and the evidence supports this, proceed to section 11</i></li> <li>• <i>If your evidence is not enabling you to identify the impact on different groups, you will need to gather more evidence that allows you to do this. Refer back to section 7 above</i></li> </ul>
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<p>12. Is there any evidence that the function or policy affects or might affect relations between groups covered by the listed strands, for example is it, or might it, be seen as favouring a particular group or denying opportunities to another?</p> <table border="1" data-bbox="135 1516 804 1796"> <thead> <tr> <th></th> <th>Yes</th> <th>No</th> <th>Not Known</th> </tr> </thead> <tbody> <tr> <td><b>Age</b></td> <td></td> <td>X</td> <td></td> </tr> <tr> <td><b>Disability</b></td> <td></td> <td>X</td> <td></td> </tr> <tr> <td><b>Gender</b></td> <td></td> <td>X</td> <td></td> </tr> <tr> <td><b>Race</b></td> <td></td> <td>X</td> <td></td> </tr> <tr> <td><b>Religion</b></td> <td></td> <td>X</td> <td></td> </tr> <tr> <td><b>Sexual Orientation</b></td> <td></td> <td>X</td> <td></td> </tr> </tbody> </table> <p>Please summarise what the evidence shows and attach the evidence more fully to this screening document or reference where the evidence is available.</p> <p><b>As above, discussions with stakeholders indicate that the proposed regulatory change</b></p>		Yes	No	Not Known	<b>Age</b>		X		<b>Disability</b>		X		<b>Gender</b>		X		<b>Race</b>		X		<b>Religion</b>		X		<b>Sexual Orientation</b>		X		<ul style="list-style-type: none"> <li>• <i>If the answer to any of these questions is Yes for any of the strands, you will need to proceed to a full impact assessment. In which case, proceed to section 13, though please note that sections 12 will help you to conduct a full assessment</i></li> <li>• <i>If the answer is No and the evidence supports this, proceed to section 12</i></li> <li>• <i>If your evidence is not enabling you to identify the impact on different groups, you will need to gather more evidence that allows you to do this. Refer back to section 7 above</i></li> </ul>
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<b>Sexual Orientation</b>		X																											

<p><b>will not favour a particular group or deny opportunities to another.</b></p>																													
<p>13. Have previous consultations with relevant stakeholder groups or individuals indicated that policies of this type create exclusion or hold specific challenges for any of the listed groups?</p> <table border="1" data-bbox="137 495 805 772"> <thead> <tr> <th></th> <th>Yes</th> <th>No</th> <th>Not Known</th> </tr> </thead> <tbody> <tr> <td>Age</td> <td></td> <td>X</td> <td></td> </tr> <tr> <td>Disability</td> <td></td> <td>X</td> <td></td> </tr> <tr> <td>Gender</td> <td></td> <td>X</td> <td></td> </tr> <tr> <td>Race</td> <td></td> <td>X</td> <td></td> </tr> <tr> <td>Religion</td> <td></td> <td>X</td> <td></td> </tr> <tr> <td>Sexual Orientation</td> <td></td> <td>X</td> <td></td> </tr> </tbody> </table> <p><b>Our pre-consultation discussions with enforcement bodies and further discussion with stakeholders indicate that the proposals will not create exclusions or hold specific challenges for any of the groups listed.</b></p>		Yes	No	Not Known	Age		X		Disability		X		Gender		X		Race		X		Religion		X		Sexual Orientation		X		<ul style="list-style-type: none"> <li>• <i>If the answer to any of these questions is Yes for any of the strands, you will need to proceed to a full impact assessment. In which case, proceed to section 13</i></li> <li>• <i>If the answer is No and the evidence supports this, proceed to section 13</i></li> <li>• <i>If your evidence is not enabling you to identify the impact on different groups, you will need to gather more evidence that allows you to do this. Refer back to section 7 above</i></li> </ul>
	Yes	No	Not Known																										
Age		X																											
Disability		X																											
Gender		X																											
Race		X																											
Religion		X																											
Sexual Orientation		X																											
<p>14. Is a full impact assessment required?</p> <p><b>NO</b>  <b>We do not believe that the proposals will affect any of the groups under the listed strands in a different way. The changes do not introduce a new aspect of the Licensing Act 2003, but rather amend a system that is currently operating and feedback from stakeholders indicate that the list of relevant offences does not affect any of the strands listed in a different way. We do not believe that the proposed changes would affect any of these strands differently.</b></p>	<ul style="list-style-type: none"> <li>• <i>If the answer is NO please use the space opposite to summarise why and attach any further supporting evidence</i></li> <li>• <i>If the answer is YES you will need to arrange to carry out a full impact assessment</i></li> <li>• <i>Please note that the information that you have already identified in this initial screening will be valuable to you in carrying out the full impact assessment</i></li> </ul>																												
<p>15. If a full impact assessment is not required, please indicate the plans to monitor the implementation of this policy over the next three years.</p> <p><b>If appropriate, we will check with key stakeholders whether the statement in section 14 is still correct 12 months after the regulatory change (subject to Parliament) is enacted.</b></p>																													
<p>16. Please return a copy of this form to:</p>	<p>Name: Anna Woodham</p>																												
	<p>Unit/Directorate: Licensing Policy Team; Sport and Leisure Directorate.</p>																												
	<p>Date: 06/12/2009</p>																												

## Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

**Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.**

<b>Type of testing undertaken</b>	<b><i>Results in Evidence Base?</i></b>	<b><i>Results annexed?</i></b>
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	Yes	Yes
Disability Equality	Yes	Yes
Gender Equality	Yes	Yes
Human Rights	No	No
Rural Proofing	Yes	No

# ANNEX D: GOVERNMENT CODE OF PRACTICE ON CONSULTATION

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## THE SEVEN CONSULTATION CRITERIA

**1. When to consult**

Formal consultation should take place at a stage when there is scope to influence the policy outcome.

**2. Duration of consultation exercises**

Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.

**3. Clarity of scope and impact**

Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

**4. Accessibility of consultation exercises**

Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

**5. The burden of consultation**

Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.

**6. Responsiveness of consultation exercises**

Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

**7. Capacity to consult**

Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

# Licensing Act 2003 – Schedule 4

## Personal Licences: Relevant Offences

- 1 An offence under this Act.
- 2 An offence under any of the following enactments:-
  - (a) Schedule 12 to the London Government Act 1963 (c 33) (public entertainment licensing);
  - (b) The Licensing Act 1964 (c 26);
  - (c) The Private Places of Entertainment (Licensing) Act 1967 (c 19);
  - (d) Section 13 of the Theatres Act 1968 (c 54);
  - (e) The Late Night Refreshment Houses Act 1969 (c 53);
  - (f) Section 6 of, or Schedule 1 to, the Local Government (Miscellaneous Provisions) Act 1982 (c 30);
  - (g) The Licensing (Occasional Permissions) Act 1983 (c 24);
  - (h) The Cinemas Act 1985 (c 13);
  - (i) The London Local Authorities Act 1990 (c vii);
- 3 An offence under the Firearms Act 1968 (c 27).
- 4 An offence under section 1 of the Trades Descriptions Act 1968 (c 29) (false trade description of goods) in circumstances where the goods in question are or include alcohol.
- 5 An offence under any of the following provisions of the Theft Act 1968 (c 60):-
  - (a) Section 1 (theft);
  - (b) Section 8 (robbery);
  - (c) Section 9 (burglary);
  - (d) Section 10 (aggravated burglary);
  - (e) Section 11 (removal of articles from places open to the public);
  - (f) Section 12A (aggravated vehicle-taking), in circumstances where subsection (2)(b) of that section applies and the accident caused the death of any person;
  - (g) Section 13 (abstracting of electricity);

