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Communities

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25th October 2016

Dear Kevin,

Licensing and Registration of Clubs (Amendment) Bill – Request for Information regarding Code of Practice (Clause 13)

Thank you for your letter dated 13 October seeking clarification on a number of questions relating to Clause 13 of the above Bill.

I hope the Committee finds the attached information helpful.

Yours sincerely

Billy Crawford
Departmental Assembly Liaison Officer
Minister and Permanent Secretary's Office

**RESPONSES TO QUESTIONS RELATING TO CLAUSE 13 OF THE LICENSING
AND REGISTRATION OF CLUBS (AMENDMENT) BILL**

Q. What existing voluntary or potential codes of practice would the Department consider approving?

Department response

The Responsible Retailing Code NI is currently the only code of practice operating in the context of liquor licensing. It has been developed by key stakeholders in the alcohol industry as the primary vehicle for tackling certain alcohol promotions. Following the passage of the Bill, the Department will consider approving this Code.

Q. By what process will the court assess that an applicant (or in the case each club official) is aware of their responsibilities under an approved code?

Department response

A court will not grant a licence (or certificate of registration in the case of clubs) unless it is satisfied that an applicant is aware of their responsibilities. Judges are very experienced in dealing with licensing and club registration applications and will base their decision on the responses provided by the applicant.

Q. In relation to renewals, how will the court assess that an applicant has been complying with the code? To what degree will it take into consideration the seriousness of any breaches; repeat offences; and the time elapsed between a breach and a renewal application?

Department response

Similar to the initial granting of a licence, or certificate of registration, the courts are experienced in considering whether to renew a liquor licence (certificate of registration in the case of clubs) based on the available evidence. The consideration of the seriousness of any breaches of a code of practice, repeat offence, and time lapsed, is a matter for the courts.

Q. How, or to what extent, will the views of the code's complaints panel (or similar investigatory body) be taken into account in relation to a court's decision that an applicant is aware of their responsibilities under the approved code (and complied with the code in relation applicants for renewal licences)?

Department response

The Responsible Retailing Code NI includes a requirement that the decisions of a code's complaint panel are issued to the PSNI, the relevant local council and published on a website. The Department will require this to be included in any proposed code prior to giving its approval.

The police, the relevant local council, local residents and local businesses may object to an application for the grant or renewal of a liquor licence/certificate of registration.

Courts have been determining applications for many years and it is a matter of discretion what weight the courts give to any evidence it is asked to consider.

Q. What is the rationale for not imposing financial penalties on licenced premises who have actually carried out and profited from an irresponsible promotion (aside from penalties for those irresponsible promotions currently outlined in legislation)?

Department response

Reliance on a code of practice is an alternative to introducing legislation to regulate activities designed to promote the sale of alcohol. As such, breaches of the code are not illegal and not subject to the legal process. Imposing financial penalties for breaches of a such code of practice is a matter for the drafters of that document.

Q. If the proposals under Clause 13 become law, will the Department carry out an evaluation/review of the effectiveness of the approved code arrangements? If so, how long after the approval of the code should this happen? Should it be reviewed on regular basis?

Department response

Yes, in line with good practice the Department will carry out an evaluation of the effectiveness of a code of practice. An initial monitoring exercise would be carried out two years after a code is approved by the Department. The need for a further review would be a matter for the Minister at that time.

Q. If a serious breach is identified is it possible to carry out an immediate review the premises licence or a club's registration?

Department response

Serious breaches of the current Responsible Retailing Code NI are referred to the PSNI. The Department will require the panel of any new code to share its decisions with the PSNI prior to giving its approval.

Under Article 72 of the Licensing (Northern Ireland) Order the PSNI may apply to the court for the suspension of a liquor licence.

Under Article 13 of the Registration of Clubs (Northern Ireland) (Order) 1996 an application for the cancellation of registration of a registered club may be made by the PSNI, the relevant local council, local residents and local businesses.

Q. Will there be a statutory requirement for a formal annual report of such a code to be presented to the Department?

Department response

No, but the Department will not approve a code unless it is satisfied that robust arrangements are in place to ensure that it possible to assess the effectiveness of the code.

