

# **LICENSING AND REGISTRATION OF CLUBS (AMENDMENT) BILL**

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## **EXPLANATORY AND FINANCIAL MEMORANDUM**

### **INTRODUCTION**

1. This Explanatory and Financial memorandum has been prepared by the Department for Communities in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.
2. The Memorandum needs to be read in conjunction with the Bill. It does not, and is not meant to be, a comprehensive description of the Bill. So where a clause or part of a clause or schedule does not seem to require an explanation or comment, none is given.

### **BACKGROUND AND POLICY OBJECTIVES**

3. The current legislation regulating the sale of alcoholic drinks in Northern Ireland dates back to 1996. In broad terms, the Licensing (Northern Ireland) Order 1996 (the Licensing Order) sets out the general licensing systems, including procedures governing the granting or renewal of licences by county/magistrates' courts, permitted hours for the sale of alcoholic drinks, conduct of premises, conditions pertaining to the presence of children in licensed premises, and enforcement. The Registration of Clubs (Northern Ireland) Order 1996 does the same for the supply of alcoholic drinks in private members' clubs.
4. The legislation was amended by the Licensing and Registration of Clubs (Amendment) Act (Northern Ireland) 2011, most of which became law on 19 March 2011, and included measures such as closure powers for police, penalty points, proof of age requirements and irresponsible drinks promotions. These measures were aimed at striking a balance between facilitating the sale of alcoholic drinks, public safety and the public interest. The Licensing of Pavement Cafés Act (Northern Ireland) 2014 inserted Part 5A in the Licensing Order, effectively extending the licensed area of certain premises to a specified public area.
5. A further review of the legislation, which had begun in 2012, resulted in the Licensing and Registration of Clubs (Amendment) Bill (the 2016 Bill), which was introduced in the Assembly in September 2016 but subsequently fell with the dissolution of the Assembly in January 2017. Earlier in 2016, a private member's Bill successfully completed its legislative passage in the Assembly, and added outdoor stadia as a category

of premises which may be granted a liquor licence. There have been no other changes to the legislation to date.

6. The aim of the 2016 Bill was to address growing concerns surrounding the level of alcohol misuse in Northern Ireland and to respond to calls from the licensed trade for changes to support the hospitality sector. The aim of this Bill mirrors that of the 2016 Bill, with the policy objectives being to introduce a balanced package of measures to update the law in respect of the retail sale of alcoholic drinks and to make it more responsive to the current social and economic environment.
7. The current economic environment is particularly challenging. The restrictions placed on the hospitality sector as a result of the COVID-19 pandemic have been unprecedented. The sector was one of the first to close and amongst the last to fully re-open. Government support has been provided and the sector has been working to preserve businesses, services and jobs.
8. The concerns raised during the development of the 2016 Bill, around the level of alcoholic misuse, remain. Although the number of alcohol related deaths in 2018 was 6.3% lower than the 2017 total, it is still 16.9% more than what was recorded a decade ago. The cost to the Northern Ireland economy caused by excessive alcohol consumption is in the region of £900m per year.

## **CONSULTATION**

9. In October 2019, the Department launched a public consultation on Liquor Licensing Laws. The consultation was a follow up to the 2012 consultation “Proposed changes to the law regulating the sale and supply of alcohol in Northern Ireland”. The 2012 consultation resulted in the 2016 Bill which was nearing the end of its Committee Stage when the Assembly dissolved in 2017.
10. The aim of the recent consultation, which ran from 14 October to 6 December 2019, was to determine public opinion on the general principles of the current licensing regimes. With no Ministers in place, the consultation did not contain any proposals but sought views from all interested individuals and organisations on whether any changes to the law could be made in the future to allow a more flexible and modern licensing framework to develop.
11. The Department engaged and met with representatives from the licensed trade, health organisations, local producers and the Police Service of Northern Ireland (PSNI) as part of the consultation process.
12. There was a general consensus that legislative change was necessary. A large number of those who responded suggested that opening hours for public houses and other on sales premises should be increased, with many suggesting they should be brought into line with the rest of the UK and other European jurisdictions.

13. There was an overwhelming number of responses in support of a “producer’s licence” being made available for breweries, cideries, and distilleries, which would enable producers to sell their products directly to consumers.
14. Health organisations were in favour of placing advertising restrictions for off-sales, restricting access to deliveries of alcoholic drinks from young people, and prohibiting the sale of alcoholic drinks by self-service means.

## **OPTIONS CONSIDERED**

### **Option 1:- Make no changes to current law**

15. It is considered that failure to take account of the concerns in respect of the harms caused by alcohol misuse would be irresponsible. The majority of alcohol sold here (in the region of 70%) is from supermarkets, for consumption at home. This figure will have increased with the restrictions placed on licensed premises to tackle the spread of COVID-19.
16. The Responsible Retailing Code NI is the only current form of industry self-regulation here. It goes some way in encouraging the reduction of off-sales by attempting to stop the irresponsible promotion of alcoholic drinks in licensed premises. This alone however is not enough to change the drinking culture in Northern Ireland.
17. Leaving the law as it stands would also hinder efforts to develop the night time economy and enhance the hospitality industry and tourism offering.

