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Research and Information Service Bill Paper

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Licensing Bill

This paper provides a briefing on the proposed Private Members' Bill concerning the licensing and sale of alcohol at outdoor stadia.

Key Points

- The Licensing Bill is a Private Member's Bill which was introduced in the Assembly by Judith Cochrane on the 24 November 2015.
- The objective of the Bill is to extend existing licensing laws that apply to indoor arenas in Northern Ireland to outdoor stadia.
- The stadia affected by this legislation would be Kingspan (Ravenhill), Casement Park (currently under development) and Windsor Park (currently under development).
- While the Bill has generally been received positively, there are a few areas that may need to be tightened, particularly with regard to the concerns raised by the PSNI and by residents living near the Kingspan stadium.
- Given the problems related to drink that have been reported by residents, the Committee may wish to consider whether or not it is necessary to offer residents some additional protection, as extending the licensing laws to include these stadia may make them more attractive as venues for concerts and other events, such as are currently held at Murrayfield, Twickenham, the Aviva Stadium, the Millennium Stadium, Wembley Stadium and Hampden Park, and the SSE Arena in Belfast.

1 Background to the Bill

The Licensing Bill is a Private Member's Bill which was introduced in the Assembly by Judith Cochrane on the 24 November 2015¹.

The Bill aims to extend the existing liquor licensing laws that apply to indoor arenas in Northern Ireland with a seating capacity of 5,000 or more (the SSE Arena is currently the only arena in Northern Ireland to which this applies) to outdoor stadia which have been designated as regional or national and have a seating capacity of 8,000 or more (i.e. Kingspan, formerly Ravenhill; Windsor Park; and Casement Park). As the Windsor Park and Casement Park projects are both still under development, the proposed change to the legislation currently only applies to Kingspan, although the redevelopment of Windsor Park is due to be completed fairly soon (around June 2016).

At present, outdoor stadia in Northern Ireland cannot apply for a full licence. Kingspan has to rely on occasional licences to allow the sale and consumption of alcohol on the premises at rugby matches. To obtain an occasional licence, an existing licensee, which is usually a catering company, must apply to the courts for every single event. Under that occasional licence, young people must be away from the licensed areas of the premises by 9.00 pm, which is often earlier than the end of a match.

The Bill would allow the three outdoor stadia to apply for a full licence, and it would also relax the restrictions on the presence of young people in the licensed areas, putting these outdoor stadia on the same operational footing as the SSE Arena in Belfast.

The Bill contains 8 clauses as follows:

- Clause 1 defines terms used within the Bill.
- Clause 2 amends the Licensing (Northern Ireland) Order 1996 to reflect the fact that the Order is to apply to outdoor stadia, and includes an Article to define "outdoor stadium".
- Clause 3 introduces amendments to add an outdoor stadium to the list of premises for which licences may be granted, and places certain restrictions on the sale of alcohol.
- Clause 4 amends the Order to include outdoor stadia in the provision that enables a court to attach conditions to the granting and renewal of licences.

¹ The Bill, Explanatory Memorandum, Written Submissions, Committee Minutes of Proceedings is available at <http://www.niassembly.gov.uk/assembly-business/committees/social-development/legislation/licensing-bill/>

- Clause 5 makes special provision for outdoor stadia by amending the Order to enable the holder of a licence to apply to a court to continue business temporarily on other premises in circumstances where they are unable to carry on business at the outdoor stadium.
- Clause 6 adds an outdoor stadium to the categories of premises that can apply to a court for an order specifying the premises (or any part of the premises) as being suitable for functions, thereby enabling the sale of alcohol to 1.00 am on weekdays or midnight on Sundays at a maximum of six functions in any year.
- Clause 7 amends the Order to impose conditions on the sale of alcohol in outdoor stadia similar to those in place for an indoor arena.
- Clause 8 deals with commencement and title of the Act.

2 Reaction to the Bill

The Member carried out a five-week consultation on the proposed Bill in October/November 2015 and received a generally favourable response, particularly from the major sporting organisations involved (GAA, IFA, IRFU and Ulster Rugby), and also from other organisations such as the Federation of Small Businesses and Hospitality Ulster².

The Member gave a presentation on the Bill to the Social Development Committee on 15 October 2016³. This was also positively received.

Members were also generally supportive of the Bill at its Second Stage hearing in the Assembly on 7 December 2015.

