



Leisure

Newsletter

Issue 2

Government launches new alcohol ‘responsibility deal’

The government and the alcoholic drinks industry have agreed a new ‘public health responsibility deal’ on the labelling of alcoholic drinks.

The deal, which follows an industry-wide consultation period, replaces the previous voluntary agreement that was launched in 2007, but suffered from poor take-up by the alcoholic drinks industry.

The 2007 agreement stated that alcoholic drinks labels should include information on the number of alcoholic units, daily safe drinking limits, advice for pregnant women, messages about responsible drinking and the website address for the Drinkaware Trust.

Reports were carried out to monitor the progress of the agreement. But the results, published in December 2009, showed that only 15% of alcoholic drinks labels provided enough information. The Department of Health therefore issued a consultation in February 2010 to decide whether to continue with the existing voluntary arrangement, replace it with a stronger one, or legislate for mandatory labelling.

Responses to the consultation came from a variety of organisations including local councils, health associations, trade associations and drinks manufacturers. The majority of non-industry support was for mandatory labelling, while the industry itself supported a

strengthened self-regulatory option. The UK government agreed to support the industry as long as it committed to securing agreed levels of coverage within the designated timescales:

- over 80% of products will have labels with clear unit content, NHS guidelines and a warning about drinking when pregnant, by December 2013; and
- information will be provided in both leisure outlets (e.g. pubs and clubs) and retail outlets (supermarkets and off-licences) as well as other marketing channels (e.g. in-store magazines), to raise awareness of the units, calorie content of alcoholic drinks, NHS drinking guidelines, and the health harms associated with exceeding guidelines.

The new deal was introduced on 15 March 2011. The aim is to use business to positively impact on public health and wellbeing.

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Although the deal goes further than requiring the labelling of alcoholic drinks, it is still self-

regulatory. The government has made it clear that if the scheme does not achieve the desired outcomes within the agreed timescales, it will have no choice but to introduce mandatory labelling.





Make sure your staff are eligible to work in UK

With summer upon us, the number of seasonal workers in the leisure industry is reaching its annual peak. Employers taking on any new staff need to make sure that those they recruit and employ are legally entitled to work in the UK.

The type of checks employers need to carry out depends on when the employee was recruited. The current rules apply to all employees recruited after 29 February 2008. They can be split into three steps:

- **Step 1** – obtain original copies of documents relating to the employee from either 'List A' or 'List B' (the lists can be accessed on the UK Border Agency's website – www.ukba.homeoffice.gov.uk). List A documents give an unlimited right to work in the UK, for example a British passport. List B documents give the right to work in the UK, but only for a certain period of time.

- **Step 2** – take reasonable steps to ensure that the documents are valid (e.g. check the photograph or see if the date of birth is correct). You do not need to carry out a forensic analysis of the documents, but you do need to look for any 'apparent falsity'.

- **Step 3** – keep copies of the documents for the duration of the employee's employment and for two years thereafter.

If an employee has produced a document from List B, i.e. a document which gives a right to work for a limited period, then the employer must repeat steps 1-3 for that employee every 12 months.

Employers are not legally obliged to carry out these checks. However, anyone found to be employing an illegal worker for whom checks have not been made could be fined up to £10,000. An employer who knowingly employs someone

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who does not have the right to work in the UK is committing a criminal offence punishable by a fine, a prison sentence of up to two years, or both.

Employers also have to be careful in relation to discrimination and unfair dismissal. Our top tips for avoiding discrimination and unfair dismissal claims include:

- Have a clear written recruitment procedure. Ensure those responsible for recruiting staff are aware of their obligations.
- Treat everyone the same. Don't only ask job applicants who appear to come from outside the UK for evidence of right to work. Ask all applicants.

- Carry out the checks in the final stages of the selection process, not at the application stage (when you should be screening on merit only).

- Be careful if you take on one of your agency workers as a permanent employee. You cannot rely on the agency having carried out the relevant checks (you need to carry them out before permanent employment starts).