### **Option 2:- Introduce further reforms to the law regulating the sale of alcoholic drinks**

18. It is considered necessary to introduce measures to help make the hospitality industry become more sustainable and attractive to tourists, while developing a more balanced relationship between responsible drinking and the economic realities of the sector, and which the PSNI will be able to enforce.
19. Concerns remain around how the figures relating to consumption of alcoholic drinks at home contributes to alcohol-related health and social harms. Further regulation of the availability of alcoholic drinks in supermarkets and off-licence premises is considered necessary to emphasise that alcohol is not an ordinary product, and to ensure that customers are not encouraged to buy more alcohol than they intended.
20. Issues surrounding the increased financial pressures on the hospitality sector, linked to the general economic downturn, the decline in the traditional pub trade, and more recently the unprecedented impact of COVID-19 have been identified. Other problems, in particular enforcement difficulties which arise due to the differing requirements of the separate liquor licensing and entertainment licensing regimes, also need to be addressed.

21. The inclusion of a number of minor changes to the law to assist private member clubs' efforts to make recreational and social activities available to their members is also considered appropriate at this stage.
22. The Bill implements Option 2.

## **OVERVIEW**

23. The Bill contains 48 clauses which amend, and in some places replace, the existing provisions of the Licensing (Northern Ireland) Order 1996 (the Licensing Order) and the Registration of Clubs (Northern Ireland) Order 1996 (the Clubs Order). It also contains a Schedule of minor and consequential amendments, and a Schedule of repeals.

## **COMMENTARY ON CLAUSES**

### **PART 1 – LICENSING**

#### **Clause 1: Removal of additional restrictions at Easter**

Clause 1 amends Article 30 of the Licensing Order (Occasional licences), Article 42 (General permitted hours), Article 44 (Additional permitted hours), Article 45 (Authorisations for additional permitted hours), Article 47 (Extension licences) and Article 50 (Restrictions as to sales for consumption off premises) by removing all references to Good Friday and Easter Sunday.

The above Articles relate to the permitted hours for the sale of intoxicating liquor under the authority of an occasional licence or in licensed premises (both on and off-sales). Easter weekend permitted hours now mirror what is available for any other weekend during the rest of the year.

#### **Clause 2: Removal of restrictions on late opening for on-sales on Sunday**

Clause 2 amends Article 30 of the Licensing Order (Occasional licences), Article 42 (General permitted hours), Article 44 (Additional permitted hours), Article 45 (Authorisations for additional permitted hours) and Article 47 (Extension licences) and removes the restrictions on late night permitted hours on a Sunday (currently restricted to 10pm with general permitted hours or 12 midnight with additional hours) for premises licensed for the sale and consumption of intoxicating liquor on the premises. This brings the general and additional permitted hours on any Sunday into line with those permitted on any other day.

#### **Clause 3: Public houses and hotels: further additional hours**

Clause 3 introduces new Articles 44A and 44B in the Licensing Order in relation to further later opening for public houses and hotels.

Article 44A (Order for further additional permitted hours) gives a court or clerk of petty sessions a power, in certain circumstances, to extend later opening by one hour in public houses or hotels which are structurally adapted to provide entertainment and/or substantial refreshment and which hold a court order for later opening under Article 44.

An order under Article 44A permits later opening for an additional one hour on any day to which an order under Article 44 applies (1.00am – 2.00am on weekdays; 12.00 midnight - 1.00am on Sundays).

An order under Article 44A also permits later opening for three hours in premises which hold an order for later opening under Article 44, on a day which is not covered in that order (11.00pm – 2.00am on weekdays; 10.00pm – 1.00am on Sundays). Entertainment and/or substantial refreshment must be provided throughout the later opening just as if an order under Article 44 applied that day.

An order under Article 44A may be made for a maximum of 104 days in any year but may not be made for Christmas Day.

The Department may make regulations to change the number of days on which orders under Article 44A may be made. The regulations cannot come into operation unless and until approved by the Assembly.

Article 44B (Orders under Article 44A: revocation, modification etc.) provides powers for a court of summary jurisdiction to revoke or modify an order for further later opening. These powers mirror the powers a court has to revoke or modify an order for later opening made under Article 44.

Subsection (2) amends Schedule 9 to the Licensing Order (procedure for certain applications) to require a licence holder applying to a court of summary jurisdiction for an order under Article 44 or 44A, to place a notice of the application in local newspapers and display the notice on or near the premises. This amendment corrects an anomaly in the existing legislation.

#### **Clause 4: Alignment of closing time for liquor and entertainment**

Clause 4 adds a new Article 44C in the Licensing Order (Alignment of closing time for liquor and entertainment) to ensure that the entertainment provided during later opening under Article 44, or further later opening under Article 44A, is not allowed to continue after the end of “drinking-up time”. This ensures that entertainment must end at the latest at 2.00am when an Article 44 order applies and 3.00am when an Article 44A order applies.

New Article 44C (2) and (3) provides that where entertainment continues to be provided beyond the latest time for consumption of alcoholic drinks, the order for additional (or further) additional permitted hours is invalidated, and the sale of intoxicating liquor must cease at 11pm.

### **Clause 5: Police authorisations for additional hours**

Clause 5 amends Article 45 of the Licensing Order (authorisations for additional permitted hours).

Subsection (1) amends Article 45(1) to allow police to authorise later opening (11.00pm-1.00am on weekdays; 10.00pm -12.00 midnight on Sundays), in pubs which have a court order for later opening under Article 44, on a day that is not covered in the Article 44 order.

Subsection (2) inserts a new Article 45(1A) detailing the conditions which must be satisfied before an authorisation can be made to pubs holding an order under Article 44.

