

POLICY PAPER 1.4 – MODERNISATION OF LIQUOR LICENSING LEGISLATION

IN BRIEF:

AIM: Create an enabling regulatory environment that can stimulate growth in Hospitality and Tourism

Hospitality Ulster is the professional body representing the Hospitality Industry in Northern Ireland. Our membership includes pubs, bars, café bars, hotels, restaurants and major visitor attractions.

- The NI Hospitality Industry sustains 60,000 jobs
- 45,000 in Food and Drink
- £653.4 million wage contribution of the Hospitality Industry
- Tourism in Northern Ireland provides c45,000 jobs
- Tourism delivers c£750 million to the Northern Ireland economy
- Food and Drink accounting for over 30% of visitor spend
- NI Assembly has targets to grow Tourism income to £1bn annually and 50,000 jobs by 2020

Hospitality Ulster does not propose or support wholesale deregulation of licensing legislation. We recognise alcohol is a controlled substance and welcome the fact that the sale of alcohol is regulated by the courts and anyone breaching the legislation will face the full weight of the law.

However, there is a clear need for Northern Ireland to modernise its liquor licensing legislation, to reflect the needs of a modern market and underpin ambitious plans to grow the Tourism and Hospitality sectors. Hospitality Ulster supports measures which will allow our licensed premises to provide customers a quality experience, an alternative to home drinking and a quality visitor experience for tourists.

Hospitality Ulster calls on the Northern Ireland Assembly to create a regulatory environment that can support the responsible consumption of alcohol, whilst stimulating growth in the Hospitality and Tourism sector;

- 1) Amend 'Article 44- extended hours' legislation to allow the sale of alcohol until 2:00am on a minimum of 104 nights per year (Late Licenses Explained- Appendix 1)
- 2) Remove the requirement under the 'Article 44- extended hours' late licence legislation that premises must serve food or provide live entertainment to sell alcohol after 11pm, **or as a minimum**, amend the definition of 'entertainment' on an 'Article 44- extended hours' late licence to reflect modern entertainment like a DJ (Late Licenses explained- Appendix 1)
- 3) Increase the number of nights available under the 'Article 45- additional hours' late licence from 20 to 104 (Late Licenses Explained- Appendix 1)
- 4) Allow premises with an Article 44- 'extended hours' licence to apply for an 'Article 45- additional hours' licence (Late Licenses Explained- Appendix 1)
- 5) Normalise Easter Hours (Easter Hours Explained- Appendix 2)
- 6) Extend the 'drinking up' period by 30 minutes
- 7) Amend the 'Places of Entertainment' licence to include Sunday
- 8) Include the requirements of a Children's Certificate on the main liquor licence
- 9) Allow young persons under 18 to be on licensed premises when no alcohol is being sold or when they are attending a family or similar event, i.e. a wedding / school formal.

- 10) Give statutory approval to Industry Codes of Practice i.e. The Responsible Retailing of Alcohol Code
- 11) Introduce an additional category of licence that allows craft breweries and distilleries to sell products made on their premises as part of a visitor centre experience (for consumption off premises)
- 12) Introduce a 'Special Event' Licence for events of regional economic significance that require a liquor licence but fall outside normal trading hours or outside the scope of an existing licence type. The authority to grant this Special Licence should be given to a statutory body (such as Tourism NI)
- 13) Implement the findings of the DETI 'Red Tape' review into licensing legislation to simplify and remove unnecessary cost from the grant, renewal and amendment processes.
- 14) Existing Proposals:
 - a. Hospitality Ulster supports the Minister for Social Development proposal (pre 2016 elections) to allow Private Members clubs to advertise events on their premises provided they include 'members only' on all advertising
 - b. Hospitality Ulster does NOT support the Minister for Social Development proposal (pre 2016 elections) to ban the removal of alcohol (carry outs) from pubs after 11pm (10pm Sunday) as contained in the now outdated draft licensing bill
 - c. Hospitality Ulster supports the Minister for the Department of the Environment proposal (pre 2016 elections) that the hours for Licensing of entertainment should be aligned to a maximum of one hour after the permitted hours for the sale of alcohol as part of a modernisation of licensing legislation package

Appendices

Appendix 1- Late licences explained

Appendix 2- Easter Hours Explained

MODERNISATION OF LIQUOR LICENSING LEGISLATION

IN DETAIL:

AIM: Create an enabling regulatory environment that can stimulate growth in Hospitality and Tourism

INTRODUCTION

Hospitality Ulster is the professional body representing the Hospitality Industry in Northern Ireland. Our membership includes pubs, bars, café bars, hotels, restaurants and major visitor attractions.