Q. Will a licensee be required to display a copy of an approved code in the licensed premises?

Department response

No, premises such as restaurants, will be required to display 2 notices in relation to the sale of alcohol in their premises. Licensed premises and registered clubs are also required to display a notice relating to under 18's. Taking this into account, and the fact that a code of practice may be a lengthy document, (The Responsible Retailing Code NI runs to 12 pages) such a requirement is not considered to be reasonable.

Q. By what means will the Department or industry bodies promote/raise awareness of an approved code (i.e. amongst licensed premises, registered clubs, the general public) and the consequences attached to non-compliance with an approved code?

Department response

These are matters for discussion with the body which produces a code of practice. The Department will not approve a code of practice unless it is satisfied that robust arrangements are in place to ensure the effectiveness of the code.

Q. What is the department's view on including details of irresponsible drinks promotions in legislation rather than a code?

Department response

The Department made regulations in 2012 to ban the more outrageous drink promotions such as "all you can drink for £20." However, the preferred way forward, to ensure the sale and promotion of alcohol is carried out in a way that promotes responsible consumption, is industry self-regulation via the Responsible Retailing Code NI.

If this approach is not effective the Department will introduce further regulations to ban irresponsible drink promotions.

Q. Are mandatory licensing conditions with an accompanying mandatory code of practice produced by the department an acceptable and effective alternative to approved codes of practice produced by the industry? Was this considered by the department?

Department response

The Licensing and Registration of Clubs (Amendment Act (Northern Ireland) 2011 contains powers for the Department to make regulations to restrict or ban irresponsible drinks promotions in licensed and club premises.

However, previous Ministers decided on the development of a joint industry code approved by the Department rather than the immediate introduction of regulations to tackle alcohol misuse. This approach recognises that effective industry self-regulation in relation to alcohol promotions can be more adaptive to evolving conditions and it demands greater commitment to principles of responsible retailing of alcohol than imposed regulation. It also recognises that a court based licensing system does not lend itself easily to mandatory codes of practice

If this approach is not effective, the Department will introduce further regulations to ban irresponsible drink promotions.



**Northern Ireland
Assembly**

COMMITTEE FOR COMMUNITIES

Room 430
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13 October 2016

Our Ref: CC/002/2016/SK

Mr Billy Crawford
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Department for Communities
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Dear Billy

Licensing and Registration of Clubs (Amendment) Bill – Request for Information regarding Code of Practice (Clause 13)

At its meeting of 13 October 2016 the Committee agreed that I should write to the Department to seek clarification on the following questions which relate to Clause 13 of the Bill:

- *What existing voluntary or potential codes of practice would the Department consider approving?*
- *By what process will the court assess that an applicant (or in the case each club official) is aware of their responsibilities under an approved code?*
- *In relation to renewals, how will the court assess that an applicant has been complying with the code? To what degree will it take into consideration the seriousness of any breaches; repeat offences; and the time elapsed between a breach and a renewal application?*
- *How, or to what extent, will the views of the code's complaints panel (or similar investigatory body) be taken into account in relation to a court's decision that an applicant is aware of their responsibilities under the*

approved code (and complied with the code in relation applicants for renewal licences)?

- *What is the rationale for not imposing financial penalties on licenced premises who have actually carried out and profited from an irresponsible promotion (aside from penalties for those irresponsible promotions currently outlined in legislation)?*
- *If the proposals under Clause 13 become law, will the Department carry out an evaluation/review of the effectiveness of the approved code arrangements? If so, how long after the approval of the code should this happen? Should it be reviewed on regular basis?*
- *If a serious breach is identified is it possible to carry out an immediate review the premises licence or a club's registration?*
- *Will there be a statutory requirement for a formal annual report of such a code to be presented to the Department?*
- *Will a licensee be required to display a copy of an approved code in the licensed premises?*
- *By what means will the Department or industry bodies promote/raise awareness of an approved code (i.e. amongst licensed premises, registered clubs, the general public) and the consequences attached to non-compliance with an approved code?*
- *What is the department's view on including details of irresponsible drinks promotions in legislation rather than a code?*
- *Are mandatory licensing conditions with an accompanying mandatory code of practice produced by the department an acceptable and effective alternative to approved codes of practice produced by the industry? Was this considered by the department?*

May I also confirm that the Committee agreed today to schedule a short briefing with the Bill team at its meeting on 20 October, specifically on the issue of Commencement. I would be grateful if you could supply the names and titles of those officials attending.

Yours sincerely

Kevin Pelan
Clerk to the Committee