



## COMMITTEE FOR SOCIAL DEVELOPMENT

Please use this form to submit written submissions in relation to the Licensing Bill. Return to [committee.socialdevelopment@niassembly.gov.uk](mailto:committee.socialdevelopment@niassembly.gov.uk) by Thursday 31 December.

Name: COLIN NEILL

Organisation: (if applicable) HOSPITALITY ULSTER

Date: 23<sup>rd</sup> DECEMBER 2015

### Amendment to Liquor Licensing (Outdoor Stadia) - December 2015

#### IN BRIEF:

Hospitality Ulster represents the diverse range of businesses that make up 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 total jobs – 45,000 can be attributed to food and drink element.
- £653.4 million wage contribution of the hospitality industry
- Food and Drink accounting for over 30% of visitor spend

Despite a comprehensive public consultation on amending the Liquor Licensing Legislation- the Licensing (Northern Ireland Order 1996) and proposals brought before the Northern Ireland Assembly and the Social development Committee. No amendments have occurred.

There is a clear need for Northern Ireland to modernise its liquor licensing legislation, to reflect the needs of the modern market place and underpin the ambitious plans of the Northern Ireland Assembly to both sustain and grow the tourism and hospitality sectors. Hospitality Ulster does not propose or support wholesale deregulation, but instead supports measures which will improve and streamline the regulatory environment.

Hospitality Ulster support measures that will encourage responsible consumption of alcohol in the home and on licensed premises and have led the introduction of the Joint Industry Responsible Retailing Code in Northern Ireland.

Tel: 02890327578

E: [enquiries@hospitalityulster.org](mailto:enquiries@hospitalityulster.org)

W: [www.hospitalityulster.org](http://www.hospitalityulster.org)

National Stadia play an important role in our society and provide important venues for sport and major events that support the growth of our Tourism sector. Like other venues that provide entertainment and support tourism there is a clear need to legislate to provide a controlled but modern licensing framework.

**Hospitality Ulster welcomes this private members bill to address the lack of an appropriate liquor licence category for outdoor stadia of National significance. However we are disappointed that it has been necessary to address the current legislation's shortfalls in this manner rather than in a comprehensive bill that would include the proposals already indicated by the previous Social Development Minister.**

**Hospitality Ulster calls upon the Social Development Committee to recognise the special economic significance and challenges of sustainability faced by the Northern Ireland Hospitality and Tourism Industry. And amend this private members bill to include the previous Social Development Minister's proposals (below) as a minimum reform of the legislation.**

### ***Introduction***

*Hospitality Ulster* is the only membership organisation that represents the diverse range of businesses that make up the hospitality industry in Northern Ireland.

Founded in 1872, Hospitality Ulster has witnessed significant change as members' businesses have evolved and grown in response to changing consumer trends and shifting economic climates.

Today, Hospitality Ulster represents pubs, bars, hotels, restaurants and visitor attractions in an industry that sustains 60,000 jobs (1 in 20 in NI) and contributes over £1bn annually to the Northern Ireland economy- generating some £88.4m in tax contribution.

The Executive team at Hospitality Ulster works closely with members to engage with key decision makers, the aim being to create a better business environment. Working with other stakeholders, Hospitality Ulster has a proven record of basing its argument on evidence-based research, and is viewed as the respected voice of the hospitality industry in Northern Ireland today.

### ***Key Northern Ireland Tourism and Hospitality Statistics***

- In 2014 overnight trips by all visitors (domestic and external) stood at 4.5 million, up 11% on 2013.
- Associated expenditure increased by 4% (to £751m in 2014); in 2014 external (outside NI) overnight trips increased by 4% to 2.2m.
- Over 15 million visits were made to local visitor attractions in 2014, a 3% increase on 2013.
- Hotel room occupancy stood at 65% up from 64% in 2013.
- 1.85 million Hotel room nights were sold in 2014.
- There were 15.3 million visits made to visitor attractions during 2014.
- There is a positive relationship between the size of the hospitality sector and tourism potential in NI.
- The Hospitality Industry provides 1 in 20 jobs in Northern Ireland
- £70.5 million payments in Corporation Tax (Pubs (£16.2m), Hotels (£19m), Restaurants (£35.1m) and Event Management (£0.1m).