Subsection (3) substitutes Article 45(2) to allow the police to authorise later opening in pubs holding an order under Article 44 for a maximum of 20 days in any year; introduces Article 45(2A) to increase the number of authorisations to pubs not holding an order for later opening under Article 44 from 20 days to 104 days in any year; and introduces Article 45(2B) to provide the Department with a power to make regulations to change the number of days in which orders under Article 45(2) or (2A) may be made. The regulations cannot come into operation unless and until approved by the Assembly.

Subsection (4) inserts new paragraphs (4) to (8) to Article 45 to require a licence holder applying for an authorisation under this Article, to display a notice of the application on or near the relevant premises during the three weeks before the first occasion to which the application relates. A copy of the notice must also be served on the district council. There is provision for complaints to be made to the courts where undue inconvenience is caused to local residents as a result of a late night authorisation. Courts are given the power to revoke an authorisation, modify the hours of an authorisation, or make an authorisation subject to such terms and conditions as it thinks fit, including those requested by the district commander of the police of the district in which the premises are situated.

### **Clause 6: Extension of “drinking-up time”**

Clause 6 amends Article 46 of the Licensing Order (Exceptions from prohibition of sale etc., of intoxicating liquor outside permitted hours).

Subsection (1) amends Article 46(1) which provides for the duration of the “drinking-up time” at the end of normal opening hours or later opening in licensed premises, substituting the current “30 minutes” with “60 minutes”.

Subsection (2) provides the Department with a power to make regulations to allow “drinking-up time” to revert to 30 minutes. The regulations cannot come into operation unless and until approved by the Assembly.

### **Clause 7: Major events**

Clause 7 introduces new Articles 48A and 48B in the Licensing Order in relation to major event orders.

Article 48A (Extension of permitted hours for major events) gives the Department a power to designate an event which will attract significant interest as a major event.

The Department is required to consult appropriate persons and having done so, has the power to vary permitted hours for the event, for specified premises, outside of what is currently available under the Licensing Order.

Article 48B (Major events order: conditions) gives the Department a power to impose or vary conditions for on or off-sales in any major event order, and adds an offence (punishable by a fine up to £1,000) for failing to comply with those conditions. It allows the Department to permit off-sales, only from the place or premises at which the event is taking place (provided that is not where an occasional licence is in force which was granted to the holder of a restaurant licence).

“Drinking-up time” and the removal of off-sales following the end of permitted hours apply. The regulatory-making power in Clause 6 which allows drinking-up time to revert to 30 minutes is extended to Article 48B.

Subsection (2) makes a consequential amendment to Part 1 of Schedule 10A to the Licensing Order (penalty points for offences punishable with level 3 fine), to take account of the introduction of the new Article 48B.

### **Clause 8: Licensed race tracks: Sunday sales**

Clause 8 amends Article 42 of the Licensing Order (General permitted hours) to permit “licensed race tracks”, within the “place of public entertainment” category of premises which may be granted a liquor licence, to sell intoxicating liquor on Sundays (not including Christmas Day) from 30 minutes before the entertainment and 30 minutes after, between the hours of 12.30pm and 10.00pm.

### **Clause 9: Places of public entertainment: inclusion of cinemas**

Clause 9 amends Article 2 of the Licensing Order (Interpretation) to add cinemas to the list of venues which fall to be defined as a ‘place of public entertainment’ and therefore eligible to apply for a licence to sell intoxicating liquor on the premises. It also amends Article 42(3) of the Licensing Order (general permitted hours) to include cinemas.

Cinemas will be permitted to sell intoxicating liquor between 11.30am and 11pm on weekdays, between 12.30pm and 11pm on Sundays and between 12.30pm and 10pm on Christmas Day.

Sales will be restricted during these hours to the period of the entertainment and 30 minutes immediately before and immediately after the entertainment.

### **Clause 10: Licence for off-sales**

Clause 10 amends Article 5 of the Licensing Order (premises for which licences may be granted) in relation to local producers of intoxicating liquor.

Subsections (1) and (2) add premises which are used for the production of intoxicating liquor, by a business carried on wholly or mainly in Northern Ireland, to the categories of premises which may be granted a liquor licence.

Subsection (3) introduces new Article 52B (Local producer's licence; sales on own premises), Article 52C (Local producer's licence: sale on other licensed premises) and Article 52D (Local producer's licence: sales not on licensed premises) in the Licensing Order.

Article 52B (Local producer's licence: sales on own premises) permits a local producer of intoxicating liquor to apply for a licence which would permit them to sell their own products, from their own premises, for consumption on and off the premises. Consumption on the premises is restricted to samples, as part of an organised tour on its own premises. The holder of the licence is required to display a notice containing relevant information in the premises at all times.

Article 52B (4) adds a new offence (punishable by a fine up to £2,500 or imprisonment up to 3 months, or both) for selling intoxicating liquor which was not produced in the premises or for selling for consumption on the premises.

Article 52B (5) to (7) add new offences (punishable by a fine up to £1,000) for providing samples in excess of the specified amount for consumption on the premises; not displaying the relevant notice; or for consuming the liquor in the premises or in premises adjoining or near, which belong to or are under the control of the licence holder.

Article 52C (Local producer's licence: sale on other licensed premises) permits local alcohol producers to sell their own products, for consumption off the premises, ancillary to certain events, from other specified licensed premises. The Department has the power to add or remove categories of premises from which local producers may sell their products.

