



Northern Ireland  
Assembly

Committee for Communities

# OFFICIAL REPORT (Hansard)

Licensing and Registration of Clubs  
(Amendment) Bill: NI Drinks Industry Group

17 November 2016

# NORTHERN IRELAND ASSEMBLY

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Licensing and Registration of Clubs (Amendment) Bill: NI Drinks Industry Group

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**Members present for all or part of the proceedings:**

Mr Colum Eastwood (Chairperson)  
Mr Steven Agnew  
Mr Andy Allen  
Mr Jonathan Bell  
Mr Fra McCann  
Mr Adrian McQuillan  
Ms Carál Ní Chuilín  
Mr Christopher Stalford

**Witnesses:**

Ms Nicola Carruthers                      NI Drinks Industry Group

**The Chairperson (Mr Eastwood):** We will now have evidence from Ms Nicola Carruthers, representing the NI Drinks Industry Group (NIDIG). You are very welcome.

**Ms Nicola Carruthers (NI Drinks Industry Group):** Thank you very much, Chair, for giving me the opportunity to come to the Committee today. I am representing the three companies that collectively make up the Northern Ireland Drinks Industry Group, namely Diageo, Dillon Bass and Tennent's NI. I also represent the other funders of the Responsible Retailing Code, on which I will say a bit more later. Our members are responsible for the vast majority of the major brands that are sold in Northern Ireland, and we are committed to supporting the local hospitality trade. You are aware of how important the hospitality trade is to Northern Ireland and our tourism product, which is worth around £1 billion a year to the local economy. The suppliers work with the industry to support them and assist them in updating and refreshing their premises. We are also very supportive of increasing responsible consumption and have represented the industry on various Department of Health working groups over many years. We are still members of the Northern Ireland alcohol strategy steering group at the Department of Health.

We very much welcome the vast majority of the provisions in the Bill, although we believe that it falls a bit short in a few key areas. I will not go into our submission in detail, but I would like to highlight a few key points, if I may.

On clause 1, on Easter hours — I know that the Committee have already discussed this at length — I would just like to give our support to any additional relaxation that may be envisaged and, possibly, regularising the Saturday night. It is a very important time for launching the start of the tourism season. With regard to additional hours, we would like consideration to be given to increasing the number of times that a premises with an article 44 can apply for the extra hour. This is something which could be reviewed, perhaps, after a year, in line with how drinking-up time is going to be

reviewed after a year, to make sure that people are applying and operating it responsibly. We believe that 12 times a year per premises could very well cause an awful lot of confusion for customers and for the enforcement authorities. It will be very difficult for them to know who, if anybody, is operating the extra hour on any night of the year. It could have the potential to reintroduce the confusion that aligning the liquor and entertainment licensing is meant to get rid of. It could just add another layer of confusion.

We very much support the children's certificates, but we wonder at the difference in treatment between pubs, restaurants, bars and registered clubs in the summer months. It seems a bit odd that a family with children will get booted out from an ordinary restaurant or pub at 9.30 pm, whereas they will not if that restaurant or bar is in a registered club. Most pubs do not want children in their premises at night, so this really would be very much a case of self-policing, just enabling people to finish up and go home.

With regard to clause 8, again in common with the rest of the industry, we very much welcome the change to allow underage functions. This problem has been around for so many years; surely now is the time to take the opportunity and sort out family functions after 9.00 pm. As has already been pointed out by many others, an entire hotel, often including its grounds and car parks, is classed as a licensed area, so technically children should not even be in a hotel bedroom after 9.00 pm or in the garden, let alone in the function room. Given that the Bill is now finally going through, we would very much welcome the opportunity for that to be sorted out.

With regard to clause 12 and the restrictions on off-sales promotions in supermarkets etc, I apologise for a late piece of paper that hopefully you had yesterday on this. It is something that we have just realised and has come to light in the last few days — that the restriction in clause 12 relates only to stand-alone off-licenses operating under an article 5(1)(b) license, and not to off-licenses attached to pubs operating under an article 5(1)(a). It will catch stand-alone off-licenses and, obviously, it will catch supermarkets, because we think that was really what it was aimed at. There are examples of this up and down the country, and I am sure that you will be very well aware of some of them. Many pubs have a separate off-sales attached to them. It is a shop basically stuck on the side of a pub, with its own frontage and door. Those premises will not be caught by this provision, but a stand-alone off-licence across the road will be. To give a specific example — I am just picking these two because it helps to visualise — the off-licence attached to Laverys in Bradbury Place in Belfast will not be caught by this provision, even though it looks like a stand-alone off-licence, but the Winemark across the road will be caught because it operates under article 5(1)(b).

