

LICENSING BILL – COMMENTS

Thank you for inviting the Police Service of Northern Ireland to comment on the Licensing Bill which is to make provision for the granting of licences to authorise the sale of intoxicating liquor at outdoor stadia.

The following is our written submission for the Committee.

CLAUSE 4: ATTACHMENT OF CONDITIONS TO LICENCES

We strongly support the fact that a District Commander can make an application to have conditions attached to a licence. It is noted that this application can be made at any time and not just restricted to when the initial application is being made.

CLAUSE 5: TEMPORARY CONTINUANCE OF BUSINESS

The Kingspan Stadium, Casement Park and Windsor Park are the only specified stadia that can make use of these legislative changes at present. It is also noted that in the longer term, more outdoor stadia of this type may be established and that the relevant Minister would need to designate such outdoor stadia as one of regional or national importance.

Currently, it is envisaged that where the holder of a licence is unable to carry on business at the outdoor stadia they can apply to a court for the authorisation to continue business temporarily in other premises.

We would not support this and would suggest that in these circumstances, this is subject to Ministerial approval.

It is noted that the National Football Stadium at Windsor Park is leased from Linfield Football Club by the Irish Football Association on a long-term lease arrangement. The stadium also hosts Linfield's domestic home matches (approximately 20 per season) which will include any UEFA Club matches for which they qualify. Similarly Casement Park will continue to host Antrim Club games.

As a result, clarification is sought as to exactly who owns the licence and what can it be used for? The purpose of this Bill is concerned solely with liquor licensing of large outdoor stadia of regional or national importance for the sale and consumption of alcohol. However matches involving both Linfield at Windsor Park and Antrim at Casement Park are local domestic type matches. If Linfield and Antrim are able to make use of the stadium licence, this would give them an unfair advantage over all the other teams in their respective leagues.

CLAUSE 6: ADDITIONAL PERMITTED HOURS AND SUITABILITY FOR FUNCTIONS

In point 10 of Options Considered in the Explanatory and Financial Memorandum, it states "***The response to the Member's consultation was overwhelmingly in favour of the proposed changes in Option 4. From the small number of respondents who did not support the proposed changes, their main issue was with regards to 'Additional permitted hours'. The Member has therefore removed the proposal to apply Article 44 of the principal order to outdoor stadia***".

In the PSNI response to the consultation, we raised the question as to why these outdoor stadia would require additional permitted hours.

With regards to suitability for functions it states ***“The functions in question must be organised by anybody established for social, charitable or benevolent purposes or for furthering the common interests of persons associated with any trade, profession, educational or cultural activity, game or sport”***.

It is therefore assumed that basically anyone can apply to run a function on these premises. However, with regard to children and young people, it does not address the current licensing legislation which does not permit children from being in a bar.

As a result, we would totally oppose this clause and would ask for it to be removed, which is what the Member had agreed to.

CLAUSE 7: REQUIREMENTS WITH RESPECT TO SALE OF INTOXICATING LIQUOR

In subsection (3) of this Clause, this will enable children and young persons under 18 years of age attending events and activities at an outdoor stadium to make purchases (other than intoxicating liquor) at a kiosk or other sales point.

For the protection of children, we would not support this and would ask why they need access to a kiosk that is selling alcohol, which essentially means mixed retailing. Our view is that to protect children, they should remain separate.

In addition, we would oppose the use of kiosks and would strongly recommend that the point of sale of alcohol should be from a permanent fixed structure(s) within the stadiums. This would address the possibility of hawkers selling alcohol.

CLAUSE 8: COMMENCEMENT AND SHORT TITLE

At subsection (4) it states “This Act may be cited as the Licensing Act (Northern Ireland) 2015”. Our view is that this is misleading in that it gives the impression of a whole of changes in the liquor licensing legislation. We would add that DSD recently drafted a Liquor Bill which includes a number of changes to the current legislation. If it is introduced into the Assembly this year, it could cause confusion. In addition, the title is also too similar to the current principal order i.e. “The Licensing (NI) Order 1996.

As a result, we would suggest this current Act should be amended to read “The Licensing of Outdoor Stadia” or something similar.

GENERAL

Having considered this Act, our view is that it is not appropriate to compare Outdoor Stadia with the Indoor Arenas legislation as they are a totally different Business Model.

