



Department for

Communities

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LICENSING AND REGISTRATION OF CLUBS (AMENDMENT) BILL

DELEGATED POWERS MEMORANDUM

DEPARTMENT FOR COMMUNITIES

OCTOBER 2020

Introduction

1. The Licensing and Registration of Clubs (Amendment) Bill (the Bill) amends the Licensing (Northern Ireland) Order 1996 and the Registration of Clubs (Northern Ireland) Order 1996. The Bill introduces a balanced package of measures which builds on current law to control the sale of alcoholic drinks on one hand, and offers some support to the hospitality sector on the other.
2. This memorandum explains the purpose of the delegated powers provided for within the Bill, the reason for using subordinate legislation and the choice of Assembly control.
3. The Bill gives powers to the Department to make regulations to amend the extent of some measures in the Bill. These powers are contained in clauses 2, 4, 5, 8, 16 and 22 of the Bill. These regulations cannot be made unless a draft of the order has been laid before, and approved by a resolution of, the Assembly.
4. The Bill also gives the Department powers to make regulations which provide further detail in relation to requirements specified in clauses 8, 14 and 15 of the Bill. The regulations are subject to the negative resolution procedure and therefore will have effect unless the Assembly passes a motion to make them void.

ANALYSIS OF DELEGATED POWERS BY CLAUSE

5. The Bill, and for convenience this memorandum, is organised into three parts:

Part 1 – Licensing –	Clauses 1 – 21
Part 2 – Registration of Clubs –	Clauses 22 – 32
Part 3 – General -	Clauses 33 – 36

PART 1 – AMENDMENTS MADE BY THE BILL TO THE LICENSING (NORTHERN IRELAND) ORDER 1996

Clause 2 - Public houses and hotels: further additional hours

6. The Bill gives courts the power to extend later opening in public houses or hotels which provide entertainment and/or substantial refreshment and which already hold a court order for later opening. The court may extend later opening for an additional one hour on any day to which an order for later opening applies (1.00am – 2.00am on weekdays; 12.00 midnight - 1.00am on Sundays). A court may also permit further later opening for three hours in premises which already hold an order for later opening, 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 for later opening applied that day. The Bill also provides powers for a court of summary jurisdiction to revoke or modify an order for further later opening.
7. An order for further later opening may be made for a maximum of 104 days in any year but may not be made for Christmas Day.
8. The Department is given the power to make regulations changing the number of days on which orders for further later opening may be made. The regulations cannot come into operation unless and until approved by the Assembly.

Clause 4 - Police authorisations for additional hours

9. The Bill allows 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, on a day that is not covered by that order. The police may authorise later opening for such pubs for a maximum of 20 days in any year. The Bill also increases (from 20 to 85 in any year) the number of police authorisations for late opening (11.00pm-1.00am) for pubs which are not eligible to apply for a court order for late opening (smaller pubs which cannot provide food and/or entertainment).
10. The Bill also provides a power for the Department to make regulations changing the number of police authorisations for late opening in any year **(Clause 4(3)(2B))**.

11. The regulations are laid in draft as the issue of late opening in licensed premises is controversial. This form of control ensures that the regulations cannot be made unless the Assembly approves the change.

Clause 5 - Extension of “drinking-up time”

12. The Bill provides that current drinking-up time, after the latest time that alcohol can be sold, should be extended from 30 minutes to 60 minutes.
13. It also provides powers for the Department to make regulations permitting the drinking-up time to revert to 30 minutes **(Clause 5(2))**.
14. The above regulations cannot be made unless a draft has been laid before, and approved by a resolution of, the Assembly.

Clause 8 - Licence for off-sales (Local producer’s licence)

Sales on own premises

15. The Bill adds the premises of an alcohol producer to the categories of premises which may be granted a liquor licence. Alcohol producers may sell their own products for consumption off the premises. Consumption on the premises is restricted to samples, as part of an organised tour of the premises.
16. The Bill provides powers for the Department to make regulations defining what constitutes a “sample” and to prescribe the content of a notice which the licence holder must display at all times on the premises **(Clause 8(3) inserting Article 52B(3) and (6) respectively)**. As these regulations are of a technical nature, making them subject to negative resolution is considered appropriate.