However, during the debate, Jim Allister did raise a number of questions, one of which related to clause 6 of the Bill and the need for its inclusion⁴:

“... I wonder why it is necessary to have the facility to apply for an extension to 1.00 am.... We have already, in another context, seen the furore about the development of Casement and the fact that it sits cheek by jowl with a densely populated residential area. I am not sure that we would be serving the interests of those people or anyone

² See <http://www.judithcochrane.com/stadia>

³ See <http://www.niassembly.gov.uk/assembly-business/committees/social-development/legislation/licensing-bill/minutes-of-evidence/>

⁴ See <http://aims.niassembly.gov.uk/officialreport/report.aspx?&eveDate=2015/12/07&docID=251986#1760990>

who is equally living adjacent to a stadium by facilitating, in the manner that clause 6 would facilitate, the extension of licenses to one o'clock in the morning."

The issue of consulting with residents was also raised by Phil Flanagan at the Social Development Committee evidence session.

Concerns have also been raised by residents living near the Kingspan stadium in written submissions to the Committee.⁵

Some of these residents have said that they were not consulted about the Bill and that they only found out about it very recently, after the original consultation. The residents all express concerns, particularly in relation to that part of the proposed legislation referred to by Mr. Allister. They have provided examples of the types of problems that they are currently experiencing with unacceptable drunken behavior by a small minority of rugby fans, including urinating in the street and in people's property, harassment, singing late at night, damage to property and litter, largely in the form of plastic beer glasses, some of which are thrown into their gardens or left on top of their cars.

These residents also make the valid point that the SSE Arena is not in a residential area and is part of a purpose built entertainment complex. In terms of access and potential disruption to residents, it cannot therefore be compared with Kingspan, Windsor Park or Casement Park. They argue that it does not make sense to extend the legislation for liquor licensing that applies to the SSE Arena to the three stadia located in residential areas.

Concerns with regards to clause 6 have also been raised by the PSNI in their submission to the Committee and in their response to the consultation. They raised the question as to why outdoor stadia would require additional permitted hours.

It is assumed that basically anyone can apply to run a function on these premises and that 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.

The PSNI totally oppose this clause and have asked for it to be removed, which is what they say the Member had agreed to.

Clause 6 of the Bill is meant to mirror clause 7 of the Licensing (Indoor Arena) (Northern Ireland) Order 2004, which includes an amendment to Article 44 of the principal Order (the Licensing (Northern Ireland) Order 1996). While the proposed Bill

⁵ <http://www.niassembly.gov.uk/assembly-business/committees/social-development/legislation/licensing-bill/written-submissions/>

is almost a carbon copy of this Order in every other aspect, this amendment has been left out. The reasoning for this was explained by the Member during the second stage debate:

“Of the small number of other people who raised an objection to the proposal, the main issue was additional permitted hours. My original proposal included an amendment to article 44 of the 1996 Licensing Order to allow a stadium licence to be granted to sell alcohol for extended hours, that is until about 1.00 am. Naturally, some residents had concerns about that, and some pub owners in the vicinity of the stadia expressed the view that they would lose business if that were the case. On the back of those responses, I therefore removed the proposal to allow a permanent licence with extended hours.”

While the amendment to Article 44 has now been left out of the Bill, an amendment to Article 48 (relating to the suitability of premises for functions), which adds an outdoor stadium to the list of premises suitable to apply for an extension license, has been included under clause 6.

Given the concerns of residents, it seems reasonable that the amendment to Article 44 is left out of the Bill. However, it may be worth considering re-introducing some parts of Article 44, which give some protection to residents and which have been applied to the SSE Arena. The relevant parts of Article 44, under ‘Orders for additional permitted hours’ are as follows:

“ (3) A court shall not make an order under paragraph (1) unless it is satisfied that—

(a) the business will be conducted during the hours mentioned in paragraph (2) and any period immediately following their termination in such a manner as not to cause undue inconvenience to persons residing in the vicinity of the premises; and .

(b) the hours mentioned in paragraph (2) will not cause undue inconvenience to persons residing in the vicinity of the premises. .

(4) An order under paragraph (1) may be revoked by a court of summary jurisdiction on the application of the holder of the licence.

(5) Where, upon complaint made under Part VIII of the [1981 NI 26.] Magistrates' Courts (Northern Ireland) Order 1981, a court of summary jurisdiction is satisfied—

(a) that the business carried on in premises to which an order under paragraph (1) applies is being conducted during the hours mentioned in paragraph (2) or any period immediately following their termination in such a manner as to cause undue inconvenience to persons residing in the vicinity of the premises; or .

(b) that such hours are causing undue inconvenience to persons residing in the vicinity of the premises; or .

