

LICENSING BILL

EXPLANATORY AND FINANCIAL MEMORANDUM

INTRODUCTION

1. This Explanatory and Financial Memorandum has been prepared on behalf of Mrs Judith Cochrane (“the Member”) in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.
2. The Memorandum should be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill, so where a clause or part of a clause does not seem to require an explanation or comment, none is given.

BACKGROUND AND POLICY OBJECTIVES

3. The Licensing (Northern Ireland) Order 1996 (“the principal Order”) requires a person wishing to sell alcohol in the course of business to hold a licence. A licence may be granted in respect of premises such as public houses, off-licences, hotels, guest houses, restaurants, conference centres, higher education institutions, and places of public entertainment.
4. The building of the SSE Arena (formerly the Odyssey Arena) in Belfast triggered consideration of the need to amend the principal Order. Indoor arenas were an entirely new type of facility for Northern Ireland and were not envisaged when the original legislation was being formulated, and therefore were not listed as a type of premises which could hold a licence. This issue was addressed by the Licensing (Indoor Arenas) (Northern Ireland) Order 2004.
5. In September 2010 the Northern Ireland Executive announced plans for state-of-the-art sports stadia to be redeveloped at the GAA’s Casement Park, Ulster Rugby’s ground at Ravenhill and the IFA’s Windsor Park. This £110m redevelopment of Northern Ireland’s three sports stadia was not anticipated when the Licensing (Northern Ireland) Order 1996 was introduced, and as such, an application for a liquor licence cannot, therefore, be made for such premises. This Bill would enable such an application to be made.
6. The first of these stadia to be redeveloped relies on the use of Occasional licences to allow the sale and consumption of alcohol on the premises. In order to obtain an Occasional Licence an existing licensee must apply to the courts with decisions often granted very close to the date of the event. Also, under an Occasional Licence young people must be away from the licensed areas of the premises by 9pm which is often

earlier than the end of a sporting event. This Bill would relax the restrictions on the presence of young persons in licensed areas and would put outdoor stadia on the same operational footing as an indoor arena in Belfast, meaning they could deliver family entertainment in a controlled environment.

CONSULTATION

7. The Member carried out a 5-week consultation on the policies behind the Bill and the intended wording of the Bill. A total of 276 responses were received, of which over 95% supported the introduction of the Bill, with a proportion recording that they felt other licensing law should also be reformed.
8. In order to ensure a wide range of views were collected, the Member directly targeted those bodies who had responded to the previous liquor licensing consultation carried out by the Department for Social Development.

OPTIONS CONSIDERED

9. In developing this legislation, the Member considered the following options:
 - **Option 1** - do nothing.
 - **Option 2** - amend liquor licensing legislation to add outdoor stadia of regional or national importance to the definition of "places of public entertainment".
 - **Option 3** - amend liquor licensing legislation to add stadia of regional or national importance to the categories of premises which can obtain a licence.
 - **Option 4** - amend liquor licensing legislation as in Option 3 but include additional amendments to remove some of the existing rules for access by children, in order to recognise the unique family entertainment offered at outdoor stadia.
 - **Option 5** - do nothing pending a review of liquor licensing legislation.
10. 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.
11. As an additional safeguard, a court would be given the power to attach any conditions it considers appropriate to a licence for an outdoor stadium. This would, for example, allow the court to respond to concerns about the sale of alcohol at certain types of events, particularly those aimed at a young audience. The court could use this power when granting or renewing such a licence and at any time during the course of a licence.

OVERVIEW

12. The Bill contains 8 clauses which insert a definition of the term “outdoor stadium” into the principal Order and extend the provisions of that Order to such stadia.

COMMENTARY ON CLAUSES

Clause 1: Interpretation

This clause defines “the principal Order” as the Licensing (Northern Ireland) Order 1996.

Clause 2: Meaning of “outdoor stadium”

Subsection (1) amends the interpretation provisions in Article 2 of the principal Order to reflect the fact that the Order is to apply to outdoor stadia as well as indoor arenas.

Subsection (2) inserts into the principal Order a new Article 2AA, which sets out the definition of “outdoor stadium”.

Clause 3: Licences for outdoor stadia

Subsection (1) introduces amendments, contained in subsections (2) and (3), to Article 5 of the principal Order. That Article specifies the premises for which licences may be granted.

Subsection (2) adds an outdoor stadium to the list of premises, contained in Article 5(1), for which licences may be granted.

Subsection (3) adds an outdoor stadium to the premises referred to in Article 5(3) and (6). The effect of the amendment is that a licence will not authorise the sale of alcohol in an outdoor stadium unless there is being carried on in the premises a business of the type normally carried on and the sale of alcohol is ancillary to that business. Such business may include outdoor sporting and other events on and off the pitch as well as events in function areas. In addition, the licence does not authorise the sale of alcohol for consumption off the premises. Contravention of these restrictions is an offence.

