



Northern Ireland
Assembly

Research and Information Service Research Paper

19 November 2020

RaISe

Licensing and Registration of Clubs (Amendment) Bill

NIAR 66-2020

The [Licensing and Registration of Clubs \(Amendment\) Bill](#) was introduced to the Northern Ireland Assembly on the 19 October 2020. The Bill covers a wide range of issues such as permitted opening hours for licensed premises and registered clubs; a new licensing framework for local producers; the regulation of alcohol deliveries and alcohol advertising; provisions aimed at protecting under 18s from alcohol-related harm; and a new framework for licensing in relation to major events. This bill paper has been prepared to inform scrutiny of the Bill and should be read in conjunction with RaISe supplementary papers entitled [Alcohol in Northern Ireland](#) (Paper No. 67/20) and [Hospitality sector and the wider economy in NI: key estimated impacts of COVID-19 and related government responses](#) (Paper No. 68/20)

Paper No. 69/20

19 November 2020

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Executive Summary

The [Licensing and Registration of Clubs \(Amendment\) Bill](#) was introduced to the Northern Ireland Assembly on behalf of the Minister for Communities, Carál Ní Chuilín MLA, on 19 October 2020. The objective of the Bill, as outlined in its [Explanatory and Financial Memorandum](#), is to “*introduce a balanced package of measures to update the law in respect of the retail sale of alcoholic drinks and to make it more responsible to the current social and economic environment*”.

The provisions of the 2020 Bill (as introduced) largely mirror those of the 2016 Licensing and Registration of Clubs (Amendment) Bill which subsequently fell due to dissolution of the Assembly. However, the 2020 Bill does contain a number of important additions and revisions and these are explored throughout this bill paper.

This bill paper has been prepared to inform consideration of the clauses of the Bill. It should be read in conjunction with two supplementary papers, one entitled “[Alcohol in Northern Ireland](#)” and the other “[Hospitality sector and the wider economy in NI: key estimated impacts of COVID-19 and related government responses](#)”. The bill paper and supplementary papers are not intended to be a definitive examination of all the relevant issues. They are produced under time constraints, aiming to be available for the beginning of the Committee Stage of the Bill. Further research may be commissioned by the Committee for Communities during the Committee Stage.

The main clauses of the Bill are as follows:

Clauses 1 & 23: Removal of restrictions at Easter

On-sale premises are only permitted to sell alcohol between **5.00pm and 11:00pm on Good Friday**. Late opening available to pubs and other licensed premises that provide food or entertainment (which is normally between the hours of 11.00pm to 1:00am) **must end at midnight on the Thursday and Saturday before Easter Sunday**. Permitted licensing hours on **Easter Sunday** are 12.30pm to 10:00pm and off-licences are not permitted to sell alcohol at all on Easter Sunday.

The Department for Communities highlights that “*changing social habits and the growing importance of the tourism industry for Northern Ireland has led to calls for changes to Easter opening hours*”. **Clauses 1 and 23** of the 2020 Licensing and Registration of Clubs (Amendment) Bill proposes to **remove all restrictions that currently apply over the Easter period** for both on- and off-sales, this also includes registered clubs. The 2016 Licensing and Registration of Clubs (Amendment) Bill (as introduced) proposed to remove the restrictions in relation to the Thursday before Easter Sunday only (i.e. to permit late opening up until 1.00am).

The **Republic of Ireland** previously banned on the sale and consumption of alcohol in licensed premises on Good Friday (although restaurants and hotels were exempt if the

alcohol was provided ancillary to a meal). However, this **ban was removed** by the Intoxicating Liquor (Amendment) Act 2018, which was enacted in January 2018. There are no similar restrictions on permitted opening hours at Easter in **Scotland, England and Wales**.

Has any independent analysis been conducted on the loss of revenue to licensed premises due to the Easter restrictions and the benefits to the economy that may be derived from the removal of the restrictions? Hospitality Ulster estimated that in 2016 approximately £16 million in revenue was lost due to these restrictions; how is this figure derived and are there updated figures?

To what extent would removing the restrictions at Easter address some of the financial challenges resulting from the COVID-19 pandemic?

The voice of faith-based groups and individuals is important given the religious significance of Easter. To what extent do the proposals provide a balance between the promotion of tourism and hospitality and the protection of a traditional religious holiday and public health in general?

