

APPENDIX A

[Insert details including name and address of licensing authority and application reference if any (optional)]

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I Bill Masini (On behalf of Trading Standards)

(Insert name of applicant)

apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in Part 1 below

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description KG2P Convenience Store Unit 2 Northchurch Dawes Street	
Post town London	Post code (if known) SE17 2AQ

Name of premises licence holder or club holding club premises certificate (if known)

Number of premises licence or club premises certificate (if known)

Part 2 - Applicant details

I am

Please tick yes

1) an interested party (please complete (A) or (B) below)

- | | |
|---|--------------------------|
| a) a person living in the vicinity of the premises | <input type="checkbox"/> |
| b) a body representing persons living in the vicinity of the premises | <input type="checkbox"/> |
| c) a person involved in business in the vicinity of the premises | <input type="checkbox"/> |
| d) a body representing persons involved in business in the vicinity of the premises | <input type="checkbox"/> |

- 2) a responsible authority (please complete (C) below) ☒
- 3) a member of the club to which this application relates (please complete (A) below) ☐

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick

Mr ☐ Mrs ☐ Miss ☐ Ms ☐ Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick yes
☐

**Current postal
address if
different from
premises
address**

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Southwark Council – Trading Standards Bill Masini Trading Standards Officer Regulatory Services 3 rd Floor Hub 1 PO Box 64529 London SE1P 5LX
Telephone number (if any) 0207 525 2629
E-mail address (optional) bill.masini@southwark.gov.uk

This application to review relates to the following licensing objective(s)

Please tick one or more boxes

- | | |
|---|--|
| 1) the prevention of crime and disorder | <input checked="checked" type="checkbox"/> |
| 2) public safety | <input type="checkbox"/> |
| 3) the prevention of public nuisance | <input type="checkbox"/> |
| 4) the protection of children from harm | <input type="checkbox"/> |

Please state the ground(s) for review (please read guidance note 1)

Prevention of Crime and disorder –

- Keeping of smuggled spirits on premise – s144 Licensing Act
- Offer and sale of duty evaded super strength beer and liquor – Customs and Excise Management Act
- Possession, offer and sale of unstamped (not bearing duty stamp) alcoholic liquor – Schedule 2A Alcoholic Liquor Duties Act 1979 (as amended)/ Duty Stamps Regulations 2006.
- Offering for sale super strength beers and liquors which could not be legally sold – Consumer Protection from Unfair Trading Regulations 2008
- Sale of super strength beers & liquors below duty plus VAT price in breach of mandatory licence condition 491 – Section 136 Licensing Act 2003
- Failure to display sale price of “super strength” beers, lagers and ciders – Price marking Order 2004
- Failure to purchase alcohol from an HMRC “approved” wholesaler – Alcoholic Liquor Duties Act 1979 (as amended)
- Failure to produce traceable invoices for all super strength beers/liquors purchased – General Food Hygiene Regulations 2013

On 22 November 2017 Trading Standards together with a Licensing Officer and officers from "Southwark's" Metropolitan police night time economy team carried out a routine visit to this premise.

It became clear the person named as the Designated Premises Supervisor on the Premises Licence no longer had any involvement with the running of this shop and that the business was run by Murugesu Kunapalan. A transfer of the DPS was done later that day.

Displayed on the wall was a A4 size notice in large font above the drinks shelves stating each of the following drinks were £10. The drinks included:

- 75cl bottles of Alomo "bitter" (40% ABV). Duty including VAT is £10.35.
- 75cl bottles of Joy Dodi "bitter" (42% ABV). Duty including VAT is £10.86
- 75cl bottles of Agya Appiah "bitter" (35% ABV). Duty including VAT is £9.05

Since 1 January 2007 it has been a requirement of The Duty Stamps Regulations 2006 that retail bottles of alcohol with a proof of 30% ABV or higher and packaged in sizes of 35cl and larger have to carry a duty stamp to be legal for sale. On examination, none of these drinks bore any duty stamps and had no details of any importer, indicating such products had been smuggled in to the UK. Knowingly keeping or allowing to be kept on licensed premises such products which have been imported without payment of duty or which have otherwise been unlawfully imported are offences under section 144 of The Licensing Act and Trading Standards say the circumstances around their purchase and display in the shop (behind the counter) give very strong reason to believe Mr Kunapalan knew the products on sale were illegal.

The lack of duty stamps for these drinks were also offences under The Alcoholic Liquor Duties Act 1979 as amended/The Duty Stamps Regulations 2006. In addition, the offering of these drinks for sale were offences under The Consumer Protection from Unfair Trading Regulations 2008 because it is a banned practice to state or otherwise create the impression (i.e. displaying for sale) that these drinks could be legally sold when they could not.

