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JOELSON WILSON LLP LICENSING/GAMING TEAM

URGENT UPDATE: NEW OBLIGATIONS FROM 28 DECEMBER
UNDER THE PROVISION OF SERVICES REGULATIONS 2009

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THE PROVISION OF SERVICES REGULATIONS 2009 – NEW DUTIES FOR OPERATORS IN THE LICENSED SECTOR

The Provision of Services Regulations 2009 come into force in the UK on 28 December. These are Regulations required to implement the 2006 EU Services Directive and they have been drawn up by the Department for Business Innovation and Skills (“DBIS”).

The Regulations require licensing authorities to make available an Electronic Assistance Facility to enable the vast majority of licence applications to be made electronically (the Regulations do not apply to personal licences or Temporary Event Notices).

We have previously written about these paperless licence applications – see our 30 October Licensing Law Update. The latest information that we have received indicates that most licensing authorities will not be ready to accept electronic applications by the due date.

The purpose of this briefing note is to draw to your attention part 2 of the Regulations, which places new duties on anybody who provides a service in the UK, regardless of where in the world they are established, to communicate certain prescribed information to those who receive services about the service provider and its services.

The DBIS has issued guidance which makes it clear that the Regulations will apply to all service providers unless they are specifically exempt. Whilst restaurants, catering services and “entertainment” are cited as examples of businesses that will be covered, the Regulations will apply to pubs, bars, cafes and clubs too.

The guidance expresses the DBIS’s view that the requirements should not make much difference to businesses, in that they should routinely have been making the required information available as matters stand. However, we believe it highly likely that, with effect from 28 December, you will need to make certain new information available to your customers. This will include:

- The legal status of your company;
- Your head office address and an email address by which you can be contacted;
- The particulars of the local licensing authority;
- Your VAT identification number;
- Suitable contact details where customers can request information about your services and make a complaint.

All of the required information will need to be made readily available at the premises where the services are provided and must be clear and unambiguous. The information must be given in good time before the service is provided.

The Regulations also introduce new requirements relating to how you actually handle complaints. You will be required to respond as quickly as possible and to do your best to find a satisfactory solution to complaints, although this last requirement does not apply to complaints that are vexatious.

The Regulations will be enforced by the Office of Fair Trading and local authority Trading Standards Departments. They will be able to apply to the courts for an Enforcement Order against you to prevent any further breach of the Regulations. Should you breach the Order, that

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would amount to a contempt of court, which in turn could lead to imprisonment and an unlimited fine.

So the end of 2009 is ushering in yet more red tape for operators to contend with. We are here to help and would be pleased to advise further on these new requirements.

Need to know more?

Ask us. *“Truly proactive practitioners, well versed in licensing law, greatly knowledgeable and utterly dependable in fighting its clients’ battles ...” – Chambers Guide to the UK Legal Profession 2008.* For information/advice on alcohol or entertainment licensing matters, gaming, betting, lotteries or remote gambling, please contact:

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