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14 April 2021

GM-0475-2021

Dear Janice

DELIBERATIONS ON THE LICENSING AND REGISTRATION OF CLUBS (AMENDMENT) BILL

Thank you for your letter dated 26 March following the Committee meeting on 25 March. Your letter contains amendments to the Licensing and Registration of Clubs (Amendment) Bill agreed by the Committee and seeks Minister's support for same.

Please see attached responses to the Committee's proposals.

I hope you find this helpful and I would be grateful if you could share with Committee Members.

Yours sincerely

Diane Mulligan
Departmental Assembly Liaison Officer
Private Office

DELIBERATIONS ON THE LICENSING AND REGISTRATION OF CLUBS (AMENDMENT) BILL

Clause 2 –Public houses and hotels further additional hours

Amendment - The Committee noted the Departmental response on the issue raised by Hospitality Ulster regarding late licences on Sunday and have agreed that the Minister should now take forward an amendment to bring the legislation relating to an Article 44 'Permitted hours' (late licence) on Sundays into line with the 'Permitted Hours' for the other late nights granted for premises.

Department's response

Minister accepts both requests and will take forward as Departmental amendments.

Clause 4 – Police authorisations for additional hours

Amendment - The Committee also asked officials, during the meeting on 25 March, to bring an amendment that would increase the number of times provided for in the Bill that small pubs can apply for late opening, from 85 to 104.

Department's response

Any increase in the number of occasions a small pub could apply for 1am opening would assist in the economic recovery of those premises once the hospitality sector re-opens. The Bill contains a power that the number of occasions can be amended by regulations and therefore any issues arising from such an increase could be addressed fairly quickly.

Minister accepts the request and will take forward as a Departmental amendment.

Clause 7- Licensed race tracks: Sunday sales

Drumbo Park - The Committee discussed further the issue of Drumbo Park and are of the understanding that Clause 7 as drafted will permit the sale of alcohol there on a Sunday. However, the Committee would like clarification if this allows the sale of alcohol there on a Sunday if a race meeting is not taking place or if the sale is contingent on a race meeting?

In addition, Members are still deliberating the situation of Drumbo Park who have proposed that places of public entertainment and outdoor stadiums be included in article 45 of the Licensing (Northern Ireland) Order 1996.

The Committee noted the Department was not in favour of either of the proposals made in its letter of 19th March.

The Committee is still deliberating this issue and requests that the Department clarify if Drumbo Park is to be classified/categorised as an outdoor stadium in the near future as its status in this regard will impact on any Committee decision in this regard.

Department's response

A place of public entertainment is licensed to sell alcoholic drinks ancillary to the provision of the entertainment and therefore the sale of alcoholic drinks on a Sunday would be contingent on a race meeting taking place.

The permitted hours for places of public entertainment on a Sunday would therefore include the period of the entertainment and 30 minutes preceding and succeeding the termination of the entertainment, within the period 12.30pm to 10pm.

The Department laid a statutory rule with the Assembly Business Office on 25 March which will designate Drumbo Park as a stadium of importance to the whole of NI. The regulations will commence on 1 May and will allow Drumbo Park to apply to the courts for a liquor licence as an outdoor stadium.

Outdoor Stadia are permitted to apply to the courts for extension licences to hold functions until 1am.

The Department does not believe that an Article 45 would be suitable for places of public entertainment and outdoor stadia, as this allows for premises mentioned in Article 5(1)(a) which are not structurally adapted to provide food and/or entertainment (i.e. small pubs) to apply for additional permitted hours, without the need to provide such food and/or entertainment.

Members are asked to note that Drumbo Park may have other options available rather than changing primary legislation. Officials believe that Drumbo Park has a restaurant, and therefore could apply for a restaurant licence under Article 5(1)(e), which would then allow it to apply for an Article 44 order to provide food and/or entertainment on a habitual basis.

Clause 8- Licence for off-sales

Taprooms - The Committee gave considerable time to the deliberations on this clause in the closed session. The Committee will return to the deliberations next week when the Bill Office will bring a number of proposals for taprooms for consideration as to how they might operate in a limited capacity in the context of tours, sample sizes, opening hours, review etc. No final decisions have yet been reached.

Department's response

The Department notes the Committee's intention to consider at the next deliberation session.

Clause 9- Requirement for off-licence

Amendment - The Committee noted the Department's response that the wording of the PSNI proposed amendment was not suitable. The Committee is keen to see the gap addressed and requests that the Minister make a suitable amendment to deal with the issue.

Department's response

The Minister is not content to take forward an amendment on this issue.

Clauses 19 and 32- Code of practice

Clarification - The Committee discussed the Department's response and are now seeking a final point of clarification on this matter – does the clause as drafted allow for the existence of a number of codes of practice written by different sectors and approved by the Department?

Department's response

The Department note the Committees request for clarity and can confirm that the clause as drafted will allow for the existence of a number of codes of practices, written by different sectors and approved by the Department.

Clause 11 and 27- Underage functions

Although not included in the Committee's recent letter, it had previously questioned whether the underage event would need to stop earlier to have young people off the premises by 1.00am. Officials agreed to seek advice and respond to the Committee in due course.

Advice has confirmed that the current draft would mean that the licence holder was committing an offence if under 18s are still on the premises, albeit in the process of leaving, after 1am.

This is a very sensible and necessary amendment and the Minister has advised officials to clarify the policy intent of the provision by tabling an amendment **allowing a young person to remain on the premises while in the process of leaving/waiting to be collected.**

Clauses 12 and 28 - Private functions

The Committee is content with the Department's clarification around the main meal issue.