The Hospitality Industry in Northern Ireland has undergone considerable change as trends and social habits have altered, having to adapt to market needs, growing competition and increased legislation. However, over the period of the last ten years, some of the most significant and indeed fundamental changes in the industry have taken place. These include supermarkets selling alcohol at prices well below cost (making alcohol cheaper and more available than ever before). The combination of which has brought about a considerable reduction in the number of people consuming alcohol socially in our pubs, bars, café bars, hotels and restaurants and a significant growth in the consumption of alcohol at home and on our streets- resulting in a dramatic increase in the misuse and abuse of alcohol in our society.

At the same time, the opportunities from tourism have grown with Northern Ireland emerging as a new destination in the global market place. However, with outdated and overly restrictive legislation the Hospitality Industry has not been able to capitalise on the opportunity.

Policy Background

Hospitality Ulster does not propose or support wholesale deregulation of licensing legislation. We recognise alcohol is a controlled substance and welcome the fact that the sale of alcohol is regulated by the courts and anyone breaching the legislation will face the full weight of the law.

However, there is a clear need for Northern Ireland to modernise its liquor licensing legislation, to reflect the needs of a modern market and underpin ambitious plans to grow the Tourism and Hospitality sectors. Hospitality Ulster supports measures which will allow our licensed premises to provide customers a quality experience, an alternative to home drinking and a quality visitor experience for tourists.

The current licensing legislation - The Licensing (Northern Ireland Order 1996) - has remained virtually unchanged since its inception over 100 years ago, with only slight changes made in periodical reviews including those introduced in 1996. However, the hospitality industry has seen considerable change in both consumer behaviour and consumer demand.

Hospitality Ulster has worked with elected representatives and the relevant agencies to highlight the current weaknesses in the Liquor Licensing Legislation (Northern Ireland Order 1996) which currently act as a block on industry development and creates an unfair playing field in the face of competition from home drinking and other tourism locations. Whilst Hospitality Ulster were supportive of a number of the proposals included in the resulting draft licensing bill developed by the Department for Social Development, we believe the bill did not go far enough then and, due to the considerable delay, needs additional measures included.

In addition, Hospitality Ulster acted as the lead organisation in the Review of Business 'Red Tape', taken forward by the Department of Enterprise, Trade & Investment and which was supported by both the NI Executive and UK Government. The review, which focused on a number of regulatory areas within the hospitality industry, included a review of the complexity, effectiveness and cost associated with liquor licensing (not the hours for sale). The findings of this review have still to be brought forward for consideration by the Northern Ireland Assembly.

Create

This policy paper sets out the arguments clearly and makes recommendations on what needs to be done. The proposals have the support of the Hospitality sector and the majority of the wider business community, who recognise that a modern approach is essential if sustained economic growth is to be achieved.

Hospitality Ulster calls on the Northern Ireland Assembly to create a regulatory environment that can support the responsible consumption of alcohol, whilst stimulating growth in the Hospitality and Tourism sector;

1) Amend the 'Article 44- Extended Hours' legislation to allow the sale of alcohol until 2:00am on a minimum of 104 nights per year without additional costs added (Late licences explained Appendix 1)

Currently licensed premises may apply to the courts for 'Article 44- extended hours' (a late licence), permitting the sale of alcohol until 1am (12 midnight on a Sunday) provided it is ancillary to the main event, i.e. it requires food or entertainment to be provided.

Changing consumer trends and the dramatic increase in home drinking has resulted in consumers going out less often and coming out later when they do. In addition, the opportunity to maximise the return from tourists, who are now a key customer base, is limited as they are often put off by our limited opening hours.

Hospitality Ulster believes that a modest increase in the duration of the 'Article 44- extended hours' late licence from 1am until 2am on at least 2 nights per week (104 per year) would assist in addressing these challenges.

The legislation relating to an 'Article 44- extended hours' late licence on Sundays, which currently only allows the sale of alcohol until 12 midnight, should be brought into line with other nights as part of a modernisation programme.

2) Remove the requirement under 'Article 44- Extended Hours' late licence legislation for premises to serve food or provide live entertainment to sell alcohol after 11pm (Late licences explained Appendix 1)

Currently licensed premises may apply to the courts for 'Article 44- extended hours' late licence, permitting the sale of alcohol after 11pm (until 1am Monday to Saturday, 12 midnight on a Sunday) provided it is ancillary to the main event, i.e. it requires food or entertainment to be provided.