**Tel: 02890327578**

**E: [enquiries@hospitalityulster.org](mailto:enquiries@hospitalityulster.org)**

**W: [www.hospitalityulster.org](http://www.hospitalityulster.org)**

- The NI hospitality industry sustains 60,000 total jobs (Direct, Indirect and Induced) – 45,000 can be attributed to food and drink element.
- £653.4million wage contribution of the hospitality industry (Direct, Indirect and Induced)
- The hospitality industry contributes £17.9m in business rates in Northern Ireland.
- Food and Drink accounting for over 30% of visitor spend
- C80% of all visitors rate visiting the pub as their most popular activity
- C70% of visitors eat in a pub

### ***Policy Background***

There is a clear need for Northern Ireland to modernise its liquor licensing legislation, to reflect the needs of the modern market place and underpin the ambitious plans of the Northern Ireland Assembly to grow the tourism and hospitality sectors. Hospitality Ulster does not propose or support wholesale deregulation, but instead supports measures which will improve and streamline the regulatory environment.

Hospitality Ulster recognises that alcohol is a controlled substance and supports measures that will encourage responsible consumption of alcohol in the home and on licensed premises. To this end Hospitality Ulster has led the introduction of the Joint Industry Responsible Retailing Code in Northern Ireland, overseen by an independent complaints panel and backed by the Social Development Minister. The Responsible Retailing Code sets out the standard required for all alcohol promotions in Northern Ireland. Regrettably the Code cannot deal with price as it would be in breach of European Law.

Hospitality Ulster has led the call for to introduce a Minimum Unit Price (MUP) for alcohol in Northern Ireland and continues to lobby the Northern Ireland Assembly to introduce MUP at the earliest opportunity.

Hospitality Ulster has worked with elected representatives and relevant agencies to highlight the current weaknesses and outdated procedures which currently act as a block on industry development and create unfair playing field in the face of competition from other sectors.

This response 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 a modern approach is essential if sustained economic growth is to be achieved.

### ***Key Policy Issues***

The current licensing legislation- The Licensing (Northern Ireland Order 1996) has remained virtually unchanged since its implementation. However the hospitality industry has seen considerable change in both consumer behaviour and consumer demand. With over 70% of alcohol now consumed at home the hospitality industry is at a distinct disadvantage, despite the fact that it provides a controlled environment for the consumption of alcohol.

The case for modernising the licensing legislation has never been more pressing as the hospitality industry faces significant economic challenges that threaten the sustainability of many business. With increased operating costs, a high Tourism VAT rate and the introduction of the Mandatory National Living Wage. The hospitality industry must expand its market to attract additional income. The hospitality industry recognise it cannot sell more alcohol to the

**Tel: 02890327578**

**E: [enquiries@hospitalityulster.org](mailto:enquiries@hospitalityulster.org)**

**W: [www.hospitalityulster.org](http://www.hospitalityulster.org)**

same people, therefore it must provide an offer that appeals to a wider audience and the tourism market.

Hospitality Ulster is extremely disappointed in the delay by the Department of Social Development to bring forward a bill to modernise the current liquor licensing legislation, despite an extensive consultation by the Department of Social development that resulted in proposals being brought before the Social Development Committee and the Executive of the Northern Ireland Assembly.

National Stadia play an important role in our society and provide important venues for sport and major events that support the growth of our Tourism sector. Like other venues that provide entertainment and support tourism there is a clear need to legislate to provide a responsible, modern licensing framework.

### ***Consultation Response***

Hospitality Ulster welcomes this private members bill to address the lack of an appropriate liquor licence for outdoor stadia of National significance. However we are disappointed that it has been necessary to address the current legislation's shortfalls in this manner rather than in a comprehensive bill that would include the proposals already indicated by the previous Social Development Minister.

Hospitality Ulster believes this private members bill should be supported, with a new licence category for Outdoor Stadia of National significance, with appropriate controls to protect residents and ensure the licence is used in the context it is granted. This licence category could and should be based on the existing Indoor Stadia licence and be restricted to National Stadia. In addition, Hospitality Ulster believe the bill should be amended to include the previous Social Development Minister's proposals as they have already undergone extensive public consultation.