Article 52C (5) adds an offence (punishable by a fine up to £2,500 or imprisonment up to 3 months, or both) for selling for consumption on the premises or not ancillary to a relevant event, while Article 52C(6) adds an offence (punishable by a fine up to £1,000) for not displaying the relevant notice.

Article 52C (6) adds an offence (punishable by a fine up to £1,000) for not displaying a notice, at the point of sale, containing relevant information in the premises at all times.

Article 52D (Local producer's licence: sales not on licensed premises) permits local producers of intoxicating liquor to sell their own products, ancillary to certain events, for consumption off the premises, from unlicensed premises.



Article 52D (2) to (6) detail the conditions which must be satisfied before an authorisation under Article 52D can be made.

Article 52D (8) adds an offence (punishable by a fine up to £2,500 or imprisonment up to 3 months, or both) for selling for consumption on the premises or not ancillary to a relevant event.

Articles 52D (9) to (11) add offences (punishable by a fine up to £1,000) for providing samples in excess of the specified amount for consumption on the premises; not displaying the relevant notice; and consuming and allowing consumption on the premises.

Subsection (5) amends Article 42 of the Licensing Order (General permitted hours) to include premises for the production of intoxicating liquor in the hours for off-sales.

Subsection (6) makes consequential amendments to Article 46 (exception for sales outside permitted hours), Article 56 (penalty for permitting consumption in unlicensed part of premises) and Article 58 (prohibition on young persons) to ensure references are made to local producer's licences.

Subsections (7) and (8) amend Part 1 of Schedule 1 (application for grant of licence) and Part 1 of Schedule 4 (application for the renewal of a licence) to the Licensing Order to require premises for the production of intoxicating liquor to attach a copy of any certificate of registration, licence or other authorisation which is required by a statutory provision for the production of intoxicating liquor in the premises to any such application.

Subsections (9) and (10) make consequential amendments to Part 1 of Schedule 10A to the Licensing Order (penalty points for offences punishable with level 3 fine), and Part 2 of Schedule 10A to that Order (penalty points for offences punishable with a level 4 fine) to take account of the introduction of new Articles 52B, 52C and 52D.

### **Clause 11: Sales and consumption of liquor in local producer's premises**

Clause 11 introduces a new Article 52E to the Licensing Order which will allow a local producer to apply to the court for an order to specify any part of the premises as suitable for the sale and consumption of intoxicating liquor produced in the premises. Subject to the grant of such an order, a local producer may also apply to the court for an authorisation under a new Article 52F to sell intoxicating liquor for consumption on the premises between the permitted hours of 4pm and 10pm. Not more than 104 such authorisations can be granted to a licence holder in any year and an authorisation cannot authorise the sale of intoxicating liquor on Christmas Day.

### **Clause 12: Restrictions on occasional licences**

Clause 12 amends Article 30 of the Licensing Order (occasional licences), to prohibit the granting of an occasional licence for local production premises to which an Article 52E applies (see above).

### **Clause 13: Requirement for off-licence**

Subsection (1) introduces a new Article 5A in the Licensing Order (Remote sales: requirement for off-licence). Where a sale takes place in any way other than in person, the place of despatch in Northern Ireland must be licensed to sell intoxicating liquor for consumption off the premises.

Subsection (2) inserts a new paragraph (1A) in Article 66 of the Licensing Order (conditions as to delivery of intoxicating liquor), requiring any person, who is not a servant or agent of the licence holder, and who is delivering intoxicating liquor to the purchaser, to make the delivery without unreasonable delay, and to have with them a receipt from the holder of the licence for the purchase of intoxicating liquor.

Subsection (3) adds an offence (punishable by a fine up to £1,000) for not complying with the requirements specified in the new paragraph (1A).

### **Clause 14: Removal of requirement for children's certificate, etc.**

Subsection (1) repeals Article 59 of the Licensing Order (children's certificates) which required licensees to hold a children's certificate if they wished young people under 18 years of age to be allowed in areas of the premises which contained a bar or are used mainly or exclusively for the consumption of intoxicating liquor.

Subsections (2) and (3) amend Article 58 of the Licensing Order (prohibition of young persons from certain premises) to put safeguards in place before young people under 18 years of age are allowed in areas of the premises which contain a bar or are used mainly or exclusively for the consumption of intoxicating liquor. Meals must be available, a young person must be accompanied by an adult and sit away from the bar, and must leave the premises by 9.00pm (9.30pm if consuming a meal purchased before 9.00pm).

Subsections (4) to (7) make consequential amendments to Articles 58 of the Licensing Order (prohibition of young people from certain premises), and to Article 60B (duty to display notice relating to age) to take account of the removal of the requirement for children's certificates.

### **Clause 15: Underage functions**

Subsection (1) introduces new Articles 58A and 58B in the Licensing Order in relation to the suitability of certain premises and authorisations for underage functions.

Article 58A permits a court, provided it is satisfied that a number of conditions have been met, to make an order specifying a part of certain licensed premises as suitable to hold underage functions.

Article 58B permits a court of summary jurisdiction or the clerk of petty sessions in certain circumstances, to authorise underage functions in certain licensed premises, up to

1.00am in a part of licensed premises to which an order under Article 58A applies. It is a condition of an authorisation that, the part of the premises for which the authorisation is in force, each dispenser of intoxicating liquor is incapable of operation and access to any other container of intoxicating liquor is prevented. The court may attach to the authorisation such other conditions as it thinks fit.