(c) in the case of a complaint made by the sub-divisional commander of the police sub-division in which the premises are situated, that the specified part or parts of the premises are not being used for the purpose of habitually providing entertainment or substantial refreshment or both entertainment and substantial refreshment, as the case may require, .

the court may—

(i) revoke the order; or .

(ii) modify the order or, in relation to the order, the hours mentioned in paragraph (2); or .

(iii) make the continuance of the order subject to such terms and conditions as the court thinks fit.....”

One other omission that may be worth considering, for inclusion in clause 7, is Article 52A, paragraph 2 under 'Requirements with respect to sale of intoxicating liquor', which states:

“If paragraph (1) is contravened the holder of the licence shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale” [i.e. currently a £1,000 maximum fine]

This has been included in the 2004 legislation covering the SSE Arena, but has not been included in the Bill for outdoor stadia.

3 Other Issues

In addition to their objections on clause 6, the PSNI, in their submission to the Committee, have also objected to clauses 5 and 7 of the Bill.

Under clause 5, 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. The PSNI do not support this and have suggested that in these circumstances, this should be subject to Ministerial approval.

Clause 7 enables 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, the PSNI say they would not support this and would ask why children need access to a kiosk that is selling alcohol, which essentially means mixed retailing. Their view is that to protect children, they should remain separate. In addition, they oppose the use of kiosks and strongly recommend that the point of sale of alcohol should be from a permanent fixed structure or structures within the stadium. This would address the possibility of hawkers selling alcohol.

The PSNI have also pointed out that matches involving both Linfield at Windsor Park and Antrim at Casement Park are local domestic type matches, and that if Linfield and Antrim are able to make use of the stadium licence, this would give them an unfair advantage over other teams in their respective leagues. They have therefore sought clarification as to exactly who owns the licence and for what purposes it can be used.

The feasibility of extending the coverage of the Bill to include Drumbo Park was also raised by some Members during discussions about the Bill. As Drumbo Park does not meet the 8,000 seating capacity requirement, clause 2 would have to be amended, and it would presumably have to be worded in a way that prevents the legislation from applying to all outdoor sports grounds.

One final point for consideration is the likelihood that this proposed legislation would potentially make the three outdoor stadia more attractive as venues for concerts and other events such as are currently held at Murrayfield, Twickenham, the Aviva Stadium, the Millennium Stadium, Wembley Stadium and Hampden Park, and the SSE Arena in Belfast. Given the concerns expressed by residents, the Committee may wish to

consider whether or not it is necessary to offer them some additional protection in relation to the sale of alcohol at these events.

Once granted, a liquor licence may last up to five years in Northern Ireland⁶. Section 10 of the Alcohol etc. (Scotland) Act 2010 gives a Licensing Board in Scotland the power to vary premise licence conditions at any time after a licence has been granted. It might be worth considering the addition of a similar clause into this Bill to allow changes to be made, if deemed necessary, after a licence has been granted. This could provide some additional protection for residents and children.

“10 Premises licences: variation of conditions.

(1)After section 27 of the 2005 Act, insert— .

“27A Power of Board to vary premises licence conditions.

(1)A Licensing Board may, in relation to any prescribed matter, make a variation of the conditions to which a premises licence in respect of licensed premises within its area is subject. .

(2)The Scottish Ministers may not, under subsection (1), prescribe the age at which persons aged 18 or over may purchase alcohol as a matter in respect of which the conditions to which a premises licence is subject may be varied under this section. .

(3)A variation under subsection (1) may apply to— .

(a)all licensed premises, .

(b)particular licensed premises, .

(c)licensed premises within particular parts of its area, or .

(d)licensed premises of a particular description. .

(4)A variation under subsection (1) has effect for such period as the Board may specify in it. .

(5)The Board may make a variation under subsection (1) only where it is satisfied that the variation is necessary or expedient for the purposes of any of the licensing objectives.....”

⁶ <http://www.nidirect.gov.uk/selling-alcohol-in-licensed-premises-and-registered-clubs>

4 Conclusions

While the Bill has generally been received positively, there are a few areas that may need to be tightened, particularly with regard to the concerns raised by the PSNI and by residents living near the Kingspan stadium. They have a number of genuine concerns that the Committee may wish to address, particularly in relation to clause 6 covering additional permitted hours. There appears to be a case for tightening the legislation to provide some additional protection for residents and possibly for children, and the point has been made that liquor licensing legislation introduced to cover the sale of alcohol at the SSE Arena may not be appropriate for stadia situated in residential areas.