In our response to the consultation, we raised our concerns chiefly around children and young people under the age of 18. Recently, we have had a number of issues regarding under 18s and the

liquor licensing legislation. As a result the proposals outlined in this Act, does nothing to allay these concerns.

REQUEST FOR AMENDMENT TO LICENSING BILL RE UNDERAGE EVENTS

In our response to the consultation above, the Police Service has highlighted our concerns around children and young people under the age of 18 and their access to alcohol.

Members may be aware of the decision in August of the Appeal Court in relation to “Sense Nightclub” which is part of the Glenavon House Hotel in Cookstown. The Hotel had been found guilty in April 2014 of allowing persons under the age of 18 to be in licensed premises during the permitted hours. The offences relate to a teenage disco (under 18s) that was held (once a month) in Sense Nightclub, during which no alcohol was being sold and no children were drinking alcohol. The Hotel then appealed this ruling.

However, 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. In the judgement, it was stated ***“The evidence established that the appellant put a considerable effort into ensuring that no alcohol is consumed at the event, that however does not provide an answer to the fact that under the current law, it is an offence for a person under 18 during the permitted hours to be on licensed premises used exclusively or mainly for the sale of alcohol”***.

The court of appeal judges said it did not matter whether there was no alcohol consumed and the event was well run it was still an offence for under 18s to be in the licensed premises.

Following this ruling, we wrote to the Social Development Minister advising that we were reviewing the consequence of this ruling for the Police Service and the wider community and that there was a need to urgently address the licensing legislation as it relates to children on licensed premises. In addition, we highlighted that the previous Minister had published a Consultation Document on proposed changes to liquor licensing in Northern Ireland. One of these proposals was to allow young people under 18 years of age to attend functions in licensed premises provided the bar is closed. At that time, the Police Service supported this as long as there were various strict control measures in place.

The Minister’s Private Office replied in October to advise that ***“the Executive agreed to the drafting of a Bill which includes measures in relation to the future regulation of young people under 18 years of age in licensed premises. Minister Storey is currently considering a draft Bill and will announce how he plans to proceed in due course”***.

Article 58 of the Licensing (Northern Ireland) Order 1996 (the 1996 Order) states that ***“(1) During the permitted hours a person under the age of 18 shall not be in C) any other part of any licensed premises which (i) contains a bar, or (ii) is used exclusively or mainly for the sale and consumption of intoxicating liquor”***.

As a result, under 18s may only be on licensed premises as defined by the legislation on Children’s Certificates contained in Article 59 of the 1996 Order which indicates that under 18s are allowed in

designated areas of licensed premises when accompanied by an adult, for the purpose of eating a meal. Whilst the children's certificate expires at any time up to 9pm, they can remain in the premises until 9.30pm. It is a breach of the law to have under 18s in licensed premises except in accordance with the stipulations of a Children's Certificate.

In relation to the current licensing legislation a child is a person under 18 years of age. A Children's Certificate can be issued by the courts and permits children on the premises under certain conditions as follows:

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

As a result of the Appeal Court ruling, it is illegal for persons under 18 years of age to attend events and functions on licensed premises that do not comply with a Children's Certificate. These include some of the following: -

- School Formals
- Concerts/Sports events where alcohol is being served and consumed
- An after Wedding Party
- Family Birthday party

As the Committee will acknowledge, this places the Police Service into a very difficult position if we rigidly enforce this legislation, with the result that on every occasion the police become aware of these functions (including those listed above) we must submit a file to the Public Prosecution Service (PPS) in every case as it is for the PPS to decide whether to prosecute. Otherwise any prosecution may be open to an abuse of process application.

Without adequate legislation the Police Service are concerned that officers will continue to find themselves in a challenging position and this will undoubtedly have consequences for confidence in policing.

As highlighted earlier, we are aware that the Minister is "currently considering a draft Bill and will announce how he plans to proceed in due course". However, the judgement in relation to the Glenavon House Hotel now means that this particular piece of legislation needs addressed as a matter of urgency.

As a result, the Police Service would strongly recommend that it would be appropriate to include measures in relation to the future regulation of young people under 18 years of age in licensed premises as part of the Licensing Bill that is currently at the Committee Stage of the legislative process.