

NILGA Evidence to Communities Committee

Licensing and Registration of Clubs (Amendment) Bill

14th December 2020

The following draft written evidence has been prepared for submission to the Communities Committee by the requested deadline of 14th December 2020. The evidence below is based on policy and consultation work developed by NILGA over several years, in collaboration with the council Licensing Officers Forum, and was considered by the NILGA Executive Committee on 11th December.

Derek McCallan
Chief Executive

14th December 2020

Introduction

NILGA, the Northern Ireland Local Government Association, is the representative body for district councils in Northern Ireland, representing and promoting the interests of the 11 local authorities and supported by all of the main political parties in Northern Ireland. We trust that our comments will be taken into account by the Communities Committee of the Northern Ireland Assembly, and we look forward to meeting with the Committee to discuss the Licensing and Registration of Clubs (Amendment) Bill. Any queries in relation to this response should be forwarded to Karen Smyth at NILGA k.smyth@nilga.org.

General Comments

NILGA and councils have actively engaged in the development of licensing policy and laws in relation to alcohol sales since the review of licensing laws in Northern Ireland was launched in 2011, and this is not the first time we have presented evidence to the Assembly Communities Committee on a Bill of this nature. NILGA is content that many of the issues requiring change that we highlighted to the then Committee in 2016-2017 have been addressed through legislative amendments that have been made in the intervening period and indeed within the text of the current Bill. We largely welcome the aims of the new Bill which mirror and expand on the 2016 Bill, to modernise liquor licensing laws and recognise modern patterns of alcohol

consumption. We particularly welcome Clause 8 which we believe will assist greatly small local producers in getting their products to market.

The evidence below is presented on a clause by clause basis.

PART 1: LICENSING

Permitted hours

Clause 1. Removal of additional restrictions at Easter

NILGA is aware of the sensitivities around change to Easter licensing laws, but is aware of the need to ensure that Northern Ireland is a welcoming environment to tourists and visitors during what is a holiday period. We are also keenly aware of the unintended consequences aligned with strict policies over the Easter weekend, in that people buy alcohol in a supermarket for consumption at home, rather than in the more controlled environment of a pub or restaurant.

The Association is therefore aware of the reasoning behind the proposed changes effected by Clause 1 of the Bill and is in favour of some relaxation of the current policies, although our members would not view the Easter weekend as being the same as 'any other weekend during the rest of the year'¹.

In the 2017 consideration of the previous iteration of the Bill, NILGA noted the confusion for visitors caused by licensing policy in relation to Good Friday and encouraged the 2017 Committee to consider standardisation of the hours on the Thursday and Saturday before Easter as a minimum. We also suggested that prior to making its report, the Committee research licensing regimes in other countries, particularly those countries from which we receive most visitors, to explore what tourists might expect when they visit over Easter, to assist in informing how we move forward on this issue. NILGA retains these views.

Clause 2. Public houses and hotels: further additional hours

Clause 4. Police authorisations for additional hours

NILGA is supportive of the need to achieve desired change in consumer behaviour and to provide an attractive alternative to home drinking and amenities for visitors, but we are also

¹ P4 Explanatory and Financial Memorandum

aware that many pubs are on streets with large numbers of residents who may be negatively impacted by noise and potential anti-social behaviour from some pub customers.

NILGA accepts that a more consistent application of license extensions would be better for the hospitality industry, however we believe that a more 'staggered' approach to closing hours could help address the current 'spilling out' of customers en masse from licensed premises and consequent difficulties in dispersal, lack of taxi availability etc.

NILGA would be keen to see the hospitality industry work locally with the PSNI and councils to ensure that pressure is not put on licensing authorities to grant inappropriate licenses and conditions in areas where there is an identifiable anti-social behaviour issues impacting on residents. It will also be vital to ensure that the PSNI properly controls closing times and restricts the additional hour to premises that are not in residential areas.