An offence is added (punishable by a fine up to £1,000) for contravention of any of the conditions.

Subsections (2) to (6) make consequential amendments to Article 58 of the Licensing Order (young persons prohibited from certain premises), Part 1 of Schedule 1 to the Licensing Order (application for grant of licence), Schedule 9 (applications to courts), Schedule 10 (applications for extension licences etc.) and Part 1 of Schedule 10A (penalty points for offences punishable with level 3 fine) to take account of the introduction of new Articles 58A and 58B.

Subsection (7) inserts paragraph (4ZA) in Article 108 of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (use of gaming machines on other premises). This paragraph makes it an offence for gaming machines to be made available in any part of licensed premises in which an underage function is being held.

#### **Clause 16: Private functions**

Clause 16 adds new paragraph (4A) to Article 58 of the Licensing Order (young persons prohibited from certain premises) to allow young people to remain on certain licensed premises, to attend a private function, provided certain conditions are met.

The conditions are, that the function is held in a part of the premises where the public do not have access to for the duration of the function; the person under 18 is in the company either of a parent or of a parent of another person who is 18 and attending the function; at least a main meal is being served; and the person under 18 does not consume any part of that meal at a counter or structure that is being used wholly or mainly as a bar.

#### **Clause 17: Delivery of intoxicating liquor to young persons**

Subsections (1) and (2) amend Article 60 of the Licensing Order (sale, etc., of intoxicating liquor to young persons), to make it an offence for a licensee or member of staff to make a home delivery of intoxicating liquor to any person under 18 years of age (punishable by a fine up to £5000 and/or to imprisonment up to 6 months and associated penalty points).

Subsection (3) adds new paragraph (ii) to Article 60(7A) so that in court proceedings licensees or members of staff who are charged with an offence under Article 60(1) may rely on a defence of due diligence by demonstrating that, when delivering intoxicating liquor, they recorded details of any proof of age document they had requested in the delivery book or on an invoice.

Subsection (4) ensures that intoxicating liquor cannot be delivered to a person under 18 years who is residing in unlicensed premises where an entertainment is being held or which is used by a club.

**Clause 18: Restaurants and guest houses: notice displaying licence conditions**

Clause 18 amends Article 51 of the Licensing Order (conditions as to sale etc. in guest houses and restaurants). It adds a new Article 51(4A) which requires a restaurant, and a guest house which also has a restaurant, to display a notice detailing the conditions in relation to the sale and consumption of intoxicating liquor in the premises.

Subsection (3) adds an offence (punishable by a fine up to £1,000) for not displaying a notice and (4) makes consequential amendments to Part 1 of Schedule 10A (penalty points for offences punishable with level 3 fine) to take account of the introduction of the new paragraph.

**Clause 19: Prohibition on self-service and sales by vending machines**

Clause 19 introduces a new Article 54A in the Licensing Order (Prohibition on self service and sales by vending machines). It prevents the supply of intoxicating liquor not made under the direct supervision of a licensee or a member of staff.

Article 54A gives the Department a power to make regulations permitting, where certain conditions are satisfied, the sale of intoxicating liquor by way of a vending machine to residents in hotels, guest houses and pubs which provide accommodation. It also adds a new offence (punishable by a fine up to £1,000) for selling intoxicating liquor by self-service means or via vending machines.

Paragraph (3) extends the prohibition to the use of an “honesty box” whereby, in the absence of the licence holder or other member of staff, persons are trusted to pay for by placing money in a container provided for that purpose, or agree to pay for by recording the intoxicating liquor appropriated by a process provided by the licence holder.

Subsection (2) makes a consequential amendment to Part 1 of Schedule 10A (penalty points for offences punishable with level 3 fine) to take account of the introduction of new Article 54A.

**Clause 20: Restrictions on off-sales drinks promotions in supermarkets etc.**

Clause 20 introduces new Article 57ZA in the Licensing Order (Restrictions on off-sales drink promotions in supermarkets etc.). Article 57ZA restricts the advertising of drinks promotions in supermarkets to the area in which intoxicating liquor may be displayed in such premises. Supermarkets and other licensed premises which sell intoxicating liquor for consumption at home will also not be allowed to advertise drinks promotions available in the premises within the vicinity of the premises, or any other premises licensed to sell for consumption off the premises.

Article 57ZA gives the Department a power to make regulations to amend the definition of vicinity. The regulations cannot come into operation unless and until approved by the Assembly. It also adds an offence (punishable by a fine up to £1,000) for carrying on a drinks promotion outside of the licensed area or anywhere in the vicinity of any premises licensed for the sale for consumption off the premises.

Subsection (2) makes a consequential amendment to Part 1 of Schedule 10A (penalty points for offences punishable with level 3 fine) to take account of the introduction of new Article 57ZA.

#### **Clause 21: Prohibition of loyalty schemes**

Clause 21 introduces new Article 57ZB in the Licensing Order (Prohibition of loyalty schemes). Article 57ZB prohibits the award or redemption of loyalty or bonus points for the purchase of intoxicating liquor in all licensed premises.

Article 57ZB adds an offence (punishable by a fine up to £5,000) for a licence holder to operate a loyalty reward or bonus scheme.

Subsection (2) makes a consequential amendment to Part 3 of Schedule 10A (penalty points for offences punishable with level 5 fine) to take account of the introduction of new Article 57ZB.

