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Dear Janice

LICENSING AND REGISTRATION OF CLUBS (AMENDMENT) BILL - REQUEST FOR FURTHER INFORMATION

Thank you for your letter dated 26 November 2020 in which you advise of the Committee's request for information following a briefing by the Assembly's Research and Information Service on the Licensing and Registration of Clubs (Amendment) Bill.

I apologise for the delay in responding, please see attached briefing which addresses a number of questions relating to the above Bill.

I hope you find this response helpful and I would be grateful if you would please share it with the Committee Members.

Yours sincerely

Diane Mulligan

Departmental Assembly Liaison Officer
Private Office

Annex A

Licensing and Registration of Clubs (Amendment) Bill – Departmental response to questions contained within the RaSe briefing – 18 September 2020

CLAUSES 1 & 23 – Removal of additional restrictions at Easter

Has any independent analysis been conducted on the loss of revenue to licensed premises due to the Easter restrictions and the benefits to the economy that may be derived from the removal of the restrictions? Hospitality Ulster estimated that in 2016 approximately £16 million in revenue was lost due to these restrictions; how is this figure derived and are there updated figures?

- A. Restrictions on the sale of alcoholic drinks on Good Friday date back to 1833, with the current position dating back to 1924. There is therefore no comparative time period where information is available to analyse what the real loss of revenue is. There is anecdotal evidence which shows potential visitors are put off by the restrictions and often advised/decide to choose the Republic of Ireland (ROI) or other jurisdictions instead. It is a natural deduction then that the removal of the restrictions would lead to an increase in visitors and as a result, benefit the economy.

Hospitality Ulster carried out a survey of its members in March 2016 and as a result estimated that approximately £16 million was lost from the economy due to Easter liquor licensing restrictions. With the final restriction on Good Friday in ROI being removed in 2018, Hospitality Ulster advise that the figure now could be in the region of £20 million.

To what extent would removing the restrictions at Easter address some of the financial challenges resulting from the COVID-19 pandemic?

- A. Hospitality Ulster has carried out some work on the financial impact of COVID-19 on licensed premises. It is unclear at the moment when covid restrictions will be eased however removing the restrictions at Easter will provide an opportunity for increased revenue over the first Easter weekend after commencement of that provision.

There are other provisions within the Bill which may assist in addressing some of the financial challenges the sector is currently facing, such as additional late opening. It does however depend on the shape of the final legislation passed by the Assembly. Competition from tap rooms for example could negatively affect trade in some locations.

The voice of faith-based groups and individuals is important given the religious significance of Easter. To what extent do the proposals provide a balance between the promotion of tourism and hospitality and the protection of a traditional religious holiday and public health in general?

- A. Pubs are permitted to open on each of the days over the Easter weekend, under restricted hours. Those who wish to observe the religious holiday currently have a choice as to whether they visit a licensed premises. The provision extends the hours but the choice remains for the individual. In terms of public health, the provision extends permitted hours by a number of hours. The biggest current restriction over the Easter weekend is the permitted hours on Good Friday, where licensed premises cannot open until 5pm and are required to close at 11pm. Off-licences are permitted

to remain open during this time so alcohol is still available for purchase for consumption at home.

CLAUSE 2 – Public houses and hotels: further additional hours

Has any research been conducted or commissioned by the Department on the proposal to extend late opening by one hour in terms of its impact on (a) the night-time economy and the economy in general (b) on alcohol consumption and alcohol-related harm (c) on crime levels (e.g. assaults) (d) emergency services (e.g. police, ambulance service, A&Es)?

- A. The licensing regime here is different to those in other jurisdictions and therefore it is difficult to carry out meaningful research as there is no comparative baseline. The increase applies only to pubs and hotels, 104 nights per year. Should any difficulties arise, regulations can be made to reduce this number.

As part of the application process for the additional hour a licensee is required to serve a copy of the notice of the application to the PSNI and the local council. The PSNI, local council or anyone residing in the vicinity of the premises may object to the application. Furthermore, after the grant of a further additional hours order, upon complaint, a court can revoke, modify or make an order subject to terms and conditions.