Due to the complexity of this part of the legislation, NILGA would encourage the Committee to ensure that the Department develops guidance on the forthcoming Act, in collaboration with appropriate stakeholder organisations, to ensure requirements can be easily understood by the public and the industry.

NILGA welcomes the provision for 'small pubs' at Clause 4 in the Bill. In the current context, when small pubs have been among the hardest hit businesses as a result of the necessary COVID restrictions, NILGA is keen to see the issue of additional hours for small pubs addressed by the forthcoming legislation, and believe that an increase to an extension of one hour, up to twice a week would be a moderate increase that would help deliver staggered closing and attract people out of home drinking and into licensed premises. Consideration will again need to be given to ensure potential anti-social behaviour is avoided, particularly in more residential areas.

Clause 3. Alignment of closing time for liquor and entertainment

NILGA does not condone illegal activity; however we are concerned that through changing current arrangements there is potential to 'roll back' current council powers. If entertainment licensing is tied in with liquor licensing, councils could lose a great deal of their discretion to act to suit local circumstances.

NILGA is keen to see collaborative working between councils, the Department and the PSNI to develop an agreed and contemporary entertainments licensing and liquor licensing regime which effects change in consumer behaviour, provides an attractive alternative to home drinking and to visitors, and that also delivers the necessary staggered closing times required in

some areas. Granting of additional alcohol sales time should be controlled by the PSNI and restricted to premises that are not in a residential area.

Clause 5. Extension of “drinking-up time”

NILGA notes that the hospitality industry views such an extension as enabling better and more gradual dispersal of customers at the end of the night. We would highlight that this short extension of ‘drinking up’ time will still require good management at bars, to guard against binge-drinking during that hour and to manage safe and trouble free dispersal of customers.

Clause 6. Major events

NILGA welcomes the inclusion of this clause in the Bill, and trusts that the Department will work closely with Tourism NI and other organisers of regionally significant events to ensure an appropriate and timely licensing regime is put in place when required.

Clause 7. Licensed race tracks: Sunday sales

NILGA has no view on this issue.

Local alcohol producers

Clause 8. Licence for off-sales

NILGA is strongly supportive of this clause, which enables local producers of alcoholic drinks, to sell direct to visitors from their manufacturing premises, for consumption off the premises. The restrictions on provision of samples, location of consumption and sales of alcohol from elsewhere are noted. NILGA has no issue with these restrictions.

NILGA also welcomes the provisions for local producers to sell from other premises, ancillary to other events, which should enable local producers to sell e.g. at ‘continental’ or artisan markets.

Since the Department holds the power to add or remove categories of premises, it would be helpful if guidance on requirements was developed and kept under review, for local producers and also the district councils (who organise many relevant events locally).

Remote sales

Clause 9. Requirement for off-licence

NILGA welcomes the inclusion of this clause, but notes that with the increasing number of intermediary companies now offering local delivery services (something that has grown dramatically as a result of COVID restrictions), it is vital to ensure that delivery drivers/bicycle couriers delivering alcohol, are over 18.

NILGA would also query how online orders arriving from other jurisdictions are covered by this clause; for example wine or craft beer 'clubs' that ship products from Great Britain to Northern Ireland then use local delivery services.

Young people in licensed premises

Clause 10. Removal of requirement for children's certificate, etc.

The experience of councils, particularly in relation to outdoor family events such as the Tall Ships festival and the Sunflower festival, would indicate that removal of the requirement for a children's certificate is a very pragmatic policy, given the perceived limited value of these certificates. The proposed change, removing the requirement to have children's certificates and the extension of a person under the age of 18 being allowed on premises, to 9.30 pm instead of 9.00 pm is therefore welcomed, and is a change we would like to see happen.

Clause 11. Underage functions

NILGA is generally supportive of this clause, as it will permit hotels and other venues to advertise and offer their facilities legally to host events and functions catering for the younger audience, such as school formals, as long as certain criteria are met; however we have a number of concerns. It is noted that no lower age limit is expressed. NILGA would suggest that the Committee consider this issue and would highlight that the Bill seems to be aimed at facilitating events for teenagers, rather than younger children.

