

## Judith Cochrane MLA

### **PMB Evidence Session to Social Development Committee - 28<sup>th</sup> January 2016**

The Licensing Bill as drafted aims to amend the existing liquor licensing laws by creating a new type of licence for outdoor stadia deemed to be of regional or national importance in Northern Ireland. This follows on from the Northern Ireland Executive's decision to invest £110m in the redevelopment of our 3 major stadia which have now been developed (or are being developed) in such a way that they are versatile in their use and are fully equipped to host sporting, education, business and leisure events.

At present, our outdoor stadia in Northern Ireland rely on occasional licences to allow the sale and consumption of alcohol on the premises at sporting or other events. To obtain an occasional licence, an existing licence holder (which is usually a catering company) must apply to the courts to transfer the licence on each occasion. This 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 a similar operational footing to the SSE Arena in Belfast.

It is worth noting that in all evidence sessions to-date, (including the session with the PSNI and 'Ravenhill Steering Group'), there has been support for introducing a bespoke licence for our major stadia.

#### ***Q1 – What difference will this Bill make?***

- Licences will not have to be continuously applied for each and every event.
- Tendering for the catering contract will not be dependent on the caterer holding a full licence (currently required to be transferred in on an occasional basis) – this is something that has been supported by the FSB in their consultation response.
- Under 18's will be permitted in the licensed areas after 9pm which will ensure the stadia continue to provide family entertainment in a controlled environment when an event/activity is scheduled to finish after 9pm.
- Currently an occasional licence could be applied for to run to 1am for an event in the full stadium. This Bill will only allow a 1am licence to be applied for on a case by case basis in relation to an event in a specific area of the stadium which has been deemed suitable for a function.

## **Q2 – Can the occasional licences not be applied for in one bulk application?**

The 1996 Order states that 13 occasional licences can be applied for in one application and the courts have advised that if the same company applies for 13 occasional licences in one application they are permitted to apply for a children's certificate to cover all 13 occasions. In practice however, due to the mapping requirements tied to the children's certificate this is not possible, as some details change depending on match timing and other activities that might be taking place.

The Bill contains 8 clauses as follows:

**Clause 1** - defines terms used within the Bill.

*No queries/amendments to make.*

**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".

*Following discussions with the PSNI and the Department, I would propose to amend the definition of 'outdoor stadium' to ensure that there is no ambiguity as to which stadia this Bill might apply to and what type of event or activity might occur on these premises. At the same time I want to futureproof the Bill by making provision for future stadia to be added if required. I have 3 options as to how I might make this amendment.*

### **OPTION 1**

#### **"Meaning of "outdoor stadium"**

2B.—(1) In this Act "outdoor stadium" means any premises—

*(a) which are structurally adapted and used, or intended to be used, for the purpose of providing a venue for outdoor events involving the use of some or all of the playing area or pitch at the premises and consist of an area or areas for indoor activities which do not involve the use of the playing area or pitch; and*

*(b) which are specified in the Schedule; or*

*(c) which have been designated as a regional or national stadium in regulations, subject to negative resolution, made by the Department.*

After Clause 8 insert -

## SCHEDULE

<i>Premises</i>
Casement Park 88-104 Andersonstown Road Belfast BT11 9AN
Windsor Park Donegall Avenue Belfast BT12 6LW
Ravenhill Grounds 85 Ravenhill Park Belfast BT6 0DG

### **OPTION 2**

#### **“Meaning of “outdoor stadium”**

2B.—(1) In this Act “outdoor stadium” means-

- (a) the Northern Ireland National Football Stadium at Windsor Park, Belfast,
- (b) the main stadium of the Irish Rugby Football Union in Ulster at 85 Ravenhill Park, Belfast,
- (c) the Gaelic Athletic Association stadium at Casement Park, Belfast; or
- (d) any premises which are structurally adapted and used, or intended to be used, for the purpose of providing a venue for outdoor events involving the use of some or all of the playing area or pitch at the premises and consist of an area or areas for indoor activities which do not involve the use of the playing area or pitch, and have been designated as a regional or national stadium in regulations, subject to negative resolution, made by the Department.