- (h) Section 15 (obtaining property by deception);
  - (i) Section 15A (obtaining a money transfer by deception);
  - (j) Section 16 (obtaining pecuniary advantage by deception);
  - (k) Section 17 (false accounting);
  - (l) Section 19 (false statements by company directors etc);
  - (m) Section 20 (suppression, etc of documents);
  - (n) Section 21 (blackmail);
  - (o) Section 22 (handling stolen goods);
  - (p) Section 24A (dishonestly retaining a wrongful credit);
  - (q) Section 25 (going equipped for stealing etc).
- 6 An offence under section 7(2) of the Gaming Act 1968 (c 65) (allowing child to take part in gaming on premises licensed for the sale of alcohol).
- 7 An offence under any of the following provisions of the Misuse of Drugs Act 1971 (c 38):-
- (a) Section 4(2) (production of a controlled drug);
  - (b) Section 4(3) (supply of a controlled drug);
  - (c) Section 5(3) (possession of a controlled drug with intent to supply);
  - (d) Section 8 (permitting activities to take place on premises).
- 8 An offence under either of the following provisions of the Theft Act 1978 (c 31):-
- (a) Section 1 (obtaining services by deception);
  - (b) Section 2 (evasion of liability by deception);
- 9 An offence under either of the following provisions of the Customs and Excise Management Act 1979 (c 2):-
- (a) Section 170 (disregarding subsection (1)(a)) (fraudulent evasion of duty etc);
  - (b) Section 170B (taking preparatory steps for evasion of duty).
- 10 An offence under either of the following provisions of the Tobacco Products Duty Act 1979 (c 7):-
- (a) Section 8G (possession and sale of unmarked tobacco);
  - (b) Section 8 H (use of premises for sale of unmarked tobacco).
- 11 An offence under the Forgery and Counterfeiting Act 1981 (c 45) (other than an offence under section 18 or 19 of that Act).
- 12 An offence under the Firearms (Amendment) Act 1988 (c 45)
- 13 An offence under any of the following provisions of the Copyright, Designs

and Patents Act 1988 (c 48):-

- (a) Section 107(1)(d)(iii) (public exhibition in the course of a business of article infringing copyright);
  - (b) Section 107(3) (infringement of copyright by public performance of work etc);
  - (c) Section 198(2) (broadcast etc of recording of performance made without sufficient consent);
  - (d) Section 297(1) (fraudulent reception of transmission);
  - (e) Section 297A(1) (supply etc of unauthorised decoder).
- 14 An offence under any of the following provisions of the Road Traffic Act 1988 (c 52):-
- (a) Section 3A (causing death by careless driving while under the influence of drink or drugs);
  - (b) Section 4 (driving etc a vehicle when under the influence of drink or drugs);
  - (c) Section 5 (driving etc a vehicle with alcohol concentration above prescribed limit);
- 15 An offence under either of the following provisions of the Food Safety Act 1990 (c 16) in circumstances where the food in question is or includes alcohol:-
- (a) Section 14 (selling food or drink not of the nature, substance or quality demanded);
  - (b) Section 15 (falsely describing or presenting food or drink).
- 16 An offence under section 92(1) or (2) of the Trade Marks Act 1994 (c 26) (unauthorised use of trade mark, etc in relation to goods) in circumstances where the goods in question are or include alcohol.
- 17 An offence under the Firearms (Amendment) Act 1997 (c 5)
- 18 A sexual offence, being an offence:-
- (a) Listed in Part 2 of Schedule 15 to the Criminal Justice Act 2003, other than the offence mentioned in paragraph 95 (an offence under section 4 of the Sexual Offences Act 1967 (procuring others to commit homosexual acts));
  - (b) An offence under section 8 of the Sexual Offences Act 1956

(intercourse with a defective);

(c) An offence under section 18 of the Sexual Offences Act 1956

(fraudulent abduction of an heiress).

- 19 A violent offence, being any offence which leads, or is intended or likely to lead, to a person's death or to physical injury to a person, including an offence which is required to be charged as arson (whether or not it would otherwise fall within this definition).
- 20 An offence under section 3 of the Private Security Industry Act 2001 (c 12) (engaging in certain activities relating to security without a licence).
- 21 An offence under section 46 of the Gambling Act 2005 if the child or young person was invited, caused or permitted to gamble on premises in respect of which a premises licence under this Act had effect.
- 22 An offence under the Fraud Act 2006.
- 23 An offence under regulation 6 of the Business Protection from Misleading Marketing Regulations 2008 (offence of misleading advertising) in circumstances where the advertising in question relates to alcohol or to goods that include alcohol.
- 24 An offence under regulation 8, 9, 10, 11 or 12 of the Consumer Protection from Unfair Trading Regulations 2008 (offences relating to unfair commercial practices) in circumstances where the commercial practice in question is directly connected with the promotion, sale or supply of alcohol or of a product that includes alcohol.



# C ANNEX 1: OFFENCES PROPOSED TO BE ADDED

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## Failure to co-operate with a preliminary test

Road Traffic Act 1988 – Section 6(6).