NILGA would also encourage the Committee to consider whether 1.00am is an appropriate finishing time, particularly if there is no lower age limit set. NILGA would be keen to ensure that underage events are not given a similar standing to normal licensed activity and it is preferable to ensure that children are not meeting with adults dispersing from licensed premises.

Alternatively, the Committee may wish to consider banded age-related closure times, either in legislation or in associated guidance, to ensure appropriate venues are enabled to host events for younger children (for example ‘baby raves’) in an earlier part of the day.

NILGA would have some concern in relation to birthday parties, and would encourage careful consideration regarding e.g. 18th birthday parties, which could have potential to attract underage persons to a venue when the bar would be open, and would welcome careful consideration by the committee on this issue. The stipulation in clause 12 requiring parental presence at a private function is welcomed.

NILGA agrees that gaming machines should not be available.

Clause 12. Private functions

NILGA is aware that the industry is keen to see under 18’s permitted to remain after 9.30 pm when attending family events, referred to in Clause 12 as ‘private functions’

It is our view that ‘private functions’ should be clearly classified - such as a wedding, wedding anniversary, christening and birthday party. NILGA would have some concern in relation to birthday parties, and would encourage careful consideration regarding e.g. 18th birthday parties, which could have potential to attract underage persons to a venue when the bar would be open. We would welcome careful consideration by the committee on this issue. The stipulation requiring parental presence at a private function is welcomed.

Clause 13. Delivery of intoxicating liquor to young persons

NILGA supports the aims of this clause, however would highlight that delivery of alcohol is not undertaken solely by licensees (as already accepted in Clause 9). Some websites and ‘apps’ specialising in deliveries of food also offer alcoholic drinks deliveries and there is evidence from across Northern Ireland that some local taxi companies will deliver cigarettes and alcohol on request. With the increasing number of intermediary companies now offering delivery services, NILGA would highlight to the Department that this clause raises a number of issues for Committee consideration:

- Ensuring delivery drivers are over 18
- The practicality of this clause beyond licensee deliveries

Clauses 9 and 13 will need to work satisfactorily together.

Conduct of licensed premises

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

NILGA is content with clause 14.

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

NILGA is aware that this clause is intended to ensure that the sale of alcoholic drinks is always supervised, allowing trained staff the opportunity to monitor alcohol consumption and refuse the sale of alcoholic drinks when necessary, in a regulated environment; however we would take this opportunity to raise the following with the Committee for consideration.

The Bill, we believe, takes the view of a vending machine as a machine which would be placed in public, similar to a soft drinks vending machine in a shopping centre, and does not allow for technological innovation, or changes to future customer service provision. It is our view that 'vending machine' may be subject to a wider interpretation. The prohibition outlined in this clause may stop use of any such machines in Northern Ireland unless in premises to be exempted by regulations.

NILGA is aware of technology – already in use in the States of Pennsylvania and Arizona (USA) – where wine vending machines have been introduced to grocery shops across each State. Customers are required to swipe their driver's licence, look into the camera and blow into a breathalyser attached to the machine to purchase a bottle of wine. A state employee (e.g. in Harrisburg, Pennsylvania) remotely approves the sale after verifying the buyer matches the photo ID. The Bill could outlaw any such innovation to be provided for customers in Northern Ireland, even with safeguards in place to stop underage consumption.

NILGA notes the rapidly developing self-service technology in use in supermarkets and room service (robot) technology in hotels (Canada, Singapore) and trusts that the Committee will consider how to ensure that the Bill will keep pace with rapidly developing technology and public expectations.

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

NILGA concurs with this Clause and considers it appropriate, given the current societal problems with alcohol, that advertising and promotions be restricted from view in places and environments where children are likely to be present. We welcome the stipulations in relation to publications, but would query whether the clause also extends to cover mass marketing via leaflet communications delivered directly to homes, and would welcome consideration by the Committee on this issue.