- Don't panic if you suspect an existing employee is no longer eligible to work. Always take legal advice before taking dismissal action.

Organisations face revised CRC scheme

Just as organisations are submitting their Carbon Reduction Commitment (CRC) reports to the Environment Agency, the Department of Energy and Climate Change has issued its proposals to simplify the CRC Scheme. The proposals are not a formal consultation; this will take place in February 2012.

The government remains committed to the CRC Scheme

instead of a more conventional tax. It believes the Scheme is the most effective way to improve the uptake of energy efficiency measures. For those in the leisure sector and others with a large number of outlets the imposition of a "carbon tax" is attractively simple. The government has, however, accepted that the Scheme is far too complex and the

administrative burden needs to be reduced.

The simplifications proposed are:

1. Retrospective sales to continue; no cap or auction

The previously proposed delay of the first sale in the introductory phase to the end of the years 2011/12 remains. Retrospective sales will continue in the introductory phase and in the second phase.

There will be two sales each year in the second phase; one at the beginning of the year at a lower price and a retrospective sale of more expensive allowances at the end of the year. Organisations can either forecast their energy use at the beginning of the year and benefit from cheaper allowances or "buy to comply" at the end.

There will be no cap and no auctioning in the second phase, although the question of a cap will be reviewed for phase three. The price of the allowances will be fixed by the government.

2. Number of qualifying fuels reduced

The number of fuels covered by the Scheme will be reduced from 29 to just four: gas, electricity, kerosene and diesel, where the latter two fuels are used for heating. The 90% rule will be abolished and participants will have to report on 100% use of these fuels.

3. Simpler qualification criteria

Qualification will be simplified so that the only question an organisation need ask itself is whether electricity is supplied through a settled half hourly meter? If the organisation (or group) meets the threshold then it must participate.

4. Simpler organisational rules

The government intends to make it easier for organisations to operate along their usual lines of business and to disaggregate. Qualification will still be based on the existing structure.

5. Removing overlaps

Energy supplies provided to Climate Change Agreement targets and European Union Emission Trading Scheme installations will not be considered as supplies for CRC purposes.

Unfortunately the government does not intend to make any changes to the supply rules between landlord and tenants. It remains of the view that the landlord has the greater ability to influence energy consumption at let premises.

Landlords and their advisors will, therefore, have to continue to develop their ideas and practice in this area. It is proving difficult to find a solution acceptable to tenants but perhaps the fixed allowance price and the reduced administrative burden may help persuade tenants that they should contribute to CRC costs.

Licensing applications could face more challenges under new legislation

The House of Lords has confirmed the imminent introduction of the Police Reform and Social Responsibility Bill, so leisure operators need to ensure they are aware of the forthcoming changes to the licensing regime.

The main changes are:

- **Licensing authorities to become responsible authorities.** Licensing officers and the authority themselves will now have the opportunity to object to applications and initiate their own review proceedings.
- **Primary care trusts and local health bodies to become responsible authorities.** This will mean that all applications will have to be submitted to the new responsible authorities, probably resulting in more objection to applications. Although health will not be a

licensing objective, it is likely that applications will need to give greater consideration to health issues.

- **Necessity test to be abolished.** The necessity test has helped to prevent the imposition of large numbers of conditions on premises licences, 'just in case'. The test will now be replaced with an 'appropriateness test'. Although it is hard to predict the full significance of this change, it is hard to see how the use of, for example, door staff, CCTV and plastic glasses will not become much more widespread – they may not be necessary, but could very well be appropriate.
- **Early morning restriction orders.** This will empower licensing authorities to ban the sale of alcohol after certain times. It appears to introduce the possibility that licensing

authorities could ban the sale of alcohol at all between certain times, for example, midnight and 6.00am.