A person commits an offence if without reasonable excuse he fails to co-operate with one or more of the preliminary tests described in sections 6A to 6C of the Road traffic Act 1988 in the circumstances set out in section 6(2) to (5) of that Act.

These tests are:

- A – Preliminary breath test
- B – Preliminary impairment test
- C – Preliminary drug test

## Attempt and conspiracy offences

The table below sets out potential new offences as a result of adding attempt and conspiracy to the list of relevant offences

Sch 4 s.	Offence	Attempt*	Conspiracy*
3	Firearms Act 1968	3 Business and other transactions with firearms and ammunition	3 Business and other transactions with firearms and ammunition
		5 Weapons subject to general prohibition	5 Weapons subject to general prohibition
		6 Power to prohibit movement of arms and ammunition	6 Power to prohibit movement of arms and ammunition
		17 Use of firearm to resist arrest	
		(1) It is an offence for a person to make or attempt to make any use whatsoever of a firearm or imitation firearm with intent to resist or prevent the lawful arrest or detention of	

\*with text where explicit

		himself or another person.	
		21 Possession of firearms by persons previously convicted of crime (inc supply)	
		24 Supplying firearms to minors	24 Supplying firearms to minors
		25 Supplying firearm to person drunk or insane	25 Supplying firearm to person drunk or insane
		46 Power of search with warrant	
5	Theft Act 1968	1 Basic definition of theft	1 Basic definition of theft
		8 Robbery	8 Robbery
		9 Burglary	9 Burglary
		10 Aggravated burglary	10 Aggravated burglary
		11 Removal of articles from places open to the public	11 Removal of articles from places open to the public
		12A Aggravated vehicle-taking	12A Aggravated vehicle-taking
		13 Abstracting of electricity	13 Abstracting of electricity
		15 Obtaining property by deception	15 Obtaining property by deception
		15A Obtaining a money transfer by deception	15A Obtaining a money transfer by deception
		16 Obtaining pecuniary advantage by deception	16 Obtaining pecuniary advantage by deception
		20 Suppression, etc of documents	20 Suppression, etc of documents
		21 Blackmail	21 Blackmail
		22 Handling stolen goods	
7	Misuse of Drugs Act 1971	4(2) Production of a controlled drug	4(2) Production of a controlled drug
		4(3) Supply of a controlled drug	4(3) Supply of a controlled drug

8	Theft Act 1978	1 Obtaining services by deception 2 Evasion of liability by deception	1 Obtaining services by deception 2 Evasion of liability by deception
9	Customs and Excise Management Act 1979	170 Fraudulent evasion of duty	
10	Tobacco Products Duty Act 1979	8G Possession and sale of unmarked tobacco	8G Possession and sale of unmarked tobacco
11	Forgery and Counterfeiting Act 1981		1 The offence of forgery 2 The offence of copying a false instrument 3 The offence of using a false instrument 4 The offence of using a copy of a false instrument
		3 The offence of using a false instrument	
		4 The offence of using a copy of a false instrument	
			14 Offences of counterfeiting notes and coins
		15 Offences of passing etc. counterfeit notes and coins	15 Offences of passing etc. counterfeit notes and coins
		17 Offences involving the making or custody or control of counterfeiting materials and implements	17 Offences involving the making or custody or control of counterfeiting materials and implements
		20 Prohibition of importation of counterfeit notes and coins	20 Prohibition of importation of counterfeit notes and coins
		21 Prohibition of exportation of counterfeit notes and coins	21 Prohibition of exportation of counterfeit notes and coins
12	Firearms (Amendment) Act 1988	5 Restriction on sale of ammunition for smooth-bore guns 6 Shortening of barrels 15 Rifle and pistol clubs	5 Restriction on sale of ammunition for smooth-bore guns
		Sch 4 Offences and enforcement (1) (museum causing person to fail to comply with condition for licence)	