Clause 2: Public houses and hotels: further additional hours

Aside from the current restrictions put in place by the Northern Ireland Executive due to the COVID-19 pandemic, normal permitted hours for public houses and registered clubs is up to 11.00pm on weekdays and 10.00pm on Sundays (with 30 minutes “drinking-up” time). Certain categories of licensed premises (e.g. pubs, hotels and restaurants) that provide food and/or entertainment can apply to the courts **for late opening hours**. Late opening hours are up 1.00am on weekdays and midnight on Sundays (with 30 minutes “drinking-up time”).

Clause 2 of the Bill proposes to allow certain licensed premises an additional **1 hour late opening** (i.e. up to **2.00am on weekdays and 1.00am on Sundays**) on a **maximum of 104 occasions in any year** (except for Christmas Day). Clause 5 proposes to provide a one hour “drinking-up time”. Clause 2 also proposes to provide courts with the power to revoke or modify an order in respect of this further late opening. The previous 2016 Bill proposed to allow an additional one hour for a maximum of **12 times in any year** (not including Christmas Day, Good Friday or Easter Sunday).

There are obvious **differences of opinion** with regards to extending opening hours between organisations representing the hospitality sector and those organisations responding from a public health perspective.

In the **Republic of Ireland**, certain licence holders can apply to the courts for a Special Exemption Order to serve alcohol outside normal opening hours. The latest time that alcohol can be served for consumption on the premises under such an order is **2.30am** (with 30 minutes drinking-up time). District courts are permitted to grant an order for a shorter period of time if they feel it is necessary to do so.

There are **no nationally set permitted opening hours** for licensed premises such as pubs and clubs in **Scotland, England and Wales**. Responsibility for liquor licensing is devolved to local authority level in these jurisdictions (namely licensing authorities in England and Wales and Licensing Boards in Scotland). Put simply, individual premises must declare their intended opening hours in an operating plan or schedule, the local licensing body will determine whether to grant those hours, basing its decision on local circumstances. A small number of Licensing Boards in **Scotland**, such as Edinburgh Licensing Board, had (pre-COVID) opted to permit licensed premises (providing restaurant facilities or entertainment) to open until **3.00am** and in Glasgow ten nightclubs were permitted to change their permitted hours from 3.00am to **4.00am**.

Extended hours are beneficial to tourism and to the economy but concerns are frequently cited around the impact on emergency services and on alcohol consumption and alcohol-related harm. The University of Stirling recently announced that it will be leading on a **3-year £1.1m study** which will seek to understand how extended opening hours impact on ambulance call outs, crime, public services and business operations. The study hopes to inform future premises licensing conditions, policies, and legislation in the UK and internationally.

Has any research been conducted or commissioned by the Department on the proposal to extend late opening by one hour in terms of its impact on (a) the night-time economy and the economy in general (b) on alcohol consumption and alcohol-related harm (c) on crime levels (e.g. assaults) (d) emergency services (e.g. police, ambulance service, A&Es)?

In Scotland, Local Licensing Forums (which are multi-disciplinary bodies whose membership consists of e.g. police, health trusts, child safeguarding, local residents, environmental health) can share local intelligence on the activities of licensed premises with local Licensing Boards. Northern Ireland does not have a similar statutory licensing infrastructure. By what means will local intelligence regarding opening hours be gathered and communicated to, and between, relevant bodies?

If extended opening hours are permitted, will it be rolled out on a Northern Ireland-wide basis or will it be piloted first?

How does the Department intend to review and monitor the impact of the one-hour extension (and extension of drinking-up time)? Will comprehensive data be gathered to assess the impact of extended opening (e.g. the number of premises prevailing of extended opening and how often, data on the economic impact on the night-time economy, impact on crime and policing etc.)?

Clause 3: Alignment of closing time for liquor and entertainment

Liquor licences are granted by the courts whilst entertainment licences are granted by local councils. Licensed premises, may at any one time, hold both a liquor licence and an entertainment licence. The Department has highlighted that some councils grant entertainment licences beyond the late opening hours permitted under a liquor licence. This means that entertainment can continue in a licensed premises after the bar must

be closed. The Department states that *“concerns have been raised that this practice has led to illegal sales”* and that it *“also creates difficulties for the PSNI in enforcing liquor licensing law”*. Clause 3 of the Bill proposes to amend Licensing (NI) Order 1996 to ensure that **entertainment is not permitted to continue after the end of “drinking-up” time.**

Given that the regulation and enforcement of liquor licensing and entertainment licensing rests with different bodies, how will compliance with this provision be monitored and intelligence shared?