Many pubs and hotels play an important role, providing employment and in many cases acting as the local community hub. However, with many facing financial challenges and falling footfall it is not economically viable for them to provide food or entertainment as required under an 'extended hours' late licence.

Hospitality Ulster believes the removal of the clause to require food or live entertainment will allow these business to operate in a more cost effective and customer focused manner. This would help sustain these important local employers and support the development of tourism outside Belfast, **or as a minimum;**

Amend the definition of 'Entertainment' on an 'Article 44- extended hours' late licence to be the same as that on an Entertainment Licence and remove the requirement that the persons providing the entertainment must be present and performing in licensed premises

Currently the person providing the entertainment must be physically present in the licensed premises. This part of the current legislation was developed in the 1990's when many of the current forms of entertainment were not common or indeed even thought-of, particularly those which rely on the use of technology (e.g. a DJ is not considered a live performance).

Hospitality Ulster believes that this requirement is grossly outdated and requires considerable modernisation with amendments taking into account developing trends of entertainment. Making the

definition of 'entertainment' the same on both entertainment and liquor licences would reduce the current confusion.

3) Amend the 'Article 45- Additional Hours' late licence legislation to increase the number of nights granted under 'Article 45- additional hours' late night licences from 20 to 104 (Late licences explained Appendix 1)

Currently licensed premises that do not have an 'Article 44- Extended Hours' late licence granted by the court can apply to PSNI for an 'Article 45- Additional Hours' late licence for up to 20 nights per year.

Small pubs and hotels play an important role, providing employment and in many cases acting as the local community hub. However, with many facing financial challenges and falling footfall it is not economically viable for them to provide food or entertainment as required under an 'Article 44- extended hours' late licence. Therefore, many are forced to use an 'Article 45- additional hours' late licence which is limited to 20 nights per year.

Hospitality Ulster believes that such an increase in 'Article 45- additional hours' late licensing from 20 to 104 nights will allow these business to operate in a more cost effective and customer focused manner. This would help sustain these important local employers and support the development of tourism outside Belfast.

4) Allow premises with 'Article 44- Extended Hours' late licence to apply of an 'Article 45- Additional Hours' late licence (Late licences explained Appendix 1)

Currently licensed premises with an 'Article 44- extended hours' late licence cannot apply for an 'Article 45- additional hours' late licence to operate on nights that are not covered by the 'Article 44- extended hours' licence. For example, a licensed premises with an 'Article 44- extended hours' late licence for a Thursday, Friday and Saturday cannot take advantage of 'one off' events like a birthday party booking for a Monday night as it cannot sell alcohol after 11pm on that night.

Hospitality Ulster believes that the legislation should be amended to allow licensed premises with an 'Article 44- extended hours' late licence to apply for an 'Article 45- additional hours' late licence.

5) Normalise Easter Hours by removing the restriction of hours for the sale of alcohol over the four day period (Ester hours explained- Appendix 2)

Currently the sale of alcohol in pubs, hotels and restaurants is restricted to midnight on the Thursday and Saturday before Easter, 5pm – 11pm on Good Friday and 12.30am – 10pm on Easter Sunday. However, supermarkets and off-sales can sell alcohol from 8am on Good Friday. An example of the impact is that people can buy a bottle of wine in a supermarket at 8am and consume it in an unlicensed restaurant with their lunch while the licensed restaurant across the road cannot sell or allow anyone to consume alcohol during this time.

With the Easter weekend being a major local holiday and the start of the visitor season, Hospitality Ulster estimate the loss in income to be c£16m. The current restrictive hours limit the ability of the Hospitality Industry to attract customers over the four days, with local consumers not coming out and visitors being turned away. With many businesses in the hospitality sector operating on a 20% margin, this effectively means they make no profit that month.

Hospitality Ulster respects the sensitivities surrounding these proposals but believe that a change to permitted hours for the sale of alcohol over this period should be introduced, particularly on the Thursday and Saturday, as these would have little to no impact on any interested parties. Likewise allowing a late licence from 10pm from the Sunday into Monday would have little or no impact as Monday is not associated with Easter.

6) *Extend Drinking up time by 30 minutes*

Currently drinking up time is limited to 30 minutes after the permitted hours for the sale of alcohol, i.e. when sales finish at 11pm, all alcohol must be consumed by 11.30pm. Likewise, when sales finish at 1am, all alcohol must be consumed by 1.30am. This causes problems removing drinks from customers, encourages binge drinking and means customers all leave the premises at the same time.