Clause 17. Prohibition of loyalty schemes

NILGA is content with Clause 17.

Clause 18. Occasional licences: conditions

NILGA is content with Clause 18.

Miscellaneous

Clause 19. Code of practice

NILGA is content with Clause 20

Clause 20. Body corporate: change of directors

NILGA is content with Clause 20

Clause 21. Removal of exemption for angostura bitters

NILGA is content with Clause 21

PART 2: REGISTRATION OF CLUBS

Extension of premises

Clause 22. Sporting clubs

NILGA is content with Clause 22

Permitted hours

23. Removal of additional restrictions at Easter

NILGA would echo the comments made in relation to Clause 1, for this Clause.

24. Extension of “drinking-up time”

NILGA is content with Clause 24. We would again highlight that this short extension of ‘drinking up’ time will still require good management by the club, to guard against binge-drinking during that hour and to manage safe and trouble free dispersal of customers.

25. Major events

NILGA is content with Clause 25.

Young people in registered clubs

26. Removal of requirement for children's certificate, etc.

NILGA is content with Clause 26.

27. Underage functions

NILGA is generally supportive of this clause, as it will clubs to offer their facilities legally to host events and functions catering for the younger audience, such as school formals, as long as certain criteria are met; however we again note that no lower age limit is expressed. NILGA would suggest that the Committee consider this issue and would highlight that the Bill seems to be aimed at facilitating events for teenagers, rather than younger children.

NILGA would also encourage the Committee to consider what is an appropriate finishing time, particularly if there is no lower age limit set. NILGA would be keen to ensure that underage events are not given a similar standing to normal licensed activity and it is preferable to ensure that children are not meeting with adults dispersing from licensed premises.

Alternatively, the Committee may wish to consider banded age-related closure times, either in legislation or in associated guidance, to ensure appropriate venues are enabled to host events for younger children (for example 'baby raves') in an earlier part of the day.

NILGA agrees that gaming machines should not be available.

28. Private functions

NILGA is content with Clause 28, subject to our comments made in relation to Clause 12.

29. Young people prohibited from bars

NILGA understands that this clause has the intent of supporting the provision of constructive activity for young people during the summer school holidays, and supports the aims of the Department in this regard, but we would contest that many sporting competitions and ceremonies are not just confined to the summer months and continue throughout the year. We would therefore request that the Committee consider a more general application of this clause.

Conduct of registered clubs

30. Prohibition on self-service and supply by vending machines

NILGA is content with Clause 30

31. Restrictions relating to advertisements

NILGA would highlight to the Committee that there may be some issues arising from this provision in relation to rules about club members signing in non-members and some research into this issue may be necessary. Opening up clubs to larger numbers of people may also have implications for provision and regulation of security staff.

Miscellaneous

32. Code of practice

NILGA is content with Clause 32

PART 3: GENERAL

NILGA is content with Clauses 33-36, and Schedules 1 and 2

EMERGING ISSUES AND MISSED OPPORTUNITIES

'Preloading' on transport on the way to venues

NILGA is aware of problems regularly being experienced across Northern Ireland as a result of people drinking on buses coming to nightclubs or large outdoor music events, and the associated problems when they get off the bus. There is currently no legislation to stop onboard drinking happening except for those going to class A events, although we are aware that the then Department for Environment (NI) explored the issue via consultation in 2013. Councils continue to work with the police and bus operators to try to tackle this problem, and NILGA would be keen to ensure that the Committee considers practical measures for dealing with this. We would encourage inclusion of a new clause in the Bill to assist in addressing the issue, but we are aware that bus operators do not feel the onus should be on them.

Licensing of 'Party Buses' and Taxis

NILGA would also highlight a 'grey area' in licensing that has emerged within recent years, of 'party buses', taxis and similar, which are similar to mobile nightclub venues and used for drinking either on the way to other venues or as a standalone activity. The Committee may wish to consider this issue with a view to making legislative recommendations.

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