

Response to the Assembly Committee for Communities Call for Evidence Licensing and Registration of Clubs (Amendment) Bill

18th October 2016



The Institute of Licensing (IoL) is a professional organisation which serves the interests of licensing practitioners in local government, the police, private sector, trade and the legal profession, the Institute operates throughout England, Wales, Scotland and Northern Ireland.

The Institute is fully supportive welcomes the opportunity to be part of the review of the law regulating the sale and supply of alcohol in Northern Ireland. We note that this Bill is intended to modernise the licensing regime in Northern Ireland and we view its introduction as a valuable opportunity to support and develop the hospitality industry and night time economy, whilst protecting community safety and public health. We are aware of the sensitivities of a number of the aspects of this Bill, and we would be keen to ensure that the Committee views this response solely as a series of practical suggestions for improving the Bill, ensuring it can be satisfactorily implemented and achieve the desired policy objectives.

The Institute notes that the complexity of the clauses within the Bill, largely due to the number and detail of amendments to existing legislation, may cause difficulty in ensuring this legislation is easily understood by the industry and by the public. We would therefore suggest that the Committee encourages the Department to develop guidance on the new legislation, once it has completed Assembly passage, working with appropriate bodies.

The Institute 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 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. The Institute 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 Institute would like to take this opportunity to draw comparative to this Bill from the Department for Communities, with the Licensing Act 2003, which operates in England and Wales.

The Institute would like to stress that we are not calling for a debate on the surrender principle of liquor licensing in Northern Ireland, we are merely drawing comparison.

The Licensing Act establishes a single integrated scheme for licensed premises which are used for licensable activities, regarded as: the provision of regulated entertainment, the provision of late night refreshments, the sale by retail of alcohol, the supply of alcohol by or on behalf of a club to, or the order of, a member of the club.

Permission to provide these activities is contained in a single licence called the 'Premises Licence', which replaced several different and complex schemes. Responsibility for issuing licences rests with local authorities.

Key measures contained in the Licensing Act 2003

Flexible opening hours – Flexible opening hours with the potential for up to 24 hour opening, seven days a week. Opening hours of premises are now set locally through the conditions of individual licences. The granting of these new types of licences for the first time was also subject to consideration of the impact they had on local residents, businesses, and the expert opinion of a range of authorities in relation to the licensing objectives. This flexibility is intended to minimize public disorder resulting from standard closing times whereby many intoxicated individuals are all ejected onto the streets at once come 11.00 pm, as well as encouraging less of a binge-drinking culture.

Single premises licences – The single integrated premises licence, bringing together the six existing licensing regimes for alcohol, public entertainment, cinemas, theatres, late night refreshment houses, and the licensing of pavement cafés for the purposes of the consumption of alcohol and provisions of entertainment, with the intention of cutting down on bureaucracy and simplifying such provision.

Personal licences – A personal licence is required by anyone authorising the sale of alcohol from a licensed premises. All licensed premises must have an allocated personal licence holder, known as the Designated Premises Supervisor (DPS). The DPS must authorise every sale of alcohol. This has been whole heartily embraced by industry and they lobbied strongly to maintain this when there were proposals to remove the licence.

Licensing Objectives

Under Section 4, the Licensing Act 2003 sets out four statutory licensing objectives which must be taken into account when a local authority carries out its functions. They are:

1. The prevention of crime and disorder,
2. Public safety,
3. Prevention of public nuisance, and
4. The protection of children from harm.

It's worth noting that there was widespread concern that the legislation would lead to '24-hour drinking' and an increase in associated problems.

However, these fears have not come about and there is no evidence that the abolition of a standard closing time has significantly reduced problems of crime and disorder.

The scale of change in licensing hours has been both variable and modest. Whilst the majority of pubs have extended their hours, most of these extensions have been short. The limited evidence suggests that alcohol consumption has fallen slightly, although some people are still drinking until later into the night.

Specific comments on the Bill

Clause 1. Additional hours at Easter.

The Bill allows for later opening hours on the Thursday before Good Friday, which previously only permitted certain premises and registered clubs to stay open to midnight. The Bill now proposes to allow a normal late licence of 1.00 am on the Thursday night before Good Friday. Therefore, Good Friday, Easter Saturday and Easter Sunday remain unchanged.

However, it's worth noting that in comparison, supermarkets and off sales premises can sell alcohol from 8.00 am on Good Friday.

Whilst we welcome some movement in this area and we recognise the difficulties and sensitivity around this particular period of the calendar, we believe this proposal does not go far enough.

We are aware that the industry shares this view and over the Easter period, know that the number of tourists now visiting Northern Ireland find our premises effectively closed. For example, on Good

Friday, if you are having a meal in a restaurant and wanted a glass of wine with it, you will continue to be denied this opportunity.

Therefore, consumers are being left with no choice but to purchase a 'carry out' and drink at home or within their hotel room.

We would thus recommend there should be standardisation on the Thursday and Saturday before Easter as a minimum.