### **CONCLUSION**

**Hospitality Ulster supports amending the Northern Ireland Liquor Legislation to provide a licensing category for Outdoor Stadia of National significance, with suitable conditions that ensure the protection of residents and ensure the licence is used in the context it was granted.**

**In addition, due to the lack of progress to bring forward proposals to amend the wider Liquor Licensing legislation as previously presented to the Northern Ireland Assembly Executive and the Social Development Committee by the previous Minister for Social Development, Hospitality Ulster calls upon the Social Development Committee to take the lead and amend this private members bill to include the previous Social Development Minister's proposals (below) as a minimum to reform the legislation.**

**It is our understanding that the required legal framework to implement the proposals has already been developed by the Department of Social Development and therefore amending the bill would not delay the process.**

**Tel: 02890327578**

**E: [enquiries@hospitalityulster.org](mailto:enquiries@hospitalityulster.org)**

**W: [www.hospitalityulster.org](http://www.hospitalityulster.org)**

<b>1) EASTER OPENING HOURS</b>	<p><b>The Minister proposed to treat the Thursday and Saturday before Easter as normal days for the purpose of licensing law.</b></p> <p><b>Put Simply:</b> This proposal would allow a normal late licence on the Thursday night before Good Friday and the Saturday night before Easter Sunday. Good Friday and Easter Sunday remain unchanged.</p> <p><i><b>Hospitality Ulster</b> welcomes this proposal as a move in the right direction and whilst we recognise the sensitivity around this period we continue to seek for additional movement in this area.</i></p> <p><b>NOTE:</b> Currently the sale of alcohol must stop at midnight on both nights.</p>
<b>2) HELP FOR SMALL PUBS</b>	<p><b>The Minister proposed an increase to the number of nights small pubs can apply to the PSNI for an ‘Additional Hours’ late licence (1am) from 20 to 85 nights per year.</b></p> <p><b>Put Simply:</b> This proposal will allow small pubs to open until 1am, 85 nights in a year without the need for food or entertainment.</p> <p><i><b>Hospitality Ulster</b> welcomes this proposal but believe a minimum of 2 nights per week is required if we are to help our struggling small pubs survive by removing the costs associated with late night opening, especially those in urban and rural areas</i></p> <p><b>NOTE:</b></p> <ul style="list-style-type: none"><li>• Currently licensed premises that do not have an ‘Extended Hours’ late licence granted by the court can apply to PSNI for ‘Additional Hours’ late licence for up to 20 nights per year.</li><li>• An ‘Additional Hours’ late licence granted by the PSNI under an Article 45 of the Liquor Licensing Legislation does not require food or entertainment to be provided (max midnight on a Sunday and 1am on other nights – other restrictions also apply)</li></ul>

<p><b>3) EXTEND DRINKING UP TIME BY 30 MINUTES</b></p>	<p><b>The Minister proposed to extend drinking up time by 30 minutes to 1 hour for a trial period of one year.</b></p> <p><b>Put Simply:</b> This proposal will allow a 1 hour drinking up period.</p> <p><i>Hospitality Ulster welcomes this proposal as a measure to help businesses provide a controlled and welcoming environment whilst allowing gradual dispersal of customers at the end of the night.</i></p> <p><b>NOTE:</b> Currently drinking up time is limited to 30 minutes after the permitted hours for the sale of alcohol. This causes problems removing drinks from customers, encourages binge drinking and means customers all leave the premises at the same time.</p>
<p><b>4) LATE OPENING</b></p>	<p><b>The Minister proposed to introduce a new ‘Occasional Hours’ late licence allowing the sale of alcohol until 2am, 12 times per year. This licence would be granted by the PSNI.</b></p> <p><b>Put Simply:</b> This proposal will allow Pubs and Hotels to sell alcohol until 2am, 12 times a year. This, combined with the proposed 1 hour drinking up time, will allow the consumption of alcohol until 3am on the designated nights.</p> <p><i>Hospitality Ulster welcomes this proposal. However we believe 12 times per year is not enough and will continue to seek an increased number of nights pubs and hotels can be granted an ‘Occasional Hours’ late licence’.</i></p> <p><b>NOTE:</b> An ‘Extended Hours’ late licence is granted by the court under Article 44 of the Liquor Licensing Legislation and requires food or entertainment to be provided (max midnight on a Sunday and 1am on other nights – other restrictions also apply).</p>