Clarification - The Committee awaits clarification from Counsel on the supervision of children and will return to the issue at its next meeting.

Department's response

The Committee has raised valid points regarding the supervision of young persons at a private functions. The Department has concerns about relaxing the provisions so much that it provides a loophole in the legislation, or about tightening the definition so much that it makes it impossible to implement. Minister has advised officials to clarify the policy intent of the provision by tabling an amendment **allowing a young person to be in the company of a "parent" of another child attending the function.**

Clause 29-Young people prohibited from bars

Amendment - The Committee noted that the Minister was minded to extend the time period in 29(1) and the number of award nights in 29(3) and the Committee has agreed to request that the Minister proceeds to make an amendment to extend to time period in 29(1) from 1st May to 30th September and the number of nights in 29(3) to "not more than three".

Department's response

Minister accepts both requests and will take forward as Departmental amendments.

Clause 22-Sporting clubs

Amendment - The Committee noted that the Minister was minded to consider the amendment regarding applications to the courts regarding alterations to premises and the Committee now requests that the Minister proceeds to make the amendment to address the anomaly identified between clubs and other licensed premises.

Amendment - The Committee noted that the Minister was minded to consider the amendment regarding 1-day memberships and now requests that the Minister makes the clarifying amendment in that regard.

Department's response

Minister accepts both requests and will take forward as Departmental amendments.

New Clauses:

Duty to Produce Guidance:

Request for new clause - The Committee discussed the Department's response but remains of the view that such a new clause has considerable merit and requests that the Minister makes a suitable amendment to the Bill.

Department's response

Minister accepts the request and will take forward as a Departmental amendment.

Review Clause:

Request for new clause - The Committee noted the written commitment of the Minister to review implementation of the Bill and that work has begun on an evaluation plan.

However, after discussion of the issue, the Committee remains of the view that it wishes to see a separate 'Review' clause in the Bill and request that the Minister draft a clause which contains a review of the implementation of the provisions of the Bill and subsequent report to the NI Assembly by the end of three years of the Bill getting Royal Assent and following that first review subsequent reviews and report to take place within five years of the previous report.

Department's response

The Department is concerned about the initial three year review period for a number of reasons. Following receipt of Royal Assent, officials will continue to be engaged in the development and progression of the necessary commencement orders and secondary legislation to ensure implementation of the provisions within the resulting Act.

The licensed trade will require some time to rebuild and recover from the restrictions placed on them by Covid. Early figures are expected to be skewed given premises have been closed for so long, and are expected to be subject to some level of restrictions for an unknown time. Restrictions to date have included curfews, which would impact on the evaluation of provisions relating to permitted hours, and social distancing, which impacts on the numbers of patrons and would not provide a true reflection of any impact on local residents etc.

Minister would be willing to take forward an amendment where the first review is carried out as soon as practicable after three years following commencement of the provisions. This mirrors the provision as set out in the Commissioner for Older People Act (NI) 2011.

In respect of subsequent reviews every five years, officials have considered other pieces of legislation over the past 13 years, and determined that such a prescriptive approach is the exception. The Department has also taken advice and understands that the more common approach is to have just

an initial review, or an initial review followed by subsequent reviews as and when the Department thinks appropriate.

To require a review every five years will commit resources from different branches from within this Department, the Department of Health, PSNI, Courts, local Councils, and others to gather the relevant evidence and produce a report. Should the reviews prove to be of little or no benefit after a number of years, primary legislation would be necessary to remove the requirement.

Minister would be willing to take forward an amendment where subsequent reviews are carried out as and when the Department thinks appropriate.

Additional Measures

Entertainment Venues

The Committee queried if the Minister would be minded to include cinemas in the list of Places of Public Entertainment in order that they could serve alcohol, similar to theatres etc.

The Committee discussed this further at its closed session with the Assembly Bill Office and is still considering an amendment on this – the Assembly Bill Office is going to bring a proposal to the meeting next week.

Department's response

The Department notes the Committee's intention to consider a proposal from the Assembly Bill Office at its meeting next week.

The Department has concerns regarding an amendment allowing, in primary legislation, drink to be sold in cinemas without public consultation.

Given there are so few entertainment options for families or people who prefer not to be in the company of those consuming alcohol or in the presence of alcohol itself, there is potential for the public, and cinema staff, to hold strong views on the issue.

The current requirement in the Licensing Order that requires supermarkets to provide non-alcohol tills is for those very reasons.

Officials believe that there may be an opportunity in current legislation to include cinemas within the definition of a "place of public entertainment" via regulations, and have sought legal advice.

Should this be confirmed, the Department proposes that it carries out a public consultation on this issue and brings the outcome to the Committee on completion. Provided the consultation raises no serious issues, Regulations could be made in a relatively short timescale.

List of Licences

The Committee was pleased to hear of the Minister's engagement with the Justice Minister on this matter and requests to be kept up to date with the progress of this issue.

Department's response

The Department will of course keep the Committee updated on any progress.

Minimum Unit Pricing

The Assembly Bill Office advised the Committee that the issue of Minimum Unit Pricing is *potentially* within the scope of the Bill.

The Assembly Bill Office are working with the Committee on the potential for an amendment that would place a duty on the Minister for Health to introduce MUP within a certain timescale. The Committee will deliberate further on this next week.

Department's response

The Department notes the Committee's intention to deliberate further.