In relation to the Alomo and Joy Dodi bitters, because they were being sold below the duty plus VAT price there was also a breach of the mandatory condition 491 of the premises licence.

Seven bottles of Alomo bitter, ten bottles of Joy Dodi bitter and ten bottles of Agya

Appiah were seized. All apart from one of these were in two boxes behind the counter. The only bottle displayed (Agya Appiah) was on the top shelf mixed up with the vodkas.

Whilst officers were in the shop talking to the person working in the shop, [REDACTED] one customer sought to buy a can of Karpackie beer and another a can of oranjeboom and both were told it was £2.00. Both challenged [REDACTED] saying, the right price was £1.20. Eventually they left the shop.

In view of these interactions with customers, Trading Standards decided to carry out some test purchases. This was done three days later on 25 November. Mr Kunapalan was working behind the counter and sold a can of Karpackie for £1.20. The duty plus VAT on such a drink at 9% ABV is £1.34. The officer left but returned five minutes later. He sought to buy a can of Special Brew but was told it was £1.50. Asked what other beers he had for £1.20, Mr Kunapalan said Oranjeboom and Kestrel Super. The Oranjeboom on offer has an inclusive duty price of £1.27 (8.5% ABV) and the Kestrel Super an inclusive price of £1.34 (9% ABV).

The officer announced himself and seized a total of 137 cans (31 cans of Karpackie, 30 cans of Oranjeboom and 76 cans of Kestrel Super.

When asked about invoices for the purchases of these three drinks Mr Kanapalan he said he didn't have the invoices there and wouldn't be able to produce them. He said he got the Karpackie from the "Beer shop" in East London but could not be more specific and give any address. He said he had paid £19 per tray (24 cans) which equates to 79p per can – some 55 pence below duty. By selling it for £1.20 a can he was still able to make 41 pence per can or a mark up of 52% though of course this ignores the fact that there was no purchase invoices relating to this and thus would not "go through the books".

With a duty of £1.34 Trading Standards would expect a retail price to be well over £2 a can, or about a £1 more than Mr Kunapalan was charging.

Super strength beers and ciders are almost exclusively consumed by people who have severe alcohol dependency problems; they are not bought for the taste! A key part of the Public Health strategy to reduce consumption is, like tobacco, to use price. This is why a typical beer with an ABV of 5% attracts a duty of 57 pence per 500ml can and a beer of 7.5% ABV 86 pence per can whereas a 7.6% ABV attracts duty of £1.13 – a 27 pence difference as a result of 0.1% increase in ABV. By such buying beers for 79 pence and selling them for significantly below the duty plus "on costs" completely undermines this strategy as well as making it unfair on other traders which run a legitimate business.

On 1 December 2017 Mr Kunapalan was interviewed under caution. That interview lasted for just over an hour.

Before the interview started Mr Kunapalan supplied an invoice purporting to relate to the “African Bitters”. A copy of that invoice is produced with this report and marked “1”. It is headed “JAP EXOTIC PRODUCTS” with an address of 32 East Street, North Church SE17 2SV” and dated 19/11/17.

At 32 East Street, which has an actual postcode of SE17 2DN, there is a bookmakers, William Hill, with private accommodation above. It is no more than 2-3 minutes walk from this premise.

The Wholesaling of Controlled Liquor Regulations 2015 introduced the Alcohol Wholesaler Registration Scheme to tackle alcohol fraud. From 1 April 2017 it is a requirement for retailers to purchase alcohol from approved wholesalers, that is to say HMRC approved wholesalers who are required to inform retailers of their unique reference number (URN). It is a very simple process for a retailer to check that their supplier is a bona fide wholesaler. The Association of Convenience Stores provided their members with their “best practice” guidance which is attached with this application marked “2” It is an offence under The Alcoholic Duties Liquor Act 1979 (as amended) not to comply.

To summarise the interview Mr Kunapalan said;

- He was a sole trader.
- Apart from a short break he had run the shop since 2005.
- Customers had asked him for drinks like Alomo bitters but he did not have it and could not get it from cash and carry’s. Then a man came into the shop offering it for sale.
- He carried out no checks on the seller and accepted it was not wise to buy such goods in these circumstances.
- He made all day to day decisions and bought all the stock for the shop
- He knew that paying £19 per tray for the beer was wrong
- He did not know the address for The beer Shop in East London but would supply it [he has not done so].
- He accepted the invoice for the African bitters was not genuine.

- He accepted that by selling cheap high strength beers it perpetuated the problem and made it more difficult for people stop their alcohol dependency problems.