### OPTION 3

#### **“Meaning of “outdoor stadium”**

2B.—(1) In this Act “outdoor stadium” means any premises-

- (a) which are structurally adapted and used, or intended to be used, for the purpose of providing a venue for outdoor events involving the use of some or all of the playing area or pitch at the premises and consist of an area or areas for indoor activities which do not involve the use of the playing area or pitch; and
- (b) have been designated as a regional or national stadium in regulations, subject to negative resolution, made by the Department.

*If I go with Option 1 or 2, I would probably also include a power to amend the schedule or paragraph (a), (b) or (c) to reflect any change to the description or location of the stadium concerned. If this is included there should also be a power to omit any of those paragraphs if any of the stadia ceases to exist. Option 3 leaves out the references to particular stadia altogether and might be the most appropriate option so that there is complete flexibility.*

**Clause 3** - introduces amendments to add an outdoor stadium to the list of premises for which licences may be granted. It also restricts the sale of alcohol to being ancillary to an event or activity in the stadium, confirms that no off sales are permitted, and sets out the penalty for contravening these restrictions.

*No amendments to make.*

#### **Q3 - Who will apply for the licence?**

Article 4 of the 1996 Order sets out ‘**Persons to whom licences may be granted**’. It states that the person to whom a licence is granted shall be the owner of the business to be carried on under the licence and that this can be an individual or body corporate.

The applicants for the 3 stadia to which this Bill currently applies will be the Ulster GAA, the Ulster Branch of IRFU and the IFA Stadium Development Company.

Given that the licence that will be applied for is an ‘outdoor stadium’ licence and (Article 4(3)(b)) ‘*the court shall have regard to the qualifications and experience of the applicant to manage the business which is to be carried on under the licence*’, the court could only grant approval if it was satisfied that the applicant was the sporting body or stadium management

company linked to the 'regional or national importance' of the stadium. Linfield Football Club would therefore not be the applicant.

#### **Q4 – How will the licence be operated?**

A stadium could, if it chose to, employ contractors to deliver the sale of alcohol at the stadium through utilising a legal *side agreement* which for example would see the stadium pay the contractor a set fee to deliver the service.

If the licence is applied for on this basis, it is not uncommon for the judge considering the application to require the operator of the licence to also present to the court to determine if they are a fit person to administer the licence (e.g. if it were the Ulster GAA applying and Caterer X were the service provider, the manager of Caterer X may also be required to go to court to give an account of their suitability).

In any case, the authority ultimately responsible for the licence, and liable if any issues were to be raised, is still the applicant. The applicant would be responsible for the service provider in ensuring the necessary standards are maintained in order to avoid possible breaches.

#### **Q5 Is this a new type of licence and will there be a cost?**

This is a new type of licence and the only costs will be court fees. This is no different to what happened for the indoor arena. The only licences that require a subsisting licence to be handed in are Article 5(1)(a) and (b), pubs and off-licences. (These are the licences which have a commercial value). I see no reason why the value of a licence would be of concern to the PSNI

#### **Q6 What is the procedure for applying for the licence?**

Schedule 1 of the 1996 Order requires the applicant, at the time of applying for the licence, to attach a plan of the premises for which the licence is sought. This plan shall clearly delineate the part or parts of the premises in which intoxicating liquor is to be sold. In relation to Kingspan, these plans are already well rehearsed as they are a current requirement for the occasional licence and childrens' certificate. The PSNI recommended that a stadium should only sell alcohol from fixed structures, i.e. no hawking should be permitted.

All permanent or temporary fixed structures to be used as salespoints should therefore be marked on the plans at the time of application for the licence so that the PSNI are confident that no hawking can take place.

**Clause 4** - amends the 1996 Order to include outdoor stadia in the provision that enables a court to attach conditions at the time of granting or renewal of licences, and also permits the District Commander of the police to apply to the court to attach conditions to the licence at any time during the life of the licence.