Sales on other licensed premises

17. The holder of a local producer’s licence can also sell their own products, for consumption off the premises, ancillary to certain events, from other specified licensed premises.
18. The Department has the power to make regulations to add or remove categories of premises from which local producers may sell their products **(Clause 8(3) inserting**

Article 52C(3)). These regulations cannot be made unless a draft has been laid before, and approved by a resolution of, the Assembly.

19. The Department also has the power to prescribe the content of a notice which the licence holder must display at all times in the licensed premises to which this Article applies at the point of sale of the intoxicating liquor (**Clause 8(3) inserting Article 52C(6)**). As these regulations are of a technical nature, making them subject to negative resolution is considered appropriate.

Sales not on licensed premises

20. Licensed local producers can also sell their own products, ancillary to certain events, for consumption off the premises, from unlicensed premises where specific conditions are satisfied.
21. The Department also has the power to prescribe the content of a notice which the licence holder must display at all times in the licensed premises to which this Article applies at the point of sale of the intoxicating liquor (**Clause 8(3) inserting Article 52D(10)**). As these regulations are of a technical nature, making them subject to negative resolution is considered appropriate.

Clause 14 - Restaurants and guest houses: notice displaying licence conditions

22. The Bill introduces a requirement for licensed restaurants and guest houses to display a notice detailing the conditions under which alcoholic drinks may be sold in such premises.
23. The Department is given a power to make regulations detailing the information to be contained in the required notice (**Clause 14(1) inserting Article 51(4B)**).
24. As these regulations are of a technical nature, making them subject to negative resolution is considered appropriate.

Clause 15 - Prohibition on self-service and sales by vending machines

25. The Bill prohibits the sale of alcoholic drinks via self-service and vending machines but provides a power for the Department to make regulations permitting the sale of

alcohol by way of a vending machine to residents in hotels, guest houses and pubs which provide accommodation **(Clause 15 inserting Article 54A(3))**.

26. Given the regulations are of a technical nature, making them subject to negative resolution is considered appropriate.

Clause 16 - Restrictions on off-sales drinks promotions in supermarkets etc.

27. The Bill restricts off-sales premises to advertising within a 200 metre boundary of the premises but provides a power for the Department to make regulations amending the distance **(Clause 16(1) inserting Article 57ZA(4))**.
28. The availability of cheap alcoholic drinks in supermarket premises is a matter of concern and therefore any change to advertising restrictions on alcohol promotions in such premises would be a matter of significant public interest. A draft of the regulations is laid in the Assembly and cannot be made unless the Assembly approves the change.

PART 2 – AMENDMENTS MADE BY THE BILL TO THE REGISTRATION OF CLUBS (NORTHERN IRELAND) ORDER 1996

Clause 22 - Sporting clubs

29. The Bill provides a power for the police to authorise a sporting club to extend the area of its premises in which alcoholic drinks may be supplied for the purpose of holding a function. 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.
30. The Department is given a power to make regulations amending the number of authorisations the police may make in any year **(Clause 22(1) inserting Article 15A(7))**. Making any change to the number of occasions a club can extend its premises to supply alcohol would require careful consideration. A draft of the regulations is laid in the Assembly and cannot come into operation unless and until approved by the Assembly.

Clause 24 - Extension of “drinking-up time”

31. The Bill provides that current drinking-up time, after the latest time that alcohol can be sold, should be extended from 30 minutes to 60 minutes. Similar to the provisions set out in Clause 5 of the Bill in relation to licensed premises.
32. It also provides powers for the Department to make regulations permitting the drinking-up time to revert to 30 minutes **(Clause 24(2))**.
33. The above regulations cannot be made unless a draft has been laid before, and approved by a resolution of, the Assembly.

PART 3 – ANCILLARY PROVISION IN RELATION TO THE BILL AND COMMENCEMENT OF THE BILL

Clause 34 - Minor and consequential amendments

34. The Bill provides a power for the department to make an order for incidental, supplementary, consequential, transitional, transitory or saving provisions for the purpose of giving full effect to the Bill **(Clause 34(2))**.
35. The regulations will be subject to the negative resolution procedure and will have effect unless the Assembly passes a motion to make them void.
36. Regulations which amend primary legislation cannot come into operation unless and until approved by the Assembly.
37. The Bill provides a power for the Department to commence, by order, certain provisions of the Bill **(Clause 36(2))**. By convention, this power is not subject to Assembly control. However, the Department will advise the Committee for Communities of commencement arrangements.