Clause 4: Police authorisations for additional hours

Smaller pubs in Northern Ireland, that are not in a position to provide food or entertainment, may not be granted late opening hours by the courts, but they can apply to the PSNI for late opening. Such police authorisations can be granted for a maximum of **20 occasions in any year**. This extends the permitted hours to 1.00am on weekdays and midnight on Sundays (with 30 minutes ‘drinking-up’ time). **Clause 4** proposes to increase police authorisations from 20 to **85 occasions in a 12-month period**. This would bring the law into line with that currently pertaining to registered clubs who can be granted police authorisation for late opening on 85 occasions in a year.

Additionally, clause 4 also contains proposals to allow larger pubs (that do provide food or entertainment), to also apply to the police for late opening on a night that is not included in their own-late night opening orders (that are granted by the courts). However, this will only be permitted in respect of **20 authorisations** in a year and on the condition that the premises provide food and/or entertainment.

How many police authorisations are currently provided to licensed premises in Northern Ireland? How many authorisations are currently refused? Has any research been conducted on the potential uptake of applications if authorisations are increased from 20 to 85 (for smaller clubs) and the 20 occasions for larger pubs?

Clauses 5 & 24: Extension of “drinking-up time”

Customers (and members and guests in the case of registered clubs) are permitted 30 minutes “drinking-up” time during which alcohol can be consumed after the end of permitted hours. Clause 5 contains proposals to increase the duration of “drinking-up” time from **30 minutes to 1 hour** for licensed premises, Clause 24 would extend this to registered clubs. The Department for Communities states that this proposal is intended *“to discourage customers drinking too quickly and to allow more gradual departure especially from large venues”*.

Would this provision be rolled-out across Northern Ireland or piloted in certain areas first in order to assess its impact?

Is it anticipated that the stockpiling of drinks (bought before licensing hours end to consume during “drinking-up time”) will be an issue? If so, what solutions could be deployed to prevent this from happening?

Clauses 6 & 25: Major events

Northern Ireland has hosted a range of high-profile events in recent years such as the 148th Open at Royal Portrush, the Irish Open, MTV European Music Awards, and the Giro D’Italia. The Department for Communities consultation paper (October 2019) on the licensing reform states that it “is aware that organisers of a number of prestigious events have found the permitted hours for occasional licences to be restrictive and report that they have had a negative impact on the success of their event”.

The Bill propose to provide the Department with the power to make an order (i.e. a ‘**major event order**’) that designates an event as being a major event and to **specify the permitted hours for that event** (which may be outside current permitted hours). The Department would also be provided with the **power to revoke such an order**. The Department must also consult “**such persons as it considers appropriate**” (e.g. the PSNI) before making an order. The Department would also be provided with the power to impose or vary conditions for on and off sales under a major event order.

In **Scotland**, the *Licensing (Scotland) Act 2005*, permits a Licensing Board to make a ‘**determination**’ to grant extensions for licensing hours for events of a local or national significance. Similar to the proposals outlined in the Bill, this determination may apply to the whole of the Licensing Board’s area, or specific locations, or only to specific types of premises. However, for recurrent special events Licensing Boards have tended to expect premises to outline clearly in their **operating plans** their intention to extend their licensing hours during these periods (e.g. Edinburgh Fringe Festival, Burn’s Night). Also, similar to the proposals in the Bill, Licensing Boards may determine the conditions that must accompany extended hours for special events (e.g. requiring adequate door supervision, the use of plastic cups after certain specified hours).

In **England and Wales**, section 172 of the Licensing Act 2003 permits the Secretary of State to make an order (a ‘licensing hours order’) extending licensing hours in respect of events of “exceptional international, national or local significance”. Some of these have been subject to **consultation and impact assessment** before the event (as in the case of the Royal Wedding of Prince Harry and Meghan Markle). Other examples of orders made in recent years include the Queen’s 90th Birthday and for the England football team’s matches in the World Cup in 2014.