*No amendments to make.*

### **UNDER 18 EVENTS**

*I considered making an amendment to this clause which would ensure that the sale and consumption of alcohol was not permitted when either the majority of the players or the majority of the spectators at a sporting event were under 18 years.*

*The advice that I received in relation to this proposal was that this would be a difficult condition to apply for a number of reasons. Firstly, it would be difficult to ascertain in advance in every case whether the majority of the spectators will be under 18. Secondly, many major GAA matches are preceded by an under 18's match and therefore this condition would not permit alcohol to be sold in these circumstances. Even if a condition was placed on the licence that alcohol was only permitted to be sold at the senior match, the logistical issues that would arise in terms of the number of people trying to access bar areas between the two matches would make it extremely difficult to manage. Thirdly, some of the corporate/sponsorship areas are used during the Schools' Cup Final so this condition could be in contravention with terms and conditions of the rental of corporate boxes etc.*

*The Department has suggested that given there appear to be no issues currently with how alcohol is sold at sporting events which include children, either as participants or spectators, that this amendment is not necessary. For example, although the occasional licence would currently allow all the kiosks and salespoints to be open at Kingspan at a School's Cup Final, the stadium makes an operational decision not to open those located in the grandstands where the majority of schoolchildren are situated.*

*There is no reason to believe that this operational decision would change and if the PSNI identified concerns with how alcohol was being sold at such an event they could apply to place a condition on the licence to address that issue. Alternatively, the Court might place a*

*condition on the licence to say that the stadium must adhere to operational requirements stipulated by the PSNI. The PSNI have set out in their evidence session how they already draw up various operating requirements for different events so this should be easily achieved.*

### **ALCOHOL FREE ZONE**

*I also considered making an amendment to this clause to place a condition on a stadium that, at all sporting events, there must be a minimum area of 10% of the capacity of the stadium set aside where no intoxicating liquor can be sold or consumed.*

*If I was to make this amendment I would probably have to consider allowing a number of alternative areas to be identified as "alcohol-free" areas and these would be better being marked out on the plan at the time of the initial application for the licence. Therefore, if I was to take this forward I would amend Clause 3 of the Bill to include a line in relation to Part 1 of Schedule 1 of the Licensing Order, to the effect that the plan accompanying the application for a licence must show one or more areas where intoxicating liquor will not be available for sale or consumption and that those areas taken together must be at least 10% of the capacity of the viewing area of the pitch.*

*The Department have suggested that this could over-complicate the matter and be difficult for the PSNI to enforce. Furthermore, given that Kingspan Stadium currently operate with an alcohol-free stand for most matches and advise that they will continue to do so, and this is a commercial decision and not a requirement of the law there is probably no need to legislate for it.*

### ***Q7 Could a condition be placed on the licence in respect of certain games?***

During the PSNI evidence session a Member raised a query about the types of football matches where a licence can be operational. The UEFA rules and the option for court/PSNI conditions should satisfy this concern.

**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.

*No amendments to make.*

*This is a standard provision in the 1996 Order which applies to all premises licensed to sell alcohol. It enables the business of selling intoxicating liquor by retail to be carried out temporarily in premises other than those authorised in the licence, where the original premises have been rendered unusable by virtue of fire, flood etc, or where they are undergoing a major renovation. When granting such an order, a court must be satisfied that the premises in which the business is proposed to be carried on are adequate. For example, a court might accept that because Windsor had been damaged in a fire that a Northern Ireland match might go ahead in The Oval and that on this occasion the IFA could temporarily operate their licence at these premises.*

*The PSNI suggested this should only happen if the other premises are consistent with definition of an outdoor stadium, however, given that our 3 stadia that meet that definition will most likely already hold a licence, this clause is intended to allow alternative premises to be considered if required.*

**Clause 6** - adds an outdoor stadium to the categories of premises that can apply to a court for an order specifying that parts of the premises are suitable for functions.

*I would propose to amend the title of this clause to read **Suitability for functions**'.*

*In the evidence sessions there has been some confusion around this issue. The clause, as currently drafted allows an outdoor stadium to use the procedure set out in Schedule 9 of the 1996 Order, to apply for an order to grant that part of the premises are suitable for functions. 'That part of the premises must be structurally adapted and used or intended to be used for the purpose of providing for the accommodation of persons frequenting it, substantial refreshment to which the sale of intoxicating liquor is ancillary'.*

*It is only then, in that particular part of the premises, (once a court has made an order), that an extension licence could be granted under Article 47.*

*It is the licence holder who applies for an extension licence (Article 47) in compliance with the procedure set out in Schedule 10 of the 1996 Order. The licence holder can only apply to*