The sub-committee is invited to consider all options available to it including revocation. However, should the sub-committee decide to deal with this matter by way of suspension and/or extra conditions on the Premises Licence Trading Standards would propose the following conditions since there are very few conditions currently on that licence and the removal of condition 125 [this being more comprehensively worded in proposed condition number 6 below]:

- 1. No beers, lagers or ciders in single cans, bottles or multi-packs with an ABV of more than 6.5% will be displayed, sold or offered for sale from the premises.
- 2. That a challenge 25 scheme shall be maintained at the premises requiring that staff selling alcohol request that any customer who looks under 25 years old, and who is attempting to purchase alcohol, provides valid photographic identification proving that the customer is at least 18 years old. Valid photographic identification is composed of a driving licence, passport, UK armed services ID card and any Proof of Age Standards Scheme (PASS) accredited card such as the Proof of Age London (PAL) card.
- 3. That all staff involved in the sale of alcohol shall be trained in the prevention of sales of alcohol to underage persons, and the challenge 25 scheme in operation at the premises. A record of such training shall be kept / be accessible at the premises at all times and be made immediately available for inspection at the premises to council or police officers on request. The training record shall include the trainee's name (in block capitals), the trainer's name (in block capitals), the signature of the trainee, the signature of the trainer, the date(s) of training and a declaration that the training has been received.
- 4. That clearly legible signs shall be prominently displayed where they can easily be seen and read by customers stating to the effect that a challenge 25 policy is in operation at the premises, that customers may be asked to provide proof of age and stating what the acceptable forms of proof of age are. Such signage shall be displayed in all areas where alcohol is displayed for sale. The signage shall be kept free from obstructions at all times.
- 5. That a register of refused sales of alcohol shall be maintained in order to

demonstrate effective operation of the challenge 25 policy. The register shall be clearly and legibly marked on the front cover as a register of refused sales, with the address of the premises and with the name and address of the licence holder. The register shall be kept / be accessible at the premises at all times. On a monthly basis, the Designated Premises Supervisor (DPS) shall check the register to ensure it is being properly completed. The DPS shall sign and date the register to that effect and where appropriate take corrective action in a timely manner if the register is not being completed correctly. The register shall be made immediately available for inspection at the premises to council or police officers on request

- 6. Alcohol shall not be sold in an open container or be consumed in the licensed premises and no container of an alcoholic drink shall be opened by anyone on the premises.
- 7. An approved CCTV system shall be installed at the premises that records clear images in all light conditions of the interior of the premises as well as a clear facial image of every person who enters the premises. It shall also be positioned to capture the sale of alcohol and tobacco products. It shall be designed, installed and maintained in compliance with The Information Commissioner's Office (ICO) Code of Practice relating to Closed Circuit Television (CCTV).
- 8. The CCTV system shall have a minimum of 31 days recording facility and will be maintained in full working order at all times and be continually recording at all times the premises is in use under the licence. There shall be prominent signage displayed on the premises to this effect. All CCTV footage shall be kept for a period of thirty one (31) days and shall, upon request, be made immediately available to The Police and/or Authorised Officers from Southwark Council subject only to The Data Protection Act 1998 (or subsequent legislation) and the premises licence holder's duties as a Data Controller
- 9. All staff working at the premises shall be trained and be fully conversant in the correct operation of the CCTV and be able to demonstrate its operation on immediate request by Police and/or Authorised Officers from Southwark Council. Such staff shall be able to download images to a removable device on immediate request by The Police and/or Authorised officers from Southwark Council subject only to The Data Protection Act 1998 (or subsequent legislation) and the premises licence holder's duties as a Data Controller

Please tick yes

Have you made an application for review relating to this premises before ☐

If yes please state the date of that application

21

If you have made representations before relating to this premises please state what they were and when you made them

Please tick yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate ☒
- I understand that if I do not comply with the above requirements my application will be rejected ☒

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 3)

Signature of applicant or applicant's solicitor or other duly authorised agent
(See guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature

.....

Date 27 February 2018

.....

Capacity Trading Standards Officer acting on behalf of Southwark Council

.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)	
Post town	Post Code
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)	

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.

Part 3 – Signatures (please read guidance note 3)

Signature of applicant or applicant's solicitor or other duly authorised agent
(See guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature



Date 27 February 2018

Capacity Trading Standards Officer acting on behalf of Southwark Council

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Post town

Post Code

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)

Notes for Guidance

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5. This is the address which we shall use to correspond with you about this application.