Hospitality Ulster believes that increasing the drinking up time by 30 minutes would allow for a more controlled consumption of the last drinks and better management of crowd dispersal. This would not increase the amount of alcohol being sold.

7) *Amend the 'Places of Entertainment' licence to include Sunday*

Currently premises that operate under a 'Places of Entertainment' licence are not allowed to sell alcohol on a Sunday, however this places severe restrictions on their ability including a dining experience as part of their business offer.

8) *Combine the Children's Certificate requirements into the main liquor licence*

Currently licensed premises must apply for a Children's Certificate which permits children on licensed premises and imposes set conditions (e.g. they must be dining, they must be accompanied by an adult and they must leave the premises by 9pm).

The need to protect and regulate access by children is an important, priority issue for the licensed trade. However, the current system for issuing a Children's Certificate is over complicated and adds additional/unnecessary complexity and costs.

Hospitality Ulster believes that the separate Children's Certificate should be removed and the same conditions as required on the Children's Certificate should be placed within the main liquor licence.

9) *Permit persons under 18 on licensed premises when no alcohol is being sold or when they are attending a family or similar event, such as a wedding, funeral, school formal etc.*

Currently persons under the age of 18 are only permitted on licensed premises (hotels, restaurants and public houses) if they are dining, accompanied by an adult and must they leave the premises by 9pm.

This situation means, for example, that licensed premises cannot hold an under 18 disco, school formal, careers convention for under 18s or even a church function or service for under 18s, even if the bar is closed. Whilst there is no desire to change legislation to allow the consumption of alcohol by persons under 18 it is ludicrous that having a teenage disco has, in the past, led to the prosecution of the owner of a host venue.

Hospitality Ulster believes the legislation should be a changed to allow young persons under 18 years into licensed premises on the condition that alcohol is not being sold or when they are attending a family event or similar event.

10) *Give statutory approval with legally enforceable penalties to recognised Industry codes of practise for the responsible retailing of alcohol*

Hospitality Ulster believes that there is a moral responsibility to ensure that alcohol is sold and consumed in a responsible manner in addition to the legal requirements that come with a Liquor Licence.

Hospitality Ulster has therefore championed the campaign for the Responsible Retailing of Alcohol, and has led the introduction of the Joint Industry Code for the Responsible Promotion of Alcohol (NI). It believes that the licensing and clubs' legislation should be amended to allow statutory approval for industry codes of practice. This amendment should also provide a legal penalty framework for breaches of the codes of practice.

11) Introduce an additional category of licence that allows craft breweries and distilleries to sell products made on their premises as part of a visitor centre experience (for consumption off premises)

Northern Ireland has witnessed considerable growth in the brewing and distilling of craft beer, spirits and cider, providing locally based products, supporting jobs and the tourism experience. However the restrictions on the sale of alcohol mean a visitor to a brewery or distillery can sample the product but cannot purchase any to take home.

- 12) Introduce a 'Special Event' Licence for events of regional economic significance that require a liquor licence but fall outside normal trading hours or outside the scope of an existing licence type. The authority to grant this Special Licence should be given to a statutory body (such as Tourism NI), e.g:**
- a. **MTV Awards required additional hours but current legislation does not allow for any to be granted.**
 - b. **The BBC Good Food show in October 2016 cannot permit craft brewers/distillers to sell their products at the show**

With international events / food and drink events playing an increasing role in the Northern Ireland tourism offer, there is now a clear need for the ability to have controlled flexibility of licensing provision for events of regional economic significance.

13) Implement the findings of the DETI Review of Red Tape into Liquor Licensing Legislation to simplify and remove unnecessary cost from the grant, renewal and amendment processes for liquor licensing with additional powers and consequences for licensed premises involved in illegal trading.

With the Northern Ireland Hospitality and Tourism industry competing in a global, cost sensitive market place the impact of high taxation and additional costs of unnecessary, disabling regulations and outdated legislation directly impacts on our industry's ability to compete.

14) Other Proposals

- a. **Hospitality Ulster supports the Minister for Social Development proposal (pre 2016 elections) to allow Private Members clubs to advertise events on their premises provided they include 'Members Only' on all advertising**

The issue of some irresponsible private members clubs operating as public houses and public restaurants (outside the terms of their licence). Continues to damage both the reputation of responsible private members clubs and the financial sustainability of the hospitality industry. With the Hospitality Industry paying considerably more in overheads they simply cannot compete on a level playing field with these premises.

The contribution that private members clubs - and in particular sports clubs - make to the community is well recognised. The need to notify their members of upcoming events is understood and Hospitality Ulster is supportive of plans for the removal of advertising restrictions.