Subsection (4) makes three amendments to the principal Order to reflect the changes made by the Bill.

- Paragraph (a) amends Article 2(4) to include outdoor stadia in the list of premises captured by the term “premises of any kind”.
- Paragraph (b) adds an outdoor stadium to the premises listed in Article 15(2)(e)(ii). This means that, provided that an outdoor stadium has not closed because of damage to the premises, a court will not renew the licence unless the business being carried on under the licence, and to which the sale of alcohol is ancillary, has not been discontinued.

- Paragraph (c) amends Article 22 of the principal Order, which deals with the transfer of licences. By extending paragraph (6)(c)(ii) of that Article, a court will be required to refuse an application for the transfer of an outdoor stadium licence unless it is satisfied that the business to which the sale of alcohol is ancillary has not been discontinued.

Clause 4: Attachment of conditions to licences

Subsection (1) extends Article 7(12) of the principal Order to include an outdoor stadium. That provision currently provides that a court that grants a licence in respect of a place of public entertainment may attach to the licence such conditions as it thinks fit. A court will have a similar power with respect to licences for outdoor stadia. For example, it will have the discretion to react to concerns about the sale of alcohol at certain events, particularly those aimed at young people.

Subsection (2), in paragraphs (a) and (b), introduces the following amendments to Article 15 of the principal Order in relation to the renewal of licences by a court:

- paragraph (a) adds an outdoor stadium to those premises in Article 15(2)(f) in relation to which, before their licence can be renewed, a court must be satisfied that any conditions attached to the licence are being observed.
- paragraph (b) amends paragraph (6A) of Article 15 thereby permitting a court which renews an outdoor stadium licence to attach to the licence such conditions as it thinks fit.

Subsection (3) amends Article 77A of the principal Order as follows:

- paragraph (a) permits a court of summary jurisdiction, at any time, to attach to a licence for an outdoor stadium such conditions as it thinks fit, or to alter or remove any conditions already attached. Applications to the court for the attachment of conditions may only be made by the district commander for the police district in which the outdoor stadium is situated; but there is no restriction on who may apply for the alteration or removal of conditions.
- paragraph (b) inserts a new paragraph (2A) into Article 77A to provide that a court, when attaching conditions to a licence for an outdoor stadium, shall consider in particular the conditions that would be appropriate where the stadium was being used primarily for events aimed at those under the age of 18.

Clause 5: Temporary continuance of business

This clause makes special provision for outdoor stadia by amending paragraph (2A) of Article 29 of the principal Order. This paragraph relates to circumstances where the holder of a licence is unable to carry on business at the outdoor stadium and applies to a court for the authorisation to continue business temporarily in other premises. The provision permits a court to consider the application even though the temporary premises do not fully meet the

definition of “outdoor stadium” in Article 2C of the Order. For example, the temporary premises may be unable to seat 8000 people.

Clause 6: Suitability for functions

This clause amends Article 48(4) of the principal Order by adding an outdoor stadium to the categories of premises in respect of which an application may be made to a court for an order specifying the premises (or any part of the premises) as being suitable for functions. Only where premises have been so specified can an extension be granted under Article 47, authorising the sale of alcohol at functions to 1.00am on weekdays or midnight on Sundays.

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.

In addition, a licence holder may organise, for any purpose, a maximum of 6 functions in any year. The sale of alcohol must be ancillary to a function and the sale for consumption off the premises (or the relevant part of the premises) is prohibited.

Clause 7: Requirements with respect to sale of intoxicating liquor

Subsection (1) amends Article 52A of the principal Order to impose conditions on the sale of alcohol in outdoor stadia similar to those in place for an indoor arena in that, where an outdoor stadium is licensed for the sale of alcohol, it must not be sold or made available for sale there unless it is sold to, or made available for purchase by, people employed or attending events and activities in the premises. Furthermore, other beverages and food must also be available for purchase.

Subsection (2) amends Article 58(13) of the principal Order by adding a new sub-paragraph (g), which will allow 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 salespoint.

Subsection (3) amends Schedule 10A of the principal Order to provide that the holder of a licence in respect of an outdoor stadium who sells alcohol or makes it available for sale in contravention of Article 52A is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Clause 8: Commencement and short title

This clause sets out the title of the Act and provides that its provisions are to come into operation on 1 September 2016.

FINANCIAL EFFECTS OF THE BILL

13. The Bill has no financial implications other than the differing costs associated with applying for conditional licences.

HUMAN RIGHTS ISSUES

14. The Member is satisfied that the Bill is human rights compliant.

LEGISLATIVE COMPETENCE

15. At Introduction, the Member in charge of the Bill, Mrs Judith Cochrane, had made the following statement under Standing Order 30:

“In my view the Licensing Bill would be within the legislative competence of the Northern Ireland Assembly.”