13	Copyright, Designs and Patents Act 1988			107(1)(d)(iii) Public exhibition in the course of a business of article infringing copyright
				107(1)(d)(iii) Public exhibition in the course of a business of article infringing copyright
				198(2) Broadcast etc of recording of performance made without sufficient consent
		297(1) Fraudulent reception of transmission		297(1) Fraudulent reception of transmission
				297A(1) Supply etc of unauthorised decoder
15	Food Safety Act 1990	14 Selling food or drink not of the nature, substance or quality demanded		14 Selling food or drink not of the nature, substance or quality demanded
16	Trade Marks Act 1994	92(1) Unauthorised use of trade mark, etc in relation to goods (in circumstances where the goods in question are or include alcohol)		92(1) Unauthorised use of trade mark, etc in relation to goods (in circumstances where the goods in question are or include alcohol)
18	Criminal Justice Act 2003 (Sexual Offences Act 1956)	66 An offence under section 1 of the Sexual Offences Act 1956 (rape)		66 An offence under section 1 of the Sexual Offences Act 1956 (rape)
		67 An offence under section 2 of that Act (procurement of woman by threats)		67 An offence under section 2 of that Act (procurement of woman by threats)
		68 An offence under section 3 of that Act (procurement of woman by false pretences)		68 An offence under section 3 of that Act (procurement of woman by false pretences)
		69 An offence under section 4 of that Act (administering drugs to obtain or facilitate intercourse)		69 An offence under section 4 of that Act (administering drugs to obtain or facilitate intercourse)
		70 An offence under section 5 of that Act (intercourse with girl under thirteen)		
		71 An offence under section 6 of that Act (intercourse with girl under 16)		
		72 An offence under section 7 of that Act (intercourse with a defective)		

		73 An offence under section 9 of that Act (procurement of a defective)	73 An offence under section 9 of that Act (procurement of a defective)
		74 An offence under section 10 of that Act (incest by a man)	
		75 An offence under section 11 of that Act (incest by a woman)	
		79 An offence under section 17 of that Act (abduction of woman by force or for the sake of her property)	79 An offence under section 17 of that Act (abduction of woman by force or for the sake of her property)
		80 An offence under section 19 of that Act (abduction of unmarried girl under eighteen from parent or guardian)	80 An offence under section 19 of that Act (abduction of unmarried girl under eighteen from parent or guardian)
		81 An offence under section 20 of that Act (abduction of unmarried girl under sixteen from parent or guardian)	81 An offence under section 20 of that Act (abduction of unmarried girl under sixteen from parent or guardian)
		82 An offence under section 21 of that Act (abduction of defective from parent or guardian)	82 An offence under section 21 of that Act (abduction of defective from parent or guardian)
		83 An offence under section 22 of that Act (causing prostitution of women)	
		84 An offence under section 23 of that Act (procuration of girl under twenty-one)	84 An offence under section 23 of that Act (procuration of girl under twenty-one)
		89 An offence under section 28 of that Act (causing or encouraging the prostitution of, intercourse with or indecent assault on girl under sixteen)	
		90 An offence under section 29 of that Act (causing or encouraging prostitution of defective)	
			92 An offence under section 33 of that Act (keeping a brothel)
	Criminal Justice Act 2003 (Mental Health Act 1959)	92 An offence under section 128 of the Mental Health Act 1959 (sexual intercourse with patients)	

	Criminal Justice Act 2003 (Theft Act 1968)	97 An offence under section 9 of the Theft Act 1968 of burglary with intent to commit rape	
	Criminal Justice Act 2003 (Criminal Law Act 1977)	98 An offence under section 54 of the Criminal Law Act 1977 (inciting girl under sixteen to have incestuous sexual intercourse)	
	Criminal Justice Act 2003 (Protection of Children Act 1978)	99 An offence under section 1 of the Protection of Children Act 1978 (indecent photographs of children)	
	Criminal Justice Act 2003 (Sexual Offences Act 2003)	102 An offence under section 1 of the Sexual Offences Act 2003 (rape)	
		103 An offence under section 2 of that Act (assault by penetration)	
		106 An offence under section 5 of that Act (rape of a child under 13)	
		107 An offence under section 6 of that Act (assault of a child under 13 by penetration)	
		109 An offence under section 8 of that Act (causing or inciting a child under 13 to engage in sexual activity)	
		110 An offence under section 9 of that Act (sexual activity with a child)	
		111 An offence under section 10 of that Act (causing or inciting a child to engage in sexual activity)	
			112 An offence under section 11 of that Act (engaging in sexual activity in the presence of a child)
		113 An offence under section 12 of that Act (causing a child to watch a sexual act)	
		114 An offence under section 13 of that Act (child sex offences committed by children or young persons)	114 An offence under section 13 of that Act (child sex offences committed by children or young persons)
		116 An offence under section 15 of that Act (meeting a child following sexual grooming etc.)	
		117 An offence under section 16 of that Act (abuse of	117 An offence under section 16 of that Act (abuse of

