

IN PARLIAMENT

HOUSE OF LORDS

SESSION 2007-08

PRIVATE BILL OFFICE

- 6 FEB 2008

HOUSE OF LORDS

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LONDON LOCAL AUTHORITIES BILL [HL]

P E T I T I O N

Against the Bill – On Merits – Praying to  
be heard by Counsel, &c.

TO THE RIGHT HONOURABLE THE LORDS SPIRITUAL AND TEMPORAL  
OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND  
IN PARLIAMENT ASSEMBLED

THE HUMBLE PETITION

of

THE ASSOCIATION OF LICENSED MULTIPLE RETAILERS

SHEWETH AS FOLLOWS:—

- 1 A Bill (hereinafter referred to as “the Bill”) has been introduced into and is now pending in your Right Honourable House intituled “A Bill to confer further powers upon local authorities in London; and for related purposes.”
- 2 The Bill is promoted by Westminster City Council on behalf of the London borough councils.
- 3 The Preamble recites that it is expedient that further and better provision should be made for the improvement and development of local government services in London and for the benefit of persons residing therein and that the powers of London borough councils and the Common Council of the City of London (hereinafter referred to as “London borough councils”) should be extended and

amended as provided in this Act; and also that it is expedient that further provision be made in London about the use of penalty charges in the enforcement of certain legislation; that food business operators should be under a duty to display food hygiene inspection documentation at food business establishments in London; that London borough councils in their capacity as local housing authorities should be able to require remedial action to be taken in respect of houses in multiple occupation in cases where there has been a failure to comply with the relevant management regulations for such houses; and, that the law relating to sex establishments in London should be altered.

- 4 Part 3 contains a number of miscellaneous provisions relating to public health, environmental protection and highways.
- 5 *Clause 9* alters provisions in the Highways Act 1980 which enable local authorities to give permissions for the use of objects etc. on the highway, so as to allow London borough councils to take into account additional considerations when setting the level of charges in relation to cases where they have given their permission under section 115E(1)(b)(i), for the placing of objects on the highway where doing so will result in the production of income.
- 6 *Clause 10* puts on a statutory footing an existing scheme in London which is known as "Scores on the Doors", and would apply to all food business establishments in London except those located in dwellings. The scheme makes provisions about the display of food hygiene documentation at premises which are subject to food hygiene inspections by the borough council.
- 7 Part 4, *clauses 11 to 20*, reinstates powers in Greater London which were removed under the Housing Act 2004 in respect of the service of management notices where the condition of the HMO is defective in consequence of a failure to comply with a duty imposed under the management regulations.
- 8 Part 6 deals with various miscellaneous licensing regimes applicable in Greater London. *Clause 23* would enable a licensing authority, on notice, to impose a new condition on existing premises licences prohibiting nudity or partial nudity.
- 9 Your Petitioner, the Association of Licensed Multiple Retailers, established in 1991, is a limited company set up to promote and represent the interests of small, independent licensed retail companies within licensed retailing. The Association's objectives include campaigning on issues of commercial concern, to take steps to

safeguard its members' interests when threatened by legislative and other developments and to promote the social and economic value of the pub.

- 10 The Association of Licensed Multiple Retailers represents interests from a wide range of groups – principally pub and bar operators, but also restaurants, clubs and accommodation providers. The Association's members typically operate community outlets, trading in rural or suburban locations. The Association currently has 76 managed companies in corporate membership, between them operating in excess of 4300 outlets - around 40% of the total UK managed licensed retail estate. Key suppliers to the industry - including drinks producers, pub owning companies and professional advisers – are in associate membership. Member companies are represented on the Association's Council.
- 11 Members of the Association have business interests in Greater London. The Association also works in partnership with the Westminster Licensees Association on issues pertaining to Westminster. The two organisations have many members in common and share the same aims and objectives.
- 12 In its representative capacity, your Petitioner objects to the Bill and the clauses and provisions herein referred to and allege and are prepared to prove that they, their rights and interests and the rights and interests of those whom they represent are injuriously and prejudicially affected thereby for the reasons (amongst others) hereinafter appearing.
- 13 The provisions in *Clause 9* would enable a local authority to take account additional maintenance considerations when setting the level of charges for permission to place objects on the public highway. The charge would therefore not only take account of the administrative costs incurred in granting the permission, but also street cleaning, waste disposal and maintenance and repair of the highway. This new power would apply where the Council does not own the sub-soil underneath the part of the highway in relation to which permission is granted. In such cases, the council would not have responsibility for the maintenance of the highway and there is no need, therefore, for them to recover additional costs in this way. The "standard amount" in section 115F(2) of the Highways Act 1980 should be sufficient to recover the costs of administering the permission and an additional charge for other services is not justified.