**Are there plans to conduct a public consultation exercise before a major event order is made?
Would an impact assessment be published before an order is made?**

Should there be certain mandatory consultees (e.g. the PSNI, health trusts, local councils, Tourism NI). What would happen in the case of disagreement between the Department and consultees?

The Bill (as introduced) states that “where the Department considers that if an event that is to take place *in Northern Ireland* [own emphasis] will attract significant public interest” it may make a major event order. What consideration has been given to events that may attract significant public interest but held outside of Northern Ireland (e.g. local sporting success in cross-border or international events)?

Clause 7: Licensed race tracks: Sunday sales

This Bill proposes to permit licensed race tracks (i.e. licensed by the Department for Communities for on-course betting) to sell alcohol on a Sunday which they are currently not permitted to do if they hold a licence under the “places of public entertainment’ category. Down Royal is soon to be designated as an ‘outdoor stadia’ thereby making it eligible to apply for an ‘outdoor stadia’ licence in which case different licensing rules are applied.

Has an assessment been carried out to evaluate what benefits Sunday opening may have on race tracks that hold licences under the ‘places of public entertainment’ category?

Clause 8: Licence for off-sales (local producers)

There has been a significant increase in the number of local producers of alcoholic drinks such as beers, ciders and spirits in Northern Ireland. These producers can only sell their alcoholic products directly to the public via a third party unless they also hold a licence under another category, e.g. a public house licence. Bill proposes to:

- create a **new category of licence** for local producers;
- permit local producers to sell their own products from their own premises for **consumption off the premises (including online sales)**;
- permit a **sample of their products** to be provided for consumption on their premises following a tour (the volume of the sample will be determined by regulations); and
- allow local producers to **sell their own products from certain other licensed premises for consumption off the premises** (e.g. at events such as food and drink fairs). Products may also be sold from **unlicensed premises** (e.g. at events such as food and drink fairs) but certain conditions must be met before such authorisations can be made.

Consumer demand for locally produced artisan beers, ciders and spirits has grown across Europe and the US in recent years. Younger consumers are reported to be particularly interested in brands that are based around ethical standards and working practices. Tours and tour maps of breweries and distilleries are promoted by tourism bodies in other jurisdictions. Some short break operators offer weekend and extended trips which involve a mixture of tours with other activities such as golfing, restaurants

and sightseeing. Many local producers in Great Britain have diversified their businesses beyond tours to provide tap rooms, tasting masterclasses, pop-up restaurants and festivals.

In the **Republic of Ireland**, legislation was enacted relatively recently (i.e. The Intoxicating Liquor (Breweries and Distilleries) Act 2018) to permit manufacturers (such as small local producers) to sell the alcohol they produced directly to the public (either on or off premises or both). However, there are a number of restrictions e.g. they must only sell the products that they manufacture on their premises, consumption of those products on the premises is only permitted where the visitor has taken a guided tour, and permitted hours are quite restrictive.

In order to sell alcoholic produce to members of the public, local producers in **England, Scotland and Wales** are required to have a **premises licence**. The operating plan/schedule and layout plan accompany any application for a premises licence must set out the opening hours and types of activities the business intends to provide (e.g. tap room, sales area etc.). Local licensing boards in Scotland and local licensing authorities in England and Wales will make a decision on what they will permit based on the particular circumstances of their area.

Clause 9: Requirement for off-licence (remote sales)

The Bill proposes to require that, where a sale takes place other than in person, such as over the phone, internet or app, the **place the alcoholic drink is dispatched from must be licensed**. Where a delivery driver is not acting on behalf of a licensed premises (e.g. a taxi driver), they must make the delivery without reasonable delay and to have with them a receipt in respect of the alcohol purchase.

This is similar to the requirements for alcohol deliveries in **England, Wales and Scotland**, i.e. the premises from which deliveries are dispatched must be licensed. However, guidance issued by the Home Office states that a person running a premises which is providing an alcohol delivery service should **notify their local licensing authority** that they are operating such a service. This is to provide the licensing authority with the opportunity to consider if conditions should be attached to the premises licence. In Scotland, alcohol deliveries between **midnight and 6.00am** are not permitted.