In Scotland, Local Licensing Forums (which are multi-disciplinary bodies whose membership consists of e.g. police, health trusts, child safeguarding, local residents, environmental health) can share local intelligence on the activities of licensed premises with local Licensing Boards. Northern Ireland does not have a similar statutory licensing infrastructure. By what means will local intelligence regarding opening hours be gathered and communicated to, and between, relevant bodies?

- A. As above in respect of the application and complaints process. In practice, in Belfast for example, the PSNI liaise with the Health Trust's Alcohol Recovery Centre, the SOS charity, and licensees when issues arise. Each PSNI district has a licensing officer who engages with licensees and local councils on a regular basis. The PSNI may be able to provide further details. The impact of the additional hour will also be included in the evaluation of the Act. The number of late nights can be changed by regulations should any difficulties arise.

If extended opening hours are permitted, will it be rolled out on a Northern Ireland-wide basis or will it be piloted first?

- A. Pilots are not generally appropriate for legislation, the law stands until it is changed by parliamentary process. The power to amend the number of late nights by regulations is included in the Bill. This means that should any difficulties arise this can be changed quickly. To restrict the provision to a particular geographical area may also result in displacement of the hospitality trade, where people travel from one area to another to avail of the late nights.

How does the Department intend to review and monitor the impact of the one-hour extension (and extension of drinking-up time)? Will comprehensive data be gathered to assess the impact of extended opening (e.g. the number of premises prevailing of

extended opening and how often, data on the economic impact on the night-time economy, impact on crime and policing etc.)?

- A. Officials are liaising with Professional Services Unit (PSU) within the Department who are experts in research and statistics. PSU officials are currently developing an evaluation plan. Available information will be used to determine a baseline and the relevant information which will be required to carry out an evaluation.

CLAUSE 3 – Alignment of closing time for liquor and entertainment

Given that the regulation and enforcement of liquor licensing and entertainment licensing rests with different bodies, how will compliance with this provision be monitored and intelligence shared?

- A. Given no premises should be open later for entertainment than for permitted hours, police will be able to easily identify premises which are not complying. The PSNI are responsible for enforcement of the law and are notified of applications for additional hours within their districts, as are local councils.

CLAUSE 4 – Police authorisations for additional hours

How many police authorisations are currently provided to licensed premises in Northern Ireland? How many authorisations are currently refused? Has any research been conducted on the potential uptake of applications if authorisations are increased from 20 to 85 (for smaller clubs) and the 20 occasions for larger pubs?

- A. This information has been requested from the PSNI for the last 5 years.

The sector has been calling for the 20 nights for smaller pubs to be increased to 104 nights and for the ad-hoc nights for some time. It is expected therefore that there will be significant uptake of both.

CLAUSES 5 & 24 – Extension of “drinking-up” time

Would this provision be rolled-out across Northern Ireland or piloted in certain areas first in order to assess its impact? Is it anticipated that the stockpiling of drinks (bought before licensing hours end to consume during “drinking-up time”) will be an issue? If so, what solutions could be deployed to prevent this from happening?

- A. Pilots are generally not appropriate for legislation, the law stands until it is changed by parliamentary process. The Bill includes a power to revert back to 30 minutes by regulations if moving to 1 hour proves problematic.

Attempts to stockpile drinks is managed by staff currently and will continue to be. This is something that staff in licensed premises are aware of in terms of responsible serving practices and training under the Responsible Retailing Code NI.

CLAUSES 6 & 25 – Major events

Are there plans to conduct a public consultation exercise before a major event order is made? Would an impact assessment be published before an order is made?

- A. The Bill requires the Department to consult the appropriate persons before making a major event order. The impact of permitting varied hours for an event would naturally

be part of that consultation. The policy intent is provide flexibility, allowing the Department to act quickly for future events, some of which may be notified at short notice, similar to powers afforded by the Home Office.

