

Law Watch



Tough times for Publicans

Anyone looking around Derby will have noticed the number of pubs which are currently for sale or to let.

Surveys have shown that the profitability of the average pub has fallen significantly and the trade press is full of stories about publicans struggling to make ends meet. Many will say that although customers are still coming through the door, they're spending less money and going for cheaper menu options.



Martyn Scott-Jones
Smith Partnership

These problems have hit the trade when it is already suffering from the effect of a number of recent legislative changes. The Licensing Act 2003 transferred the control of licensing to Local Authorities and operators now find themselves under the watchful scrutiny of authorities more used to dealing with the day to day supervision and enforcement of legislation. Many operators in town centres can find themselves subject to stringent conditions such as the requirement to employ properly qualified door supervisors and to install and maintain digital CCTV.

The smoking ban in public places introduced under the Health Act 2006 undoubtedly had a severe effect on pubs. Publicans with the room to do so have installed outside smoking shelters which can be costly. As raising finance is not easy, publicans have in many cases agreed with their brewery or pubco to fund the cost in return for a substantial rent increase which may impact on profitability for many years to come.

As if that were not enough people smoking outside could be deemed to be causing a nuisance if the smoke enters neighbouring premises and lead to proceedings under the Environmental Protection Act 1990.

In October 2006, the Noise Act 1996 (which originally applied only to residential premises) was extended to bars, restaurants, cafes etc, again giving the Local Authority power to issue a Warning Notice or bring proceedings.

Quite apart from this welter of legislative restriction and oversight, publicans face competition from the off-licensed trade, particularly the giant supermarket chains which sell alcohol very cheaply although the Government is currently considering proposals to limit irresponsible drinks promotions, the discounting of alcohol prices and the problems of under age drinking in public places.

Individual publicans may be helpless in the face of nationwide market forces but in a highly regulated business sector, specialist professional help is invaluable to stay ahead of the game.

For details on our specialist Licensed Trade team, please contact Martyn Scott-Jones on 01332 225 274 or e-mail martyn.scott-jones@smithpartnership.co.uk



SMITH PARTNERSHIP

Solicitors

01332 225 225

www.smithpartnership.co.uk

Burton upon Trent
Derby
Leicester
Stoke on Trent
Swadlincote