In a broader context with regards tourists in the Province during this holiday period, the Committee are reminded that the Province is effectively closed on Easter Sunday as all large shops must also be closed.

Clause 5. Extend “drinking-up” time for a trial period of one year in licensed premises and registered clubs.

The proposal is to extend drinking up time by another 30 minutes to 60 minutes drinking up time for a trial period of one year. The question is why for only one year; one would assume that this is to assess and review how it works over the course of the year. However, in order for a successful and meaningful assessment to be conducted, it will involve reasonable details being recorded, collated by the relevant authorities and measured/reviewed accordingly.

This cannot be done until the trail has been completed, yet the Bill does not allow for the trail to continue during the assessment period or during the process of making regulations to be made to confirm this extension on a permanent basis. If the trail period is not made permanent this will impact severely on other proposals in the Bill, primarily the alignment of liquor and entertainment hours.

However, some things that it might encourage is binge and excessive drinking, as people will have more time to consume their last drink, at last orders they buy more than they would have previously, but this will equally have to be well managed in order to ensure that the bar is closed in the time required and not manipulated.

If successful and implemented to full effect, it may also facilitate a more gradual and steady dispersal of patrons, therefore reducing the collective impact of 'spilling out' of customers' en-masse from licensed premises, and consequent difficulties in dispersal, lack of taxi availability etc.

It may also prevent unnecessary confrontation and disorder with patrons as management may not have to persuade or remove drinks from them at closing time.

Clause 5 (2) which repeals Article 46(1) (b) (i) of the Licensing (Northern Ireland) Order 1996

Removing carry out facility after 11.00 pm.

This will require carry outs purchased from bars to be removed by 11.00 pm. This may have a negative effect by further encouraging people to consume alcohol within the home environment, thereby being uncontrolled and potentially increasing binge drinking.

Clause 6. Align intoxicating liquor and entertainment licences in licensed premises allowed late opening.

This proposal will permit pubs and hotels to sell alcohol to 2.00 am, 12 times per year. However, this amendment would require licensed premises to stop all entertainment at 1.30 am at the latest. This would severely affect and damage the night time economy and restrict licensee's ability to attract consumers and tourists.

As previously mentioned, during the one-year trial, entertainment on licenced premises would be allowed to finish no later than 2.00 am. However, if the trial is not extended and made permanent the finishing time will be 1.30 am or if a new 'Occasional Licence' (12 nights) is in place, no later than 3.00 am (or 2.30 am if the trial is not extended). Except on a Sunday which will be 1.00 am (or 12.30 am if the trial is not extended).

The extension of 12 times per year is not enough to address the change in consumer behaviour and provide an attractive alternative to home drinking and to visitors. This is a view also shared by the industry who also consider that they should have at least 104 late extensions for the sale of alcohol until 2.00 am.

One hour, twice a week would be a moderate increase that would help deliver staggered closing and attract people out of home drinking into licensed premises.

Granting of this additional hour could be controlled by the PSNI and restricted to premises that are not in a residential area.

Clause 7 & 8. Permit underage functions in licensed premises and removal of Children certificates.

These changes should be welcomed 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, as long as certain criteria is met.

This will help resolve the issue where a hotel hires its facilities for a school Formal and subsequently ends up being penalised despite the fact that the bar was closed and no alcohol was available. Whilst this is welcomed, concern has been raised that these functions have no lower age limit provided for and the event can run until 1.00 am. This gives a similar standing to normal licence activity and it has been suggested that the hour should be brought back until 12midnight.

It may also enable venues to be able to facilitate other under age events (subject to technical and management measures being met) where we know that the premises have previously operated other similar events responsibly and with no issues.

The removal of the requirement to have Children's certificates and the extension of a person under the age of 18 being allowed on the premises, now to 9.30 pm instead of 9.00 pm is welcomed.

The Institute are aware that industry would further request to permit under 18's to remain after 9.30 pm when attending family events. Family events should be classified such as a wedding, wedding anniversary, christening and birthday party; birthday parties should have careful consideration as 18th birthday parties have the potential to attract underage persons to the venue and the bar will be open.

Clause 9. Delivery of intoxicating liquor to young people.

We believe that this part of the Bill takes a very narrow view that alcohol will be delivered with the weekly grocery shop from the major supermarkets who have appropriate off sales licences and on the face of it, it should be welcomed as it will prohibit under 18's from receiving a delivery of alcohol, requiring appropriate identification to be shown and recorded upon delivery. There is nothing requiring the person delivering the alcohol to be 18 years of age.

However, with the increasing number of intermediary companies now offering to deliver food from restaurants and takeaways there is nothing to permit a restaurant to offer off sales with your meal or

for the intermediary company to purchase alcohol from an off sales premises and sell it on when they deliver the meal.

Clause 10. Restaurants and Guest Houses: Notice displaying licence conditions.

The institute is satisfied with the content of Clause 10.

Clause 11. Prohibition on self-service and vending machines.