JAP EXOTIC PRODUCTS ①

Receipt/Invoice

Customer

K92P Store

DATE: 19/10/2017

Number: JAP [REDACTED]

Qty	Description	Unit Price £	Total £
1	Alomo 12X	96	96
1	Joy dachy 12X	96	96
1	Agyle Appiah 12X	96	96
Total £:			
Paid £:			288
Balance £:			

Customer Signature

Adviser Signature

Exotic Products and More

ADDRESS: 32 East Street | North Church | SE17 2SV

ACS|best practice

ALCOHOL WHOLESALER REGISTRATION SCHEME (AWRS)

An ACS best practice guide for retailers

From 1 April 2017, if you buy alcohol from a UK wholesaler, you'll also need to check that whoever you buy from is registered with HMRC and has an AWRS Unique Reference Number (URN).

If you buy alcohol from a non-registered wholesaler, you may be liable to a criminal or civil penalty, your alcohol may be seized, or you could lose your alcohol licence.

How to check if a wholesaler is registered?

Before April 2017

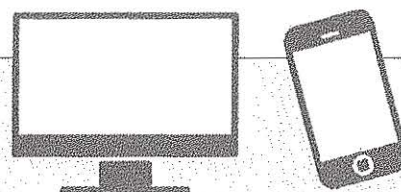
Before April 2017, we recommend that you ask your wholesaler(s) if they have applied for HMRC registration, but bear in mind that they may not have their registration number yet as they don't need to use it until April 2017. We also recommend you review your processes and supply chains to make sure that you are only sourcing legitimate alcohol.

After April 2017

You can check if your wholesaler is registered by following the three steps below.

Step 1 - Use online look up service

You will be able to use an online look-up service to check if your wholesaler is registered. This will be available on HMRC's website from 1 April 2017.



Step 2 - Check unique reference number

You will find the AWRS URN on wholesaler invoices from 1 April 2017. Retailers will be able to enter the AWRS URN of the wholesaler and the look up service will confirm whether that wholesaler is approved.

The format for the URN will be made up of four alpha characters and 11 numeric characters, such as: XXAW00000123456.

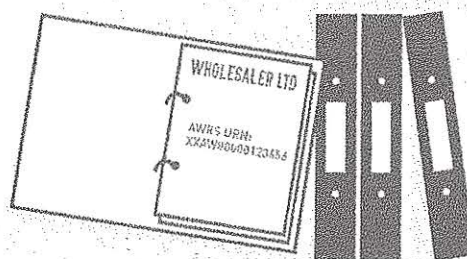
If a wholesaler has been approved, but has since ceased trading, the look-up will return the dates that the wholesaler was approved.



Step 3 - Due diligence and record keeping

You must be able to demonstrate to HMRC that you requested a wholesaler's URN and checked its authenticity. You can do this by printing off the webpage after checking your wholesaler's URN.

HMRC have not prescribed any additional record-keeping requirements for retailers who are not wholesalers. However, to prove you have checked your wholesalers' URN, we recommend you keep record of checks you perform on the online look-up service for a similar period to your tax returns (five years).



If you find out your wholesaler is not approved

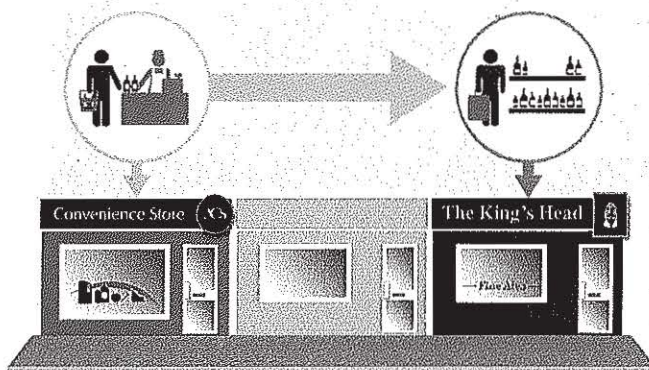
If you find that a wholesaler you are purchasing from is not approved, you **should not purchase alcohol** from them until they can provide further clarification and you must **notify HMRC immediately**.

AWRS EXEMPTIONS

Authorised retailers are exempt from registering for AWRS if the only wholesale sales they make are incidental. A wholesale sale is generally a business to business transaction, not a sale to a consumer or end user.

An 'incidental sale' is a wholesale sale that is not made knowingly or intentionally by a retailer. For example, an 'incidental sale' could be when a small convenience store that does not set out to make wholesale sales but is aware that a local pub landlord may run out of a particular line and call in the shop to make an ad-hoc purchase.

Businesses are also exempt from AWRS if they only sell alcohol between members of the same corporate group.