The pandemic has undoubtedly brought the issue of the remote sale of alcohol and the way in which it is regulated to the forefront. Restrictions have meant that the public has sought new ways to interface with licensed premises and licensed premises have had to adapt in order to generate much needed revenue. The difficult task for any legislature is to strike a balance between meeting consumer demand whilst averting excessive alcohol consumption and preventing illegal sales of alcohol from unlicensed premises.

Will information and statistics on licensed premises offering remote sales be recorded for monitoring purposes e.g. gathered upon application or renewal of licences?

Should there be restrictions in the hours in which alcohol can be delivered (as is the case in Scotland)?

Clauses 10 & 26: Removal of requirements for children's certificate

In Northern Ireland, young people under the age of 18 are not permitted to be in the bar area of a licensed premises or registered club unless it has been **granted a 'children's certificate' by the court**. The Bill proposes to repeal the requirement for licensed premises and registered clubs to hold a children's certificate. The Department states that this proposal "*aims to reduce some of bureaucracy from the legislation*" in that the licence holder would no longer have the expense of applying for a physical certificate. The Department has highlighted that the same conditions regarding the presence of under 18s on licensed premises and registered clubs would still apply e.g. they will only be permitted in the bar area of a licensed premises or club until 9.00pm (or 9.30pm were a meal has been purchased before 9:00pm); they must be accompanied by an adult; and they must be seated away from the bar.

There is **no requirement in England, Wales, Scotland or the Republic of Ireland** to obtain a children's certificate. The admission of under 18s to licensed premises in other jurisdictions is largely determined by legislation, the discretion of the premises themselves and through regulation by local licensing authorities (in the case of England, Scotland and Wales). In **Scotland**, on-sales premises must display a statutory **children and young person's access notice** which must be displayed at every public entrance of on-sales premises. These are not certificates, rather they are notices that can be, for example, downloaded from the Licensing Board's website. The notices should contain information such as whether under 18s are permitted on the premises, the hours in which they are to be admitted, and the areas of the premises they are permitted to be in.

The bill paper explores differences between jurisdictions with regards to the hours that under 18s are permitted to be on licensed premises.

Should premises be required to display a notice similar to Scotland's Children and Young Persons Access Notice? Such information may be helpful to both tourists and local families.

Clauses 11 & 27: Underage functions

Well-structured and supervised recreational and social activities are advantageous to the mental, physical, and social well-being of children and young people. However, currently the law on underage functions in licensed premises and registered clubs in Northern Ireland is quite restrictive. Under 18s are not permitted to be in the bar areas of licensed premises or registered clubs after 9.00pm/9.30pm. This has had a

particularly negative impact on premises that wish to, for example, facilitate school formals.

The Bill proposes to provide **courts with the power to make an order** specifying that part of a licensed premises is suitable to hold underage functions. A court (or clerk of petty sessions in certain circumstances) would be able to authorise that underage functions can take place in those specified parts **up until 1:00am**. In order to make an order, the courts must be satisfied that e.g. the specified part of the premises is structurally adapted for the purpose of holding such functions; that appropriate steps have been taken to secure the safety of under 18s; and that under 18s do not have access to any other part of the premises used for the sale of alcohol.

The Bill also proposes to provide the court with the power to impose conditions e.g. alcohol dispensers in any part of the premises in which authorisation is in force must be incapable of operation. It will also be an offence for gaming machines to be available where the function is being held and alcohol must not be available for sale to those over the age of 18 in that part of the premises in which a function is being held. In the case of **registered clubs**, similar provisions will apply to underage functions (**clause 27**). However, **authorisation must be provided by the PSNI** district commander rather than the courts.

Decisions on underage functions and the hours in which under 18s may be admitted to licensed premises are devolved to local licensing authorities/boards in **England, Scotland and Wales**. Often Safeguarding Children's Boards will provide guidance either generally or to local licensing bodies on safeguarding measures for under 18s events. These can include advice on issues such as the admittance of over 18s to functions for under 18s; door and security supervision; responsible advertising and ticketing of the event; public transport provision; procedures for dealing with intoxicated young people; and provision of qualified first aiders etc.

How does the Department intend to monitor the impact of this clause in terms of compliance?

Is there a need for a much wider conversation around safeguarding under 18s whilst they in premises that sell alcohol? Would it be useful to have comprehensive guidance in relation to the presence of under 18s in licensed premises and registered clubs (i.e. what is expected in terms of supervision, safeguarding, the structure of the premises etc., detailed rules in relation to larger underage functions etc.)? The hospitality industry and registered sporting clubs may already have existing guidance and examples of best practice as a basis on which to build such guidance.