#### **Clause 22: Minimum unit pricing**

Clause 22 places a duty on the Department of Health to, within 3 years of this Act coming into operation, bring forward to the Assembly legislation introducing minimum pricing for the sale and supply of intoxicating liquor.

#### **Clause 23: Occasional licences: conditions**

Subsection (1) adds new paragraph 4A in Schedule 7 to the Licensing Order (application for occasional licence) which permits a court, when determining an application for an occasional licence, to impose terms and condition on the licence.

Subsection (2) makes a consequential amendment to Article 30 of the Licensing Order (occasional licences) to take account of new paragraph 4A of Schedule 7.

Subsections (3) to (5) amend Article 30 of the Licensing Order to make it an offence (punishable by a fine up to £1,000) for a licence holder not to comply with these conditions; and Part 1 of Schedule 10A (penalty point for offences punishable with level 3 fine).

#### **Clause 24: Independent review of the licensing system and surrender principle**

Clause 24 places a duty on the Department for Communities to appoint an independent

person within six months of the commencement of this Act to undertake a review of the licensing system.

Subsections (2) and (3) set out the areas to be covered by the review and stipulate that the appointed person must report and make recommendations within one year of their appointment.

Subsections (4), (5) and (6) require the Department to lay the report of the review before the Assembly, publish the report and, within six months of publication, produce and publish an action plan to address the recommendations of the review report.

#### **Clause 25: Annual publication of the number of operational liquor licences**

Clause 25 requires the Department for Communities to publish an annual report on the operation of the liquor licensing system in Northern Ireland. The report must include detail on operational liquor licences for public houses and off-licences and a ten-year projection for each type of premises.

#### **Clause 26: Code of practice**

Clause 26 introduces a new Article 76F in the Licensing Order (Code of practice) which allows the Department to approve a relevant code of practice produced by a person or group of persons who have a relevant interest in matters surrounding intoxicating liquor. Before approving a code of practice relating to the matters referred to in paragraph (3) of the new Article 76F, the Department must consult the PSNI. The Department may approve any subsequent amendments to a code or withdraw approval of the code.

When granting or transferring a licence a court must be satisfied that an applicant is aware of their responsibilities under an approved code of practice. Where a renewal of a licence has been submitted to clerk of petty sessions, they must be satisfied that an applicant for renewal of a licence has been complying with the code.

#### **Clause 27: Body corporate: change of directors**

Clause 27 amends Article 4 of the Licensing Order (persons to whom licences may be granted) to require a body corporate (licensee) to notify the courts and police of any change of directorship within 28 days.

It adds an offence (punishable by a fine up to £5,000) for not making such a notification. Subsection (2) amends Article 72 of the Licensing Order (suspension of licence) to allow the suspension of a licence on the grounds that the body corporate is no longer fit to hold a licence, having not informed the courts and police of a change in directorship.

Subsection (3) makes a consequential amendment to Part 3 of Schedule 10A (penalty points for offences punishable with level 5 fine).

### **Clause 28: Removal of exemption for angostura bitters**

Clause 28 omits angostura bitters (a product of high alcohol content which is used to flavour a wide variety of drinks and food) from the list of products which are not included in the definition of intoxicating liquor in Article 2(2) of the Licensing Order (interpretation). The omission has the effect that angostura bitters will be categorised as intoxicating liquor and therefore may only be sold in licensed premises.

## **PART 2 REGISTRATION OF CLUBS**

### **Clause 29: Sporting clubs**

Clause 29 introduces new Article 15A in the Clubs Order ( Extension authorisations for sporting clubs) to allow police to authorise a sporting club to extend the area of its premises which is registered to supply intoxicating liquor for the purpose of holding a function.

The extended area will be treated as part of the registered premises and therefore the function will be subject to the conditions set out in Article 30 (Functions in registered clubs). A sporting club will be able to apply for a police authorisation up to 6 times in any year. Only in exceptional circumstances, determined by the PSNI, should an authorisation last for more than 1 day.

The Department has a power to make regulations to change the number of authorisations the police may make in any year. The regulations cannot come into operation unless and until approved by the Assembly.

### **Clause 30: Consent required for alteration to premises**

Clause 30 introduces a new Article 12A to the Clubs Order (Consent required for certain alterations to premises). The provision requires a registered club to obtain the consent of a court before making certain specified alterations to its premises, as is already the case for licensed premises under the provisions of the Licensing Order. The procedure for applications for consent under Article 12A is set out in a new Schedule 4A.

Paragraph (6) of the new Article 12A adds an offence (punishable by a fine up to £500) for failure to comply with an order to make alterations.

Paragraph (7) of the new Article 12A also adds an offence (punishable fine up to £5000 or imprisonment up to 6 months or both) by for not complying with a court order to restore premises.

### **Clause 31: Removal of additional restrictions at Easter**

Clause 31 amends Article 24 (general permitted hours), Article 25 (consumption of liquor after permitted hours) and Article 26 (authorisations for special occasions) of the Clubs Order to remove all Easter restrictions, bringing the hours available into line with those

available on weekdays during the rest of the year. This corresponds with changes made for licensed premises in Clause 1 of the Bill.