<p><b>5) ENTERTAINMENT LICENCE</b></p>	<p>The Minister proposed to limit the duration of entertainment in premises holding an 'Extended Hours Late Licence' so that it will not extend beyond the latest time alcohol can be consumed.</p> <p><b>Put Simply:</b> This proposal combined with a 1 hour drinking up time will require entertainment on licensed premises to finish no later than 2.am or if a new 'Occasional Licence' is in place no later than 3am. Except on a Sunday which will be 1am.</p> <p><i><b>Hospitality Ulster</b> welcomes this proposal (as part of the introduction of the proposed Occasional Hours late licence and extended drinking up time), as a measure to tackle illegal trading.</i></p>
<p><b>6) UNDER 18s ON LICENSED PREMISES</b></p>	<p><b>The Minister proposed allowing persons under 18 to attend functions on licensed premises provided the bar remains closed.</b></p> <p><b>Put Simply:</b> Persons under the age of 18 will be allowed to attend functions on licensed premises provided the bar is closed.</p> <p><i><b>Hospitality Ulster</b> welcomes this proposal as it removes the technical barrier to providing functions for this age group.</i></p> <p><b>NOTE:</b> Currently it is illegal for person under 18 YOA to be on licensed premises unless the premises has a Children's Certificate and the young person is accompanied by an adult (even if the bar is closed).</p> <p><b>Please see Appendix 1: Court of Appeal Ruling</b></p>

Tel: 02890327578

E: [enquiries@hospitalityulster.org](mailto:enquiries@hospitalityulster.org)

W: [www.hospitalityulster.org](http://www.hospitalityulster.org)

## 7) ONE-OFF OPPORTUNITIES

The Minister proposed an amendment to the current licensing legislation to allow licensed premises which have an 'Extended Hours' court order (allowing late opening) to apply to the PSNI for the granting of a limited number of ad-hoc additional late nights.

**Put Simply:** This will allow premises with a late licence issued by the courts, which is restricted to designated nights, to apply to the PSNI for a late licence if a one-off opportunity should arise for a night not covered by the existing late licence.

***Hospitality Ulster** welcomes this proposal as it removes a restriction that adversely affects licensed premises offering a service to customers*

### **NOTE:**

Currently premises with an '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 for a late licence to open on a Tuesday night for a birthday party

An 'Extended Hours' late licence is granted by the court under Article 44 of the Liquor Licensing Legislation and requires food or entertainment to be provided (max midnight on a Sunday and 1am on other nights – other restrictions also apply). This late licence may be restricted to designated nights of the week.

An 'Additional Hours' late licence (max 1am) granted by the PSNI under an Article 45 of the Liquor Licensing Legislation does not require food or entertainment to be provided licence (max midnight on a Sunday and 1am on other nights – other restrictions also apply).



<p><b>8) SELF-REGULATE PROMOTIONS</b></p>	<p><b>The Minister proposed to allow statutory approval for codes of practice in relation to how alcohol is promoted and sold in licensed premises. It is intended that a breach of the code could lead to a court imposing conditions on a licence.</b></p> <p><i>Hospitality Ulster has led the introduction of the Responsible Retailing Code in Northern Ireland and welcome this proposal as a means to deter irresponsible promotions.</i></p> <p><b>NOTE:</b> Legislation that would severely limit all promotions on alcohol is already in place and could be activated within a number of weeks. However Hospitality Ulster has successfully lobbied for self-regulation as a more effective means of controlling irresponsible promotions, whilst allowing responsible promotions to take place.</p>
<p>Explanations of late licenses:</p>	<ul style="list-style-type: none"> <li>• An 'Extended Hours' late licence is granted by the court under Article 44 of the Liquor Licensing Legislation and requires food or entertainment to be provided (max midnight on a Sunday and 1am on other nights – other restrictions also apply).</li> <li>• Licensed premises that do not have an 'Extended Hours' late licence granted by the court can apply to PSNI for 'Additional Hours' late licence for up to 20 nights per year.</li> <li>• An 'Additional Hours' late licence (max 1am) granted by the PSNI under an Article 45 of the Liquor Licensing Legislation does not require food or entertainment to be provided licence (max midnight on a Sunday and 1am on other nights – other restrictions also apply).</li> <li>• Premises with an '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 for a late licence to open on a Tuesday night for a birthday party.</li> </ul>

## Appendix 1- Briefing Paper- Court of Appeal Ruling

### ‘Persons under 18 years of age on Licensed Premises’

Brian Morris V Director of Public Prosecutions

Court of Appeal – 02/07/15 – Ref TRE9656

The Court of Appeal ruled that it is **illegal** for persons under the age of 18 to be on licensed premises during the permitted hours for the consumption of alcohol.