Clauses 12 & 28: Attendance of under 18s at private functions

As outlined in the commentary on the previous clause, children are not permitted to be in the bar area of a licensed premises or registered club after 9.00pm (or 9.30pm where a meal has been ordered before 9.00pm). The exception to this is sporting clubs. A person under the age of 18 is permitted in the bar area of a sporting club up until 10.00pm without a children's certificate being in place. This makes the attendance

of children at family functions such as birthday parties, anniversary celebrations, wedding receptions etc. that are held in licensed premises or clubs particularly problematic for the licence holder and the police.

The Bill contains proposals to permit young people to remain on licensed premises and registered clubs after 9.30pm providing certain conditions are met e.g. they must be attending a “private function” in parts of a premises that members of the public do not have access to; they must be attending in the company of a parent or those with parental responsibility; and a meal (consisting of at least a main course) must be served etc.

What is the definition of a “private function”? What types of functions would be outside of the definition of a “private function”?

What current structures are in place to ensure that the PSNI, local councils, the Department, other relevant bodies (e.g. those involved in the safeguarding of under 18s), and licensed premises and registered clubs can share information regarding premises that may not be in compliance with the law? Are these current structures adequate for the sharing of such information and are there examples of best practice?

Will there be guidance on the types of activities in private events that are not suitable for under 18s?

Clause 13: Delivery of alcohol to under 18s

The Bill proposes to make it an offence for a licensee or member of staff to make a home delivery of alcohol to any person under the age of 18 (with limited exceptions). This clause also provides that a licensee or member of staff charged with an offence in relation to the delivery of alcohol may rely on a “defence of due diligence”.

Whilst restricting under 18s access to alcohol via online deliveries is to be welcomed, it is important to recognise that the problems associated with access go beyond remote deliveries and the necessary interventions required goes beyond the remit of the Department for Communities.

Should delivery and other staff receive training in the law around alcohol deliveries e.g. training on preventing deliveries to under 18s or to people who are already heavily intoxicated, training in respect of the law around recording and retaining the required information? Could short e-training courses be developed?

Clause 14: Restaurants and guest houses: notices displaying licence conditions

The Department for Communities states that there is evidence to suggest that some licensed restaurants have been operating into the early hours providing entertainment and charging an entrance fee. Clause 14 of the Bill would require a restaurant or guest

house with a restaurant, to display a notice detailing the conditions in relation to the sale and consumption of alcohol on the premises. These conditions are already set out in legislation (e.g. alcohol must be consumed ancillary to a table meal; alcohol must be paid for at the same time and on the same bill as the meal; and there must be no payment by way of an entrance fee).

How widespread is this issue? What arrangements will be put into place to monitor compliance with the new provisions?

Clauses 15 & 30: Prohibition of self-service and sales by vending machines

Technological developments in recent years has made alcohol more accessible via 'pour your own pint' tables/dispensers and alcoholic vending machines. 'Pour your own' pint facilities appear to be particularly popular in England and alcohol vending machines popular in countries such as Japan and in certain states of the USA (although other states prohibit their use).

Current licensing law in Northern Ireland is **silent on the issue of alcohol self-service facilities and vending machines**. The Bill proposes to prohibit the sale or consumption of alcohol in a form which "**enables the person (or a person accompanying them) to operate the dispenser of the alcohol**". Additionally, it will **prohibit the sale of alcohol via vending machine** (although the Department for Communities proposes to provide the Department with the power to make regulations permitting vending machines for residents in hotels, guest houses and pubs that provide accommodation).

How widespread is the current use of "self-service" technology and vending machines in Northern Ireland?

Clause 16: Restrictions on off-sales drinks promotions in supermarkets etc.

The Bill proposes to restrict the advertising of alcohol promotions in supermarkets to the **designated area in which alcohol may be displayed**. Off-sale premises will also be prohibited from advertising alcohol promotions within the "**vicinity of the premises**" which is defined as 200 metres of any off-sale premises. The Bill proposes to provide the Department for Communities with the power to make regulations to modify the definition of vicinity.