**Clause 32: Removal of restrictions on late opening on Sunday**

Clause 32 amends Article 24 of the Clubs Order (general permitted hours) and Article 26 (authorisations for special occasions) and removes the restrictions on late night permitted hours on a Sunday (currently restricted to 10pm and 12pm respectively) for registered clubs. This brings the additional permitted hours on any Sunday into line with those permitted on any other day (i.e. 11pm, other than Christmas Day, and 1am of the next day).

**Clause 33: Extension of “drinking-up time”**

Clause 33 amends Article 25 of the Clubs Order (consumption after permitted hours of liquor supplied during those hours) to create similar provisions for the duration of the “drinking-up time” in private members’ clubs to those set out in Clause 6 of the Bill in relation to licensed premises.

**Clause 34: Increase in number of authorisations for special occasions**

Clause 34 amends Article 26 of the Clubs Order (authorisation for special occasions) to increase the number of authorisations which can be granted by the police to any club in any year from 85 to 104.

Subsection (2) inserts new paragraphs (5) to (9) to Article 26 to require a person applying for an authorisation under this Article, to display a notice of the application on or near the club premises for which the authorisation is sought during the three weeks before the first occasion to which the application relates. A copy of the notice must also be served on the district council. There is provision for complaints to be made to the courts where undue inconvenience is caused to local residents as a result of a late night authorisation. Courts are given the power to revoke an authorisation, modify the hours of an authorisation, or make an authorisation subject to such terms and conditions as it thinks fit, including any which may be requested by the district commander of the police of the district in which the club premises are situated.

**Clause 35: Major events**

Clause 35 introduces a new Article 26A to the Clubs Order (Extension of permitted hours for major events). The provisions in Article 26A correspond to those set out for major events in Clause 7 of the Bill.

**Clause 36: Removal of requirement for children’s certificate, etc.**

Clause 27 repeals Article 33 of and Schedule 5 to the Clubs Order (children’s certificates) and amends Article 32 of the Clubs Order (young persons prohibited from bars) to create



similar provisions for safeguarding young people who are present in club premises from the dangers of intoxicating liquor to those provided in Clause 14 of the Bill.

### **Clause 37: Underage functions**

Clause 37 introduces new Article 32A in the Clubs Order (Authorisations for underage functions). The provisions in Article 32A for police authorisations if an underage function is taking place in club premises correspond to those set out for court authorisations in Clause 15 of the Bill.

Subsection (4) inserts paragraph 7A in Article 106 of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (use of gaming machines in registered clubs). This paragraph makes it an offence for gaming machines to be made available in any part of club premises in which an underage function is being held.

### **Clause 38: Private functions**

Clause 38 amends Article 32 of the Clubs Order (young persons prohibited from bars) to introduce new paragraph (3A) to correspond to those provisions set out in Clause 16 of the Bill and will allow young people to remain in the bar area of a registered club, provided certain conditions are met.

### **Clause 39: Young people prohibited from bars**

Clause 39 amends Article 32 of the Clubs Order (young persons prohibited from bars). It extends the last time that young people under 18 years of age may be in the bar area of sporting club premises from 10.00pm to 11.00pm during the summer months (1 May to 30 September).

It also introduces a new Article 32(13A) to allow a young person to remain in the bar area until 11.00pm to attend up to three prize-giving ceremonies in a calendar year.

The Department has a power to make regulations to change the months during which this provision applies and the number of prize-giving ceremonies which can be attended. The regulations cannot come into operation unless and until approved by the Assembly.

### **Clause 40: Prohibition on self-service and supply by vending machines**

Clause 40 introduces new Article 31C in the Clubs Order (prohibition on self-service and sales by vending machines). It mirrors those provisions as set out in Clause 19 of the Bill in respect of licensed premises and prevents the supply of intoxicating liquor not made under direct supervision.

Paragraph (3) of the new Article 31C extends the prohibition to the use of an “honesty box”, whereby persons are trusted to pay for intoxicating liquor by placing money in a container provided for that purpose, or agree to pay for recording the intoxicating liquor appropriated by a process provided by the club.

### **Clause 41: Restrictions relating to advertisements**

Clause 41 amends Article 38 of the Clubs Order (Restrictions on advertisements relating to functions in clubs) by removing current advertising restrictions (where, unless it involves a sport, game or physical recreation, a function may only be advertised within club premises).

It permits a club to advertise any function outside of club premises where the advertisement clearly states that only members of the club and their guests may attend the function.

However, advertisements relating to functions where the proceeds are devoted to charitable or benevolent purposes will not be subject to such restrictions.

### **Clause 42: Code of practice**

Clause 42 introduces new Article 41K in the Clubs Order (code of practice) to create similar provisions to Clause 26 (which introduces new Article 76F in the Licensing Order) in relation to allowing the Department to approve a code of practice.

## **PART 3 GENERAL**

### **Clause 43 Guidance**

Clause 43 places a duty on the Department for Communities to produce and publish guidance on the effects of the licensing legislation and the registration of clubs legislation, the effects of the provisions of the Act resulting from this Bill, and any other matters it considers appropriate in relation to those issues.

### **Clause 44: Review**

Clause 44 requires the Department for Communities to review and report on each of the provisions in Parts 1 and 2 of this legislation as soon as is practicable after the third anniversary of the commencement of that provision and thereafter, at least once in every five years. The Department is required to lay each of these reports before the Assembly, and must then publish the reports.

The Department has a power make regulations to discontinue these requirements, but not from any date earlier than the tenth anniversary of the Act resulting from the Bill receiving Royal Assent. The regulations cannot come into operation unless and until approved by the Assembly.