Should there be certain mandatory consultees (e.g. the PSNI, health trusts, local councils, Tourism NI). What would happen in the case of disagreement between the Department and consultees?

- A. Officials discussed whether these persons should be specified in legislation with OLC however it was acknowledged that the consultees may change dependent on the event and therefore the current wording was adopted.

In practice, for large scale events this could include, but not be limited to, Health organisations, the PSNI, NIFRS, NIAS, local Council, DfE, DfI Roads Service, and Tourism NI.

The Bill (as introduced) states that “where the Department considers that if an event that is to take place in Northern Ireland [own emphasis] will attract significant public interest” it may make a major event order. What consideration has been given to events that may attract significant public interest but held outside of Northern Ireland (e.g. local sporting success in cross-border or international events)?

- A. The intention is that this provision will be using for significant events hosted here. The ability to vary permitted hours for an event is expected to encourage organisers to choose Northern Ireland over other jurisdictions.

CLAUSE 7 – Licensed race tracks: Sunday sales

Has an assessment been carried out to evaluate what benefits Sunday opening may have on race tracks that hold licences under the ‘places of public entertainment’ category?

- A. Officials have liaised with licensed race tracks for a number of years. They currently use occasional licences when they have race meetings on a Sunday at which they wish to sell alcohol. Race events generally take place at the weekends, as more people are available to attend.

CLAUSE 9 – Requirement for off-licence

Will information and statistics on licensed premises offering remote sales be recorded for monitoring purposes e.g. gathered upon application or renewal of licences?

- A. Any licensed premises which is permitted to sell for consumption off the premises is permitted to carry out those sales remotely. The decision to offer remote sales is a business one and not recorded in the application process.

Should there be restrictions in the hours in which alcohol can be delivered (as is the case in Scotland)?

- A. In Scotland, the delivery of alcoholic drinks is prohibited between midnight and 6am. This policy area was not included in the Department’s consultation in 2019 however Minister will consider any amendments proposed by the Committee.

CLAUSES 10 & 26 – Removal of requirement for children’s certificate

Should premises be required to display a notice similar to Scotland’s Children and Young Persons Access Notice? Such information may be helpful to both tourists and local families.

- A. In Scotland, a Children’s and Young Persons Access Notice provides details about what ages of children are allowed, at what times and in which parts of the premises. This information is also included in an operating plan which a prospective licensee must provide on application, and may be different to those in other licensed premises.

The conditions relating to children and young people in liquor licensing law here relates to all licensed premises. Under current law, a notice relating to age must be displayed at all times at each place where alcohol is sold, and in a readily visible position. This notice must contain information regarding the offences in relation to young people, and a list of acceptable proof of age documents. The Bill will include a power to include, by regulations, information in relation to offences concerning the presence of such persons in licensed premises.

CLAUSES 11 & 27 – Underage functions

How does the Department intend to monitor the impact of this clause in terms of compliance?

- A. The PSNI are responsible for enforcing liquor licensing legislation.

Is there a need for a much wider conversation around safeguarding under 18s whilst they in premises that sell alcohol?

- A. Articles 58 – 60B of the Licensing Order contain special provision with respect to young persons on licensed premises.

Would it be useful to have comprehensive guidance in relation to the presence of under 18s in licensed premises and registered clubs (i.e. what is expected in terms of supervision, safeguarding, the structure of the premises etc., detailed rules in relation to larger underage functions etc.)? The hospitality industry and registered sporting clubs may already have existing guidance and examples of best practice as a basis on which to build such guidance.

- A. Articles 58 – 60B of the Licensing Order contain special provision with respect to young persons on licensed premises.

The Bill as drafted requires courts to first grant an order specifying a premises is suitable for holding an underage function. The licence holder must apply to court for an authorisation to hold a function. Strict conditions are attached in respect of access to alcohol/consumption by over 18’s and gaming machines.

CLAUSES 12 & 28 – Private functions

What is the definition of a “private function”? What types of functions would be outside of the definition of a “private function”?