In addition to that, it will be very confusing for the enforcement authorities. There is even more confusion that could come from this particular clause in the Bill, which, to be honest, is just coming to light. Off-licences and convenience stores — for example, your Spar or Centra which has an off-licence inside it, or a convenience store which has its off-licence at the front of the shop, will still be able to put a poster in the window. A convenience store with its off-licence in the middle or back of the shop will not be able to put a poster in the window, because that is not part of the licensed area. The pub with the off-licence attached will be able to advertise, and the stand-alone will not. We think that it has potential for really great confusion, especially for the enforcement authorities. We suggest that the clause either applies to all off-licences across the board, whether they are under a 5(1)(a) or a 5(1)(b) or, alternatively, if the intention was to catch the supermarkets, which it seems to be, as stated in the title of the clause, it could perhaps apply to those larger ones that already operate under restricted Sunday hours. Some consideration of that would be good.

Finally, in relation to the power to approve codes of practice, we very much welcome this provision. It is something that we have wanted for a very long time, but, given some of the comments made to the Committee by others in recent weeks, I thought that it might be more useful to go into the background very briefly. Back in 2011, there were a number of very serious problems with some irresponsible drinks promotions, and the then Minister was minded to legislate to ban all promotions across the board, whether they were on-sales or off-sales. However, he agreed to give the industry the chance to step up and show that it could be responsible and self-regulate. As the NIDIG members who I represent supply the on-trade, off-trade, hotels and clubs — basically, the whole industry in the North — we brought together all the industry stakeholders and formed a representative drafting group to draw up a code of practice. I chaired that group on behalf of NIDIG, and it was made up of representatives from Hospitality Ulster — then Pubs of Ulster, obviously — the Northern Ireland Hotels Federation, the Northern Ireland Federation of Clubs, the Wine and Spirits Trade Association on behalf of supermarkets, the Northern Ireland Independent Retail Trade Association and representatives from individual off-sales. We all felt that it was really important to have one code that covered both on-trade and off-trade. We had seen how two separate codes had worked in the South

under the mass code. They had run separate codes for on- and off-sales, which ended up with the pubs withdrawing because they felt that their code was more stringent than the off-sales code. So we were very keen from the start just to have one code that applied equally across the board to everybody. That was supported by all the stakeholders at the time. When it came to the funding, the NIDIG members, along with Wine Inns, Heineken, Molson Coors and SHS Group agreed to provide the funding, and they have done so ever since at no cost at all to the public purse. That is how they envisage it continuing.

Four years on, the code has been successful and has raised standards, due in no small part to the efforts of the very independent complaints panel and its very capable chair Mr Duncan McCausland, who you have already heard from. The panel is fully insured with liability insurance, and we have produced practical guidance to accompany the code to provide real-life examples to help premises. The panel has now also formalised its governance arrangements, incorporating the Nolan principles. Therefore, we very much support the proposal to allow codes to apply for statutory recognition.

That completes my opening remarks, although, since I am following our local producers, it is incumbent on me to say that, from the point of view of the large suppliers, we very much support what they are looking to do because we see it as an integral part of the tourism offering. It is not a direct competition. It can only enhance what Northern Ireland has to offer, so we very much support any calls for helping them.

**The Chairperson (Mr Eastwood):** Thank you very much. It is useful to hear your experience of codes of practice. We had a slightly contrary view last week. Are the supermarkets playing ball around the code of practice? It seemed last week that they were very resistant to —

**Ms Carruthers:** The supermarkets were involved from day one in drawing up a code of practice to make sure that we had just one across the whole country. They were involved right up until the very end. When we were drafting it, we made accommodations suggested by them. It was really when it came to funding the code that they became a wee bit more resistant. To be perfectly honest, there was a bit of misunderstanding from their point of view. I think that they thought that we were asking for a contribution per shop rather than per company. The Joint Industry Code for the Responsible Promotion and Retail of Alcohol has not had many complaints about supermarkets. As Duncan said, the code cannot regulate pricing, because of competition legislation. Most of the complaints that come in are about pricing. The panel has to write back to the complainant and say, "We're very sorry, but we can't consider anything to do with pricing, because of the law". Therefore, they are compliant, in that we do not get that many complaints about them.