### **Clause 45: Minor and consequential amendments**

This Clause provides that necessary consequential amendments to the Licensing Order and the Clubs Order are contained within Schedule 1 to the Bill; and provides a power for the Department to make any regulations necessary to give full effect to the Bill.

Regulations which amend primary legislation cannot come into operation unless and until approved by the Assembly.

## **SCHEDULES**

### **Schedule 1: Minor and consequential amendments**

Schedule 1 to the Bill details the minor and consequential amendments to the Licensing Order and the Clubs Order contained within the Bill.

Paragraph 18A of Schedule 1 introduces a new paragraph 13A to Schedule 1 of the Clubs Order (provisions to be included in rules of club) to clarify that the policy intent of paragraph 13 of that Schedule (day membership at sporting clubs) is to allow persons to use the facilities of the club on the day in question only if the person engages in sporting activities of the club on that day.

### **Schedule 2: Repeals**

Schedule 2 to the Bill sets out the relevant places in the Bill where an omission has been made to the Licensing Order and Clubs order throughout the Bill.

## **FINANCIAL EFFECTS OF THE BILL**

24. The Department has identified a number of potential costs which may be incurred by both the private sector and public sector bodies. These costs relate to the implementation of the Bill's proposals, and recurrent or operating costs. In terms of off-setting costs, the hospitality industry has consistently reported that the restrictions placed on it over the Easter weekend costs the Northern Ireland economy in the region of £20 million per year (£16 million prior to 2018, when the last remaining restriction during the Easter weekend was lifted in the Republic of Ireland).
25. The Bill introduces further later opening on 104 occasions in any year for pubs and hotels, amendments to opening hours at Easter and the option to vary permitted hours for major events for licensed premises and private members' clubs to assist the licensed trade and the hospitality industry. It also allows underage functions (under strict conditions) which is intended to provide a further income source for these premises and introduces a new category of licence for local producers of alcoholic drinks which is intended to encourage the growth of those small businesses.
26. The PSNI were asked to provide an estimate of the additional administrative costs likely to be incurred as a result of the increase in applications for later opening and sporting club extensions. They were also asked for an estimate of the additional policing costs arising from the need to ensure public safety and public order as a result of patrons exiting licensed premises at a later time throughout the year.
27. The PSNI initially advised that the proposals in the Bill would have implications for

policing the night time economy and would lead to increased resourcing costs for the PSNI as well as other support services that assist police. The PSNI advised that there would be an impact on its shift system and therefore expected overall a major impact on resourcing both from a financial and staffing point of view.

28. The PSNI then advised that its current shift system would meet the demand without having to consider the use of significant overtime. The PSNI made clear that this was only the case if further additional permitted hours were used over the weekend, which is the assumption based on 2 per week being available.
29. The Courts were asked to consider the proposed changes and provide an estimate for any additional costs, including administrative. The focus of court officials at the time of the Department's request was court recovery in the COVID context and therefore no figures were available at the time of print. Officials believe however that additional costs are likely to be incurred for the increase in applications as a result of availability of later opening, ability to hold underage functions, and provision of a new category of licence for local producers. It is understood that court fees are determined on a cost recovery basis.
30. The removal of the requirement to hold a children's certificate will more than offset any cost incurred by licensed premises and private members clubs having to display a notice in relation to offences to young people under 18 years of age. The requirement for restaurants and guest houses having to display a notice regarding conditions under which alcoholic drinks may be sold in such premises is likely to be negligible.
31. The advertising restrictions on supermarkets and off-sales premises may lead to a reduction in the sale of alcohol but this intended consequence is unlikely to have significant implications for these premises. Conversely the lifting on advertising restrictions on functions held in private member clubs is intended to assist clubs in financing the sporting, recreational and social activities which they make available in their local communities and which might not otherwise be provided.

## **HUMAN RIGHTS ISSUES**

32. The proposals have been screened for compatibility with the European Convention on Human Rights. No human rights implications were identified.

## **EQUALITY IMPACT ASSESSMENT**

33. In accordance with its duty under section 75 of the Northern Ireland Act 1998 to have due regard to the need to promote equality of opportunity, the Department conducted a screening exercise on the proposals, concluding that they did not have significant implications for equality of opportunity and that an equality impact assessment was therefore not necessary.

## **SUMMARY OF THE REGULATORY IMPACT ASSESSMENT**

34. The Department included its consideration of the potential regulatory impacts as part of the public consultation. It concluded that no Regulatory Impact Assessment was required.

## **DATA PROTECTION IMPACT ASSESSMENT/DATA PROTECTION BY DESIGN**

35. The proposals do not provide for the collection, use or storage of individual data, therefore the Department concluded that a Data Protection Impact Assessment was not required.

## **RURAL NEEDS IMPACT ASSESSMENT**

36. The proposals apply to all licensed premises and registered clubs across Northern Ireland. The measures recognise the role licensed premises and registered clubs have in their communities, particularly for people in the more remote rural areas where they are a focus for much social activity. The Department concluded that no Rural Needs Impact Assessment was required.

## **LEGISLATIVE COMPETENCE**

37. At Introduction the Minister for Communities had made the following statement under section 9 of the Northern Ireland Act 1998:

*“In my view the Licensing and Registration of Clubs (Amendment) Bill would be within the legislative competence of the Northern Ireland Assembly.”*