The ruling was against Brian Morris (Glenavon Hotel) who operated a teenage disco once a month.

In written evidence the PSNI stated they had visited the event on two occasions and found:

- a) No alcohol was on display, optics were removed and refrigerators covered
- b) The bar was closed for the sale of alcohol. Soft drinks only were served in plastic cups.
- c) No person on the premises was observed consuming alcohol
- d) The youths present were well behaved
- e) There was no suspicion of any alcohol consumption; and
- f) There was a high level of supervision by adults
- g) Apart from the teenage disco, the licensed premises are used as a nightclub each Saturday, marketed as Sense Nightclub. This is the core event at the licensed premises each week, and the said premises are then used for the sale and consumption on intoxicating liquor in the usual way. The premises might also be hired out for wedding receptions, where likewise alcohol is sold and consumed. Occasionally other kinds of alcohol-free events are held on the licensed premises.

Despite the evidence of no alcohol being sold or consumed the Court Appeal ruled against Brian Morris and upheld the conviction.

#### Background

Events for persons under eighteen have been a long standing element of the hospitality industry and provide an alternative, safe location for children to socialise.

The proposals by the previous Minister for Social Development, Nelson McCausland, which received backing from the Northern Ireland Executive include an amendment to the legislation to clearly state that under eighteens could be on licensed premises if the bar was closed.

#### What does this mean?

In relation to liquor licensing a child is a person under eighteen years of age.

A Children’s Certificate is issued to licensed premises by the courts and permits children on the premises under certain conditions; which include:

- Must be dining
- Must be accompanied by an adult
- Must leave the premises by 9pm

This ruling now make it illegal for persons under eighteen years of age to attend all events and functions on licensed premises that do not have or do not comply with a Children’s certificate. This includes;

**Tel: 02890327578**

**E: [enquiries@hospitalityulster.org](mailto:enquiries@hospitalityulster.org)**

**W: [www.hospitalityulster.org](http://www.hospitalityulster.org)**

- A School Formal
- Dance classes
- Fitness classes
- A careers convention
- A religious event
- A wedding after party
- A political gathering
- A family birthday party
- A family gathering after a funeral
- Sport events where alcohol is being served / consumed
- Concerts where alcohol is being served / consumed

### Implications

The ruling has severe and far reaching financial implications for the entire hospitality industry. Likewise, given that the national stadiums and concerts sell and allow consumption of alcohol under an occasional 5(1)(a) licence, major sporting events and concerts will also be impacted by the decision.

Note that the very fact that part of a premises is licensed by the court means it will automatically be considered mainly for the sale and consumption of alcohol. In reality the Court will always conclude this regardless of the actual facts.

A licence holder cannot temporarily alter the licence for part of the premises to have it for occasional use from time to time for the above type of events. There is no mechanism for doing this.

In addition if a licence holder wants to formally delicense part of a premises then the licence holder would have to apply to the court to do so. There is absolutely no guarantee that the court would agree to this application and the cost could be over £10,000.

Once a licence holder has delicensed part of the premises it may be impossible for them to ever have it licensed again. Another court application would have to be made and again the court might well refuse the application. Legal costs again would be over £10,000.

The revenue stream generated by events for persons under eighteen contribute to the financial survival of many hotels, function venues, bars and restaurants- especially those outside Belfast.

Persons under eighteen must currently leave weddings no later than 9pm. Given that these are family events with a large element of persons under eighteen attending, parents will most likely leave with their children and result in the event ending early with a financial implication for the venue.

Young people will still seek to hold school formal and entertainment, however it is likely that these will be driven underground and result in alcohol being consumed along with an increase in anti-social behaviour.

It is unfair and irresponsible to deny young people places and opportunities to socialise together and also with older people at family and sporting events.

### Is it in the Public Interest?

Given that this is a technical breach of the legislation and the Northern Ireland Assembly Executive have indicated their policy is to amend the legislation to clearly state that under eighteens could be on licensed premises if the bar was closed.

**Is a precaution actually in the public interest?**

**Tel: 02890327578**

**E: [enquiries@hospitalityulster.org](mailto:enquiries@hospitalityulster.org)**

**W: [www.hospitalityulster.org](http://www.hospitalityulster.org)**

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**E: [enquiries@hospitalityulster.org](mailto:enquiries@hospitalityulster.org)**

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