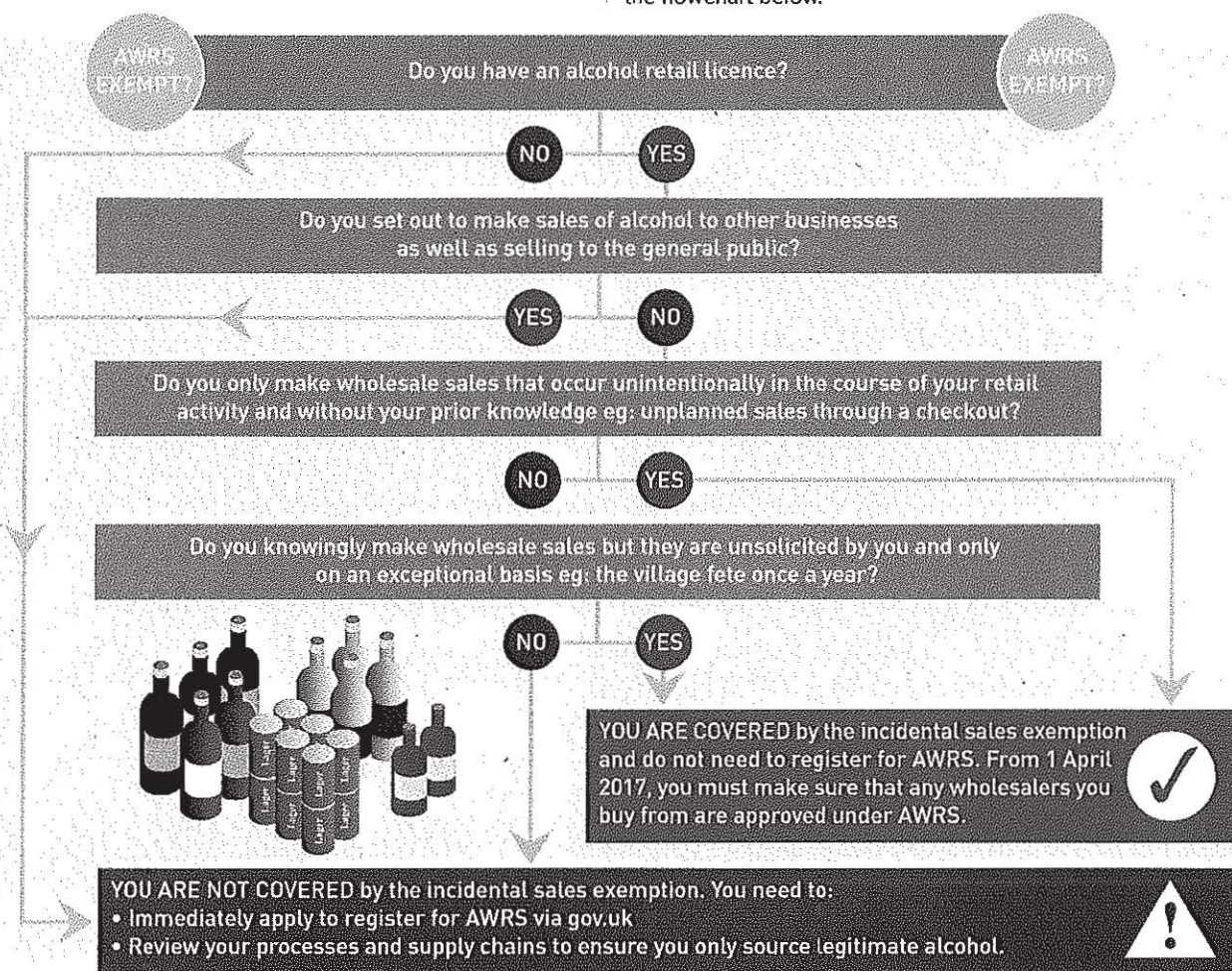
HOW TO CHECK IF YOU NEED TO REGISTER AS A WHOLESALER

All alcohol wholesalers were required to apply online to HMRC by 31 March 2016, as part of the Alcohol Wholesaler Registration Scheme.

Retailers that sell alcohol to other businesses on a regular basis will need to register.

If you have missed the application window and need to apply to become a registered wholesaler, HMRC suggest that you apply as soon as possible to reduce any potential fines.

However, if you are a retailer who only makes incidental wholesale alcohol sales, you may be exempt from AWRS. You can determine if you are exempt from AWRS by following the flowchart below.



CONTACT

For more details on this report, contact a member of the ACS Team on 01252 515001.

For more details on ACS: Visit: www.acs.org.uk Call: 01252 515001

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