- 14 Businesses affected by the provisions of *Clause 9* already pay for street cleansing and refuse collection services through their business rates. Where there are particular problems in this respect, there are other mechanisms available to local authorities to fund enhanced services, such as Business Improvement Districts. It is also open to a local authority to apply a condition specific to the premises in question, requiring them to maintain the area outside their premises and to regulate waste disposal and collection.
- 15 If the provisions of *Clause 9* were enacted, it would result in inconsistency of approach between the London boroughs and other local authorities within England and Wales. A national approach to licensing and the granting of other permissions to businesses is essential to ensuring consistency, fairness and transparency. The proposal would create confusion and uncertainty amongst affected businesses. There is no justification for a different approach in London.
- 16 *Clause 10* would make it a statutory requirement for all food business establishments in London prominently to display food hygiene documentation at the entrance to their premises. The documents would consist of a certificate and a star rating. Failure to display the documents or participate in the scheme would be an offence.
- 17 *Clause 10* is based on a voluntary “Scores on the Doors” initiative currently being run by the Food Standards Agency (FSA) in selected local authorities across the country. This is a pilot project which is still being refined and developed, and one which does not involve all London authorities. The involvement of food businesses is on a voluntary basis and feedback from the industry to both the FSA and local authorities involved in the process has not been positive.
- 18 The Association, together with Westminster Licensees Association, has made representations to Westminster City Council on this matter. The scheme is confusing to operators, with a multiplicity of points-based ratings. In some cases a high score represents good compliance and in others it suggests a poor performance. In respect of the criteria being considered, many go beyond what businesses are required to do by law and so compliant businesses may find themselves marked down when judged against best practice. The rating reflects an assessment made at a particular point in time, and may be anything up to 2 years out of date. There is no ability to correct a rating should the management of the premises change or practice improve and there is no course of appeal

against the rating. The Association is also concerned that whilst the scheme is designed to assess legal compliance, a star rating is considered by the public as an indication of quality. The information provided to customers is largely meaningless, therefore.

- 19 It is neither feasible nor desirable for a pilot project, against which such significant concerns have been raised by affected businesses to be placed on a statutory footing. The Association understands that the FSA is seeking to refine and develop the scheme prior to its national voluntary roll-out. The provisions of *Clause 10* seek unhelpfully to pre-empt this by legislating in a local, piecemeal, way.
- 20 The provisions of *Clause 10* will impose significant additional legislative burdens on food businesses within London. This is entirely counter to the Government and the FSA's attempts to reduce unnecessary red tape.
- 21 *Clauses 11 to 20* have the effect of reinstating powers removed under the Housing Act 2004 to take action in cases where the management of Houses of Multiple Occupation (HMOs) fell below required standards. A significant number of pubs will fall under the definition of HMO as they provide staff accommodation.
- 22 The Association believes that these clauses are unnecessary as the Housing Act 2004 already enables local housing authorities to impose conditions on an HMO licence, which might include necessary repairs. An HMO licence may be revoked if these conditions are breached or the licence holder is not considered to be "fit and proper". These aspects of the Housing Act 2004 were explicitly introduced to replace pre-existing powers to serve management notices.
- 23 *Clause 23* enables a borough council, acting as licensing authority, retrospectively to impose a standard condition banning nudity or partial nudity on all premises licensed to provide regulated entertainment. The clause would have effect only in relation to those premises that did not have a 1963 Act licence before the transitional period, but have during and since then, had their licences varied so that regulated entertainment can be provided. These will principally be pubs and bars and include many of the Association's members.
- 24 The Association believes that the provisions are wholly unnecessary and counter to the legislative intent behind the introduction of the Licensing Act 2003; namely that all applications should be treated on their merits and that standard conditions

should not be imposed. Moreover, the Licensing Act 2003 gives licensing authorities the ability to review existing premises licences should the operation of the outlet give rise to specific concerns. There is, therefore, scope to impose this type of condition on a licence where problems arise in respect of nudity or partial nudity or where there are particular concerns about crime and disorder or the protection of children.

- 25 Your Petitioners also observe that there is no indication given in the Bill of the level of charges that might be expected under the various proposals, which have not been subject to a Regulatory Impact Assessment of the potential costs or benefits to business, as would be the case with Government proposals.
- 26 Your Petitioners therefore respectfully submit that the Bill should not be allowed to pass into law in its present form, and that the Preamble to the Bill is incapable of proof.

YOUR PETITIONER THEREFORE HUMBLY PRAYS to Your Honourable House that the Bill may not pass into law as it now stands and that they may be heard by themselves, their Counsel or Agent against the Preamble of the Bill and if the same do pass against all the clauses and provisions thereof which relate to or affect their property rights and interests and in support of other clauses and provisions for the protection and benefit of your Petitioner and their property rights and interests and that they may have such other relief as your Honourable House shall deem meet.

*AND YOUR PETITIONER WILL EVER PRAY, etc*

Signed by  
John Nicholas (Nick) Rothwell Bish  
Chief Executive  
on behalf of  
the Association of Licensed Multiple Retailers

6 February 2008

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AGAINST, By counsel, etc.

Nick Bish  
Chief Executive  
Association of Licensed Multiple Retailers