- A. OLC advised that the term “private function” is self-explanatory however, for completeness included in the Bill “accordingly, the public do not have access to that part of the premises which the function is being held”.

What current structures are in place to ensure that the PSNI, local councils, the Department, other relevant bodies (e.g. those involved in the safeguarding of under 18s), and licensed premises and registered clubs can share information regarding premises that may not be in compliance with the law? Are these current structures adequate for the sharing of such information and are there examples of best practice?

- A. The PSNI are responsible for enforcing liquor licensing legislation. Anyone with concerns in respect of a specific licensed premises or registered club can notify the PSNI.

Will there be guidance on the types of activities in private events that are not suitable for under 18s?

- A. An under 18 must be in the company of a parent or person with parental responsibility.

CLAUSE 13 – Delivery of intoxicating liquor to young persons

Should delivery and other staff receive training in the law around alcohol deliveries e.g. training on preventing deliveries to under 18s or to people who are already heavily intoxicated, training in respect of the law around recording and retaining the required information? Could short e-training courses be developed?

- A. Compliance with the law and training on the law is the responsibility of individual licence holders.

CLAUSE 14 – Restaurants and guest houses: notice displaying licence conditions

How widespread is this issue? What arrangements will be put into place to monitor compliance with the new provisions?

- A. Hospitality Ulster and hotels representatives have reported this is as a significant issue for a number of years. The PSNI are responsible for enforcing liquor licensing legislation.

CLAUSES 15 & 30 – Prohibition on self-service and sales by vending machines

How widespread is the current use of “self-service” technology and vending machines in Northern Ireland?

- A. Self-service tables were widespread a number of years ago. The PSNI raised concerns around the lack of controls given no interaction with bar staff was required to get a drink. Vending machines containing alcohol are not currently available to best of knowledge. Given the implications of such access though, which is increasingly becoming an option given the health pandemic, and self-service options being available on many more products, this provision is about future proofing.

CLAUSE 17 – Prohibition of loyalty schemes

Given that loyalty schemes were not part of the 2016 Bill, could the Department provide some further information on the policy context/rationale behind this provision?

- A. Officials continually monitor liquor licensing laws and emerging issues in other jurisdictions, particularly ROI, which is the closest in terms of comparative regimes. The provision was introduced there in January 2021. The rationale behind the provision is to clearly separate alcohol from other ordinary grocery products, to treat it differently by removing the incentive to purchase. This aim of this provision, along with others, is to contribute to a reduction in alcohol related harm by reducing alcohol consumption.

CLAUSE 18 – Occasional licences: conditions

How many occasional licences are issued each year? What types of terms and conditions could be imposed on an occasional licence?

- A. The courts were asked to provide figures for the number of applications for occasional licences over the last 5 yrs. NICTS advise that these figures have not been validated. Each application can seek up to 13 licences and each licence may cover up to a maximum of 6 consecutive days. A figure on how many licences were actually issued would require a manual trawl of records in every Petty Sessions district.

2019 – 748

2018 – 817

2017 – 810

2016 – 878

2015 - 881

CLAUSES 19 & 32 – Code of practice

By what means do industry-led codes take on board the views of, or consult with, other organisations including other trade bodies and health bodies/professional health organisations?

- A. The Responsible Retailing Code NI may be able to answer this question.

How will breaches of approved codes be investigated and reported to the relevant authorities including the court service?

- A. The operation of a code, including reporting procedures, would be included in any proposal made to the Department. Court Rules will be amended to ensure the Courts are aware of the requirement to consider awareness of and adherence to any approved code.

Would the Department conduct periodic reviews of the effectiveness of approved codes or commission an independent review?

- A. The current voluntary code produces an annual report and the intention is this will continue for any Department approved code.

CLAUSE 22 – Sporting clubs

What types of circumstances would be “exceptional” for the purpose of an authorisation lasting up to five days?

- A. Golf clubs in particular hold tournaments which would span a number of days with different levels competing on different days. In rural areas, sports clubs would erect a marquee on the playing field and host festivals, with the sale of alcohol being made under an occasional licence.