		position of trust: sexual activity with a child)	position of trust: sexual activity with a child)
		120 An offence under section 19 of that Act (abuse of position of trust: causing a child to watch a sexual act)	
		121 An offence under section 25 of that Act (sexual activity with a child family member)	
		123 An offence under section 30 of that Act (sexual activity with a person with a mental disorder impeding choice)	
			125 An offence under section 32 of that Act (engaging in sexual activity in the presence of a person with a mental disorder impeding choice)
		126 An offence under section 33 of that Act (causing a person with a mental disorder impeding choice to watch a sexual act)	126 An offence under section 33 of that Act (causing a person with a mental disorder impeding choice to watch a sexual act)
		128 An offence under section 35 of that Act (causing a person with a mental disorder to engage in or agree to engage in sexual activity by inducement, threat or deception)	
		130 An offence under section 37 of that Act (causing a person with a mental disorder to watch a sexual act by inducement, threat or deception)	130 An offence under section 37 of that Act (causing a person with a mental disorder to watch a sexual act by inducement, threat or deception)
		131 An offence under section 38 of that Act (care workers: sexual activity with a person with a mental disorder)	
		132 An offence under section 39 of that Act (care workers: causing or inciting sexual activity)	
		134 An offence under section 41 of that Act (care workers: causing a person with a mental disorder to watch a sexual act)	
			135 An offence under section 47 of that Act (paying for sexual services of a child)

			137 An offence under section 49 of that Act (controlling a child prostitute or a child involved in pornography)
		139 An offence under section 52 of that Act (causing or inciting prostitution for gain)	
		141 An offence under section 57 of that Act (trafficking into the UK for sexual exploitation)	141 An offence under section 57 of that Act (trafficking into the UK for sexual exploitation)
		142 An offence under section 58 of that Act (trafficking within the UK for sexual exploitation)	142 An offence under section 58 of that Act (trafficking within the UK for sexual exploitation)
		143 An offence under section 59 of that Act (trafficking out of the UK for sexual exploitation)	143 An offence under section 59 of that Act (trafficking out of the UK for sexual exploitation)
		144 An offence under section 61 of that Act (administering a substance with intent)	144 An offence under section 61 of that Act (administering a substance with intent)
		145 An offence under section 62 of that Act (committing an offence with intent to commit a sexual offence)	145 An offence under section 62 of that Act (committing an offence with intent to commit a sexual offence)
		147 An offence under section 64 of that Act (sex with an adult relative: penetration)	
		151 An offence under section 69 of that Act (intercourse with an animal)	
		152 An offence under section 70 of that Act (sexual penetration of a corpse)	
		153 An offence of—	153 An offence of—
		(a) aiding, abetting, counselling, procuring or inciting the commission of an offence specified in this Part of this Schedule,	(a) aiding, abetting, counselling, procuring or inciting the commission of an offence specified in this Part of this Schedule,
		(b) conspiring to commit an offence so specified, or	(b) conspiring to commit an offence so specified, or
		(c) attempting to commit an offence so specified.	(c) attempting to commit an offence so specified.
19	Violent offences	The attempt to commit any offence leading, intended to lead or likely to lead to a person's death or to physical injury to a person, including arson (whether or not it would otherwise	The attempt to commit any offence leading, intended to lead or likely to lead to a person's death or to physical injury to a person, including arson (whether or not it would otherwise



		fall within this definition)	fall within this definition)
20	Private Security Industry Act 2001	None	3 Engaging in certain activities relating to security without a licence
22	Fraud Act 2006		2 Fraud by false representation 3 Fraud by failing to disclose information
			11 Obtaining services dishonestly
22	Business Protection from Misleading Marketing Regulations 2008		6 Misleading advertising (where the advertising in question relates to alcohol or goods including alcohol)
23	Consumer Protection from Unfair Trading Regulations 2008		8 Commercial practice contravening professional due diligence distorting the economic behaviour of the consumer 11 Aggressive commercial practice