Whilst this is intended to ensure that the sale of alcoholic drinks is always supervised, allowing trained staff in a regulated environment the opportunity to monitor alcohol consumption and refuse the sale of alcoholic drinks when necessary. It also has the opportunity to become an issue.

The Bill we believe has taken a very narrow view of a vending machine as a machine which would be placed in public such as a soft drinks vending machine in a shopping centre.

This prohibition, would stop any such machines. For example, we are also aware that in the USA, the State of Pennsylvania has introduced America's first ever wine vending machine as part of a supermarket trial.

Customers just have to swipe their driver's licence, look into the camera and blow into a breathalyser attached to the machine to purchase bottles of wine. A state employee in Harrisburg remotely approves the sale after verifying the buyer matches the photo ID.

This prohibition will outlaw any innovation for customers even with safe guards to stop underage consumption in place. In particular as supermarkets are introducing more and more self-service checkouts.

Clause 12. Restrictions on off-sales drinks promotions in supermarkets.

We would concur with this proposal and consider it appropriate that with 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.

However, clause 12 (3) refers to an area extending 200 metres from the boundary of the premises. We would suggest that when a 200m boundary is drawn on a map it covers a very significant area, especially with towns and cities.

Clause 13. Code of practice.

The Institute endorses the Code of Practice.

Part 2

The Provisions of the Bill that apply only to registered clubs

A sporting club will be able to apply on six occasions per year to extend the area of its premises licensed to supply alcohol, provided that certain conditions are met. This will allow sporting clubs to take advantage and maximise events being held at their clubs. It will also encourage the introduction of others, such as captain's day at golf clubs, which attract large numbers of members and guests, by extending the area where they can supply alcohol on club grounds. This welcomed.

It further helps that young people will be permitted to remain in the bar area of a registered club until 11.00 pm during the summer months, 1st June to 31st August, or to attend an awards ceremony on one occasion in a calendar year. This will allow young people to avail of the full range of sporting activities open to them during the summer months, which often extend into the evening. An awards ceremony allows sporting clubs to celebrate the success of young people who participate in the sporting activities offered by a club.

However, one would still contest that many of these competitions and ceremonies are not just confined to the summer months and continue throughout the year.

A registered club will be allowed to advertise any function outside a club premises where the advertisement clearly states that only members of the club and their guests may attend.

Currently, members of the general public are permitted to attend functions where the proceeds are devoted to charitable or benevolent purposes. However, the law prohibits a registered club from publicly advertising the function.

This Provision will ensure that there are no restrictions on the advertising of such events as many non-members and general public may prefer to attend events within a local club environment.

The Institute queries if in fact a registered club will become a 'normal' place of entertainment and become detrimental to non-registered clubs which run in the vicinity.

It is the Institute's understanding that a club member must sign in guests as they enter the premises and they can only sign in a maximum of 6 guests. Will the PSNI have the resources or the interest in carrying out checks to ensure that the appropriate member to nonmember ratios are in place and that all guests are signed in?

Emerging Issues and Missed Opportunities

The Institute would be keen to see other measures introduced within this Bill and believes the review has failed to take on board a number of missed opportunities, as outlined below.

1. "Pre-loading" alcohol on transport on the way to venues

The Institute 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 no legislation to stop on-board drinking happening except for those going to Class A events.

We are aware that councils have been working with the police and with bus operators to try to tackle this problem. We would be keen to ensure that the Committee considers practical measures for dealing with this and the potential for inclusion of a new clause in the Bill to assist in addressing the problem. We are aware that bus operators do not feel that the onus should be on them.

2. Licensing of 'Party' Buses and Cycles

The Institute would also highlight a 'grey area' in licensing that has emerged within recent years. The Committee may wish to consider this issue with a view to making legislative recommendations. For example:

- 'Party buses' which are similar to mobile nightclub venues and used for drinking either on the way to other venues, or as a standalone activity.
- 'Tour Cycles' which openly advertise "*enjoying a drink as you cycle!*" "*We provide the driver and barista for your BYO (Bring Your Own) needs for a total of 17 people touring*" "*enjoy our keg and tap system*" and is used for drinking either on the way to other venues, or as a standalone activity.

3. Craft Breweries and Distilleries

The Bill has not introduced an additional category of licence to permit craft breweries and distilleries to sell products made on their premises as part of a visitor centre experience (for consumption off premises), or for these small businesses to trade at markets or exhibitions. Restrictions on the sale of alcohol mean a visitor to a brewery or distillery can sample a product but cannot purchase it to take it home.

With the ever increasing and popular local, continental and artisan markets across the Province, which encourage small food producers to sell their produce and merchandise. There is no mechanism to allow craft breweries or distillers an opportunity to trade or sample their products.

The alcohol must be offered through the provision of an Occasional Licence. However, this requires a liquor licence holder to apply for the Occasional Licence as there is unfortunately no facility to permit craft breweries to make the same application.

4. Special Events

The Bill has also failed to introduce a provision to be able to cater for 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.

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