- **Late night levy.** Licensing authorities will now be entitled to charge an additional fee to businesses that trade late. This will replace the discredited alcohol disorder zones, which are to be repealed. While certain classes of premises may be excused, public houses, bars and nightclubs will almost certainly be covered.
- **The vicinity test will be removed.** Objectors to applications will only need to show that their objection is relevant. The current test which prohibits objections from outside the immediate vicinity will be abolished.

The legislation goes on to cover a number of other

points, including permitting environmental health officers to object to Temporary Event Notices, doubling the maximum fine for persistent sales of alcohol to children, suspending licences for non-payment of the annual fee and obliging licensing authorities to advertise applications more widely.

Finally, the Government is keen for cumulative impact policies to be developed (through amendments to the national guidance), as well as a proposal that police evidence is to be preferred against premises licence holders and others. While detail on the revisions to the national guidance is still awaited, the tone of both the bill and the original proposals seem likely to impact on licensed premises within the next couple of months.



The Inn Crowd

Great food and good beer have proved an effective route to success for Geronimo Inns' **Rupert Clevely**.

Ask most people about their idea of a great evening out, and delicious food with a nice pint, a characterful pub and a warm, friendly atmosphere would probably feature near the top of the list. But developing a group of pubs that delivers all four at the same time hasn't been easy for Rupert Clevely, CEO of Geronimo Inns.

It was Rupert's wife Joanna who started Geronimo Inns in 1995, after the family returned from a spell living in Australia. The concept was alluring – a warm and welcoming venue, service with a smile, good traditional food and decent wine and ales. Something more like the light, modern pubs they'd seen in Australia, rather than the dingy boozers that dotted London's high streets.

"There was nowhere nice to pop in for a decent drink, a coffee, or a top quality but informal bite to eat. We had a clear vision of what we thought was lacking, so set about creating a pub that delivered it. In hindsight, the timing was perfect because the

market was ready for something different," says Rupert.

That first pub – the Chelsea Ram in south west London – was an immediate success. Rupert and Jo introduced the 'fresh food pub' concept, championing seasonal British produce and the skills of individual chefs.

So positive was the reaction that they soon bought another two. By 1998 business was going well enough for Clevely to give up his day job with Veuve Clicquot and devote all his attention to Geronimo. Although he admits the switch from corporate life to running his own business with his wife was something of a shock.

"We nearly went bust about three times. I suddenly had to deal with things like cashflow and financial forecasts. You soon learn that cash – not profit – is king," he says.

The economic crash of 2001 was a particular crisis point. In need of a rapid financial injection after bank funding fell through, the Clevely's sold 15% of the business to external investors. But the move paid off and by 2004 Geronimo Inns had 15 pubs, many of which were regular awards winners, including the Evening

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Standard Pub of the Year, Time Out's Best Gastropub and six that were Michelin rated.

Says Rupert: "Putting all my energy in Geronimo was incredibly rewarding. We knew our concept was good and we stuck to it. I loved being out there dealing with people, addressing real issues, not stuck away in an office."

As the estate grew, so too did the company's legal needs: property, employment, corporate, licensing. Rupert was clear in what he wanted from his legal advisers. He wanted lawyers who were solid, straightforward and commercial in their approach. Lawyers who understood the priorities of the business. So in 2005, he turned to TLT for legal support on Geronimo's licensing needs.

"I found TLT straightforward and clear in their advice. They are great at whittling down complex issues to the two or three key points that need attention, and they are very effective when

dealing with magistrates and licensing authorities," he says.

Eager to realise the full potential for their vision, in December 2010 Clevely and his partners sold Geronimo Inns to Young's, coincidentally the brewery for their very first pub in Chelsea. Clevely joined the Young's board as Managing Director of Geronimo Inns. It was a difficult choice to make, but he is certain it was the right one.

"We couldn't grow the business anymore with the funds we had. Young's really understand the business and what we are trying to do and they have one of the finest estates in the country. It's a great opportunity for both of us," says Rupert.