However, this support is conditional upon a requirement that all advertising must carry a prominent 'Members Only' notice.

- b. **Hospitality Ulster does NOT support the Minister for Social Development proposal (pre 2016 elections) to ban the removal of alcohol (carry outs) from pubs after 11pm (10pm Sunday) as contained in the now outdated draft licensing bill**

Currently customers may purchase carry outs in a pub/bar before 11pm and keep it with them until they leave the premises.

Government proposals would require customers take any carry out purchases off the premises by 11pm, e.g. if a customer purchases a bottle of wine (for their lunch the following day) they will be required to leave the licensed premises at 11pm.

Hospitality Ulster believes a requirement for the removal of carry outs from premises by 11pm will encourage customers to leave licensed premises early, consequently depriving the licensee of much needed business and encouraging more people to drink at home.

Given that off-sales in pubs are considerably more expensive than those from supermarkets, it is difficult to see how a claim that it fuels street drinking can be justified.

Hospitality Ulster believes that provided the 'carry-out' is purchased during the permitted hours for the sale of alcohol then a customer should be allowed to remove his/her purchase at a later time. In addition, enforcement would require the PSNI to search individual customers as they leave the premises.

c. Hospitality Ulster supports the Minister for the Department of the Environment proposal (pre 2016 elections) that the hours for Licensing of entertainment should be aligned to a maximum of one hour after the permitted hours for the sale of alcohol. As part of a modernisation of licensing legislation package

Currently the hours granted under an entertainment licence and the hours granted under a liquor licence are not legally aligned. This has led to illegal trading by irresponsible premises.

The difference between the current permitted hours for consumption of alcohol (1.30am with an 'extended hours late licence) and the hours available under an entertainment licence (no actual limit) causes concern for the industry. As already highlighted, it provides an opportunity a small number of irresponsible licensees to sell and allow consumption of alcohol after the permitted hours.

To address this, Hospitality Ulster believes a restriction of entertainment licences to one hour after the permitted hours for the sale of alcohol would resolve potential illegal trading, whilst allowing people to enjoy the evening and provide for a gradual dispersal of people leaving the venue.

To ensure this does not have a negative impact on responsible licensees operating legally, the introduction of this measure would also require liquor licensing to be modernised to allow a 1 hour drinking up period and an amendment to the 'extended hours' legislation, allowing 2am sales on a number of nights per year

Appendix 1- Late Licences Explained:

- An 'Article 44- Extended Hours' late licence is granted by the court under Article 44 of the Liquor Licensing Legislation and requires food or live entertainment to be provided to sell alcohol after 11pm (max midnight on a Sunday and 1am on other nights – other restrictions also apply).
- Licensed premises that do not have an 'Extended Hours' late licence granted by the court can apply to PSNI for 'Article 45- Additional Hours' late licence for up to 20 nights per year.
- An 'Article 45- Additional Hours' late licence (max 1am) granted by the PSNI under an Article 45 of the Liquor Licensing Legislation does not require food or live entertainment to be provided to sell alcohol after 11pm (max midnight on a Sunday and 1am on other nights – other restrictions also apply).

- Premises with an 'Article 44- Extended Hours' late licence granted by the court with a limited number of designated nights per week cannot take advantage of one-off opportunities that arise outside the designated nights. E.g. Premises granted late opening on Thursday, Friday and Saturday cannot apply to the PSNI for an Article 45- Additional Hours late licence to open on a Tuesday night for a birthday party.

Appendix 2- Easter Hours Explained

Permitted Hours for the Sale of Intoxicating Liquor at Easter- Pubs, Hotels and Restaurants

	Hours for Sale of Intoxicating Liquor	Late Extensions & Other Information
Thursday Before Good Friday	11.30am – 11.00pm	Finish at 12 midnight + 30 minutes drinking-up
Good Friday	5.00pm – 11.00pm Off-Licenses: 8.00am – 11.00pm 5.00pm – 11.00pm	No late extensions. 30 minutes drinking-up allowed. Premises can open earlier than 5pm for the sale of goods other than intoxicating liquor, e.g. lunches & soft drinks Normal permitted hours Off-licenses attached to a public house (unless an Article 43 – 'Alternative Permitted Hours' for off-sales is in place)
Saturday (Before Easter Sunday)	11.30am – 11.00pm	Finish at 12 midnight + 30 minutes drinking up
Easter Sunday	12.30pm – 10.00pm Off-Licenses: Closed	No late extensions. 30 minutes drinking-up allowed