*organise 6 of these 'late' functions in any year, but there is no restriction on the number of times the licence holder may apply for an extension licence in relation to functions organised by a body 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.*

*Obviously such a body cannot demand that the event is held in the first place – it would have to be in agreement with the stadium. Under an occasional licence this can currently happen so my Bill would actually make it more restrictive in that the licence holder themselves can only apply for an extension licence in the function area 6 times.*

**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 and sets out the penalty for contravening the conditions. This Clause also allows Under 18s, who are attending events and activities at the outdoor stadia, to be in the areas containing kiosks and salespoints which sell intoxicating liquor, after 9pm.

*In order to give some additional protection to children but also allow the stadium to continue to operate seamlessly when an event or activity is scheduled to finish after 9pm, I would propose the following amendment.*

#### **AMENDMENT**

##### **Clause 7, page 3**

In subsection (3) after 'purchase' - insert 'and from 9pm, is in the company of a person who is 18 or over'.

#### ***Q8 – Is the licence only operational when a sports match is on?***

As the bill is currently drafted the licence only operates when 'there is being carried on in those premises a business of the type normally carried on in premises of that kind; and the sale of intoxicating liquor is ancillary to that business'.

Subsection (1) of this Clause amends Article 52A to 'Indoor Arenas and Outdoor Stadia' and goes on to say 'where an indoor arena or an outdoor stadium' is licensed for the sale of intoxicating liquor, such liquor shall not be sold or made available for purchase there, except

*where (a) it is sold to, or made available for purchase by, persons employed or attending events and activities in the premises.*

*I think that this is fairly clear that any events or activities taking place within the stadium would permit the licence to be operated and this is how the 2004 Indoor Arena Order is drafted. I have, however, been more explicit in the proposed amended definition of an outdoor stadium to remove doubt.*

**Q9 - What controls are in place if the outdoor stadium is exempt from the Childrens' Certificate requirements?**

Under 18's are still not permitted to purchase or consume alcohol on or off the premises etc. Article 60 sets out a number of rules around this. Under 18s are currently permitted to be in the areas containing kiosks and salespoints which sell intoxicating liquor until 9pm and my proposed amendment would require them to be supervised by an adult after 9pm. This is slightly more restrictive than how an indoor arena operates but at the same time will allow, for example, an Under 18 to remain in a corporate box until the end of a match if it was to finish at 930pm so long as they are in the company of a person who is 18 or over.

**Q10 – Is there a reason to prevent mixed retailing in an outdoor stadium when it is allowed in the indoor arena?**

Selling alcohol from kiosks or others salespoints at which snacks and other food is also available for purchase is allowed in indoor arenas, where sporting events and other activities take place. The Department is not aware of any concerns from the PSNI regarding availability of alcohol in an indoor arena and no conditions have been placed on the licence at the indoor arena in this regard.

In their evidence session, the PSNI could not provide any evidence of there being an issue with mixed retailing at the SSE arena and therefore I do not see why an outdoor stadium could not operate under the same licensing provision. The PSNI seemed to be suggesting that the only reason they might look more closely at 'mixed-retailing' was because it was the only venue that was permitted to do it. If there have been no child-protection issues associated with it, and it is clear in the law that it is permitted in a small number of particular premises, (i.e. indoor arenas and outdoor stadia), I see no reason why this provision should be changed.

I have spoken with the relevant personnel at the 3 stadia and they are keen to work with the PSNI to ensure Under 18s are suitably protected, for example, depending on the design of the salespoint, they might stipulate that only certain lines at either end can be used by Under 18s. That way they would not be queuing in a crowd of adults who are more likely to be buying alcohol. There are also numerous other salespoints where no alcohol is sold. I think there can be a very practical approach to these matters without placing restrictions on the Bill.

**Clause 8** - deals with commencement and title of the Act.

*I would propose to amend this clause to ensure commencement of all provisions of the Licensing Act soon after Royal Assent. The Department can live with this provided sufficient time is given to allow the Department to make regulations and the courts to make the necessary changes to their operating systems..*

#### **AMENDMENT**

**Clause 8, page 3**

Leave out subsections (1) and (2) and insert -

‘(1) This Act comes into operation on X DATE.’