One of the good things about the code of practice is that we can also bring in other codes of practice. Reference was made to the Portman Group, for example. We refer to that code in our code to say that we expect people to abide by that as well. When it produces its new guidance on off-sales, we will be very keen to look at it to see whether there are parts of it that we can incorporate to make sure that it is up to date. We can also change the guidance very quickly. We can change the code very quickly — I suggest that it is due for review next year — like we did to bring in the prohibition on carrying alcohol on buses rented by venues. All of that can be done quickly. We can bring in whatever else we can. The supermarkets were very much involved from day one, it is important to say.

**The Chairperson (Mr Eastwood):** That is very interesting. I think that the biggest concern that we as a Committee have is around pricing. We know that the code cannot deal with pricing. It is the biggest elephant in the room, but it is the one that we cannot deal with here. Hopefully, down the line, we will get to the point at which we can.

**Mr Agnew:** Thank you for the information. You mentioned supporting our local producers. We have just heard from them. The issue of anticompetitive practices by some of your members was not raised by them in the evidence session, but it has been raised with me by a local producer. I have no direct knowledge of that happening, but there is exclusivity of certain brands in pubs. Equipment is supplied to a pub on the basis that the taps are used for only one particular company. Is that happening? What are your views on that?

**Ms Carruthers:** It has happened for a very long time. It is just the nature of how the industry has always operated in Northern Ireland. The producers have always put a lot of investment into the premises and worked with the premises. When they are putting in that investment or are lending money to somebody to set up or refurbish a bar, they will often say, "Look, you're selling our

products". That is changing. People are certainly more open to bringing in other, niche products. They are not mass-market products but niche products, and those can add to the premises. It was certainly the case in the past, but you will find that there is less of that happening than there used to be.

**Mr Agnew:** As I understand it, if they are going to put in their investment, they are going to want something in return. However, rather than having their products sold exclusively, it might be a percentage of the taps or something more along those lines. Is that a conversation that is happening in the industry?

**Ms Carruthers:** It will happen on an individual basis with individual premises. You will have some people who are extremely good customers and maybe have a number of premises. They will have a bit more bargaining power around what they are able to do. It is therefore very much done on an individual basis. The large suppliers are very much aware of how widening the offering can increase footfall into a premises. That can only be good for everybody.

**Mr Agnew:** You will appreciate that the consumer wants choice.

**Ms Carruthers:** Absolutely.

**Mr Agnew:** As you said, for the premium products, it is almost a different market, albeit in the same place.

**Ms Carruthers:** It is. The large suppliers are very keen to help the local drinks producers. For example, you have heard this morning about the stringent and rigorous testing by HMRC that they all have to undergo. That has become even more so in the past year. Over and above the excise licence and whatever else they need, every supplier who is going to wholesale now must apply for an alcohol wholesaler registration scheme (AWRS) licence. That is to try to stop people smuggling in alcohol and selling it out of the back of vans, and so on. All suppliers now have to have an AWRS licence and, if they did not apply by the end of March, they were not allowed to sell at all. The large suppliers were concerned that a lot of the small ones would get caught by that, so we took it on ourselves to contact them all to make sure that they all knew about this, because we did not want any of them to get caught. At the moment, the AWRS licence applies to suppliers, but, from 1 April next year, any pub or off-licence that buys product will have to buy only from an AWRS-registered company, and that will then be checked in their VAT returns, and so on. It is another level of regulation to try to regulate the trade and another thing that everybody who wants to sell directly will already have had to apply for.

**The Chairperson (Mr Eastwood):** That is interesting. You gave such a comprehensive opening statement that we have no questions left to ask.

**Ms Ní Chuilín:** Well done, Nicola.

**The Chairperson (Mr Eastwood):** You have also come in at the end of the process, or near the end hopefully.

**Ms Carruthers:** Much easier.

**The Chairperson (Mr Eastwood):** Thank you very much. It was very useful.

**Ms Carruthers:** You are very welcome. If there is anything else, just let me know.

**The Chairperson (Mr Eastwood):** I will indeed.