Alcohol advertising restrictions in Scotland and the Republic of Ireland go beyond the proposals in the Bill and these are explored further within the paper. The **Republic of Ireland** has recently introduced, via the **Public Health (Alcohol) Act 2018**, a framework to radically alter alcohol advertising and sponsorship. This includes, for example, a prohibition on - alcohol brands on children's clothing; the advertising of

products children's sporting events; sponsorship by alcohol companies of children's events; and the advertising of alcohol products in local authority owned or maintained parks and in public service vehicles (trains, buses). The framework also includes a ban alcohol advertising within 200 metres of the perimeter of a school or playgroup (that is owned or maintained by a local authority).

It should be noted that devolved governments have somewhat restricted powers in relation to some forms of advertising, i.e. such as that regulated through the Advertising Standards Authority and Ofcom.

Clause 17: Prohibition of loyalty schemes

The Bill proposes to **prohibit the award or redemption of loyalty points or bonus points** for the purchase of alcohol in all licensed premises. There is no equivalent ban on loyalty schemes in **England, Scotland or Wales**. In the **Republic of Ireland**, the Public Health (Alcohol) Act 2018, contains provisions to permit the Minister for Health to introduce regulations to prohibit or restrict certain types of promotions that encourage people to purchase more alcohol than they intended. The previous Minister for Health had announced his intention to introduce regulations to prohibit the awarding of loyalty card points on the purchase of, or to purchase, an alcohol product. *Ra/Se is trying to verify the latest position in relation to these proposals*. This proposal was part of a wider package of measures to address the issue of alcohol-related harm in the Republic of Ireland and included other measures such as the introduction of minimum unit pricing of alcohol.

Given that loyalty schemes were not part of the 2016 Bill, could the Department provide some further information on the policy context/rationale behind this provision?

Clause 18: Occasional licences – conditions

A person who is the holder of a licence for a public house, hotel or restaurant may apply to a magistrates' court for an occasional licence authorising them to sell alcohol at a function at an unlicensed premises. Current law does not allow conditions to be placed on an occasional licence unless a previous function at the same place has caused undue inconvenience. The Department for Communities highlights that in "*practice, event organisers agree plans with the police...particularly in respect of the protection of children and young people, but fail to adhere to the plans*". Clause 14 proposes to **permit a court, when determining an application for an occasional licence to impose terms and conditions on the licence**.

How many occasional licences are issued each year? What types of terms and conditions could be imposed on an occasional licence?

Clauses 19 & 32: Code of Practice

Liquor licensing law in Northern Ireland does not currently provide for a mandatory code of practice for the local licensing trade. The main code of practice, i.e. the 'Responsible Retailing Code NI' is a voluntary, self-regulatory code that currently applies to both on and off-sales. The Code is currently supported by a complaints panel and further details on this and the code is provided in this bill paper.

Clause 19 of the Bill proposes to **permit the Department to approve a "relevant code of practice"** produced by a person or group of persons who have a relevant interest in matters surrounding intoxicating liquor". A "relevant interest" may include, for example, a representative of persons whose business is involved in the sale or production of alcohol or person or group who is engaged in research (or who has an interest) in the effects of alcohol consumption. The clause provides that before deciding upon whether or not to approve such a code of practice, the Department must consult with the PSNI.

Legislation in the **Republic of Ireland** appears to provide for statutory support for such codes if they are (a) prepared and published by the Minister or (b) by an industry or similar body. However, the main code for responsible retailing in the Republic of Ireland is still a voluntary code. In **England and Wales**, there is a mandatory code for alcohol retailers. This was published in 2010 and has not been updated. The Home Office subsequently published its own guidance on mandatory licensing conditions in 2014. There does not appear to be any statutory approved codes in **Scotland**. Rather, the Scottish Government has opted to issue its own detailed guidance on all aspects of licensing law contained within the *Licensing (Scotland) Act 2005* and this is currently in the process of being updated to reflect changes since then (e.g. to reflect such as the introduction of minimum alcohol pricing).

By what means do industry-led codes take on board the views of, or consult with, other organisations including other trade bodies and health bodies/professional health organisations?

How will breaches of approved codes be investigated and reported to the relevant authorities including the court service?

Would the Department conduct periodic reviews of the effectiveness of approved codes or commission an independent review?

Clause 20: Body corporate – change of directors

The Department has highlighted that it is possible under current licensing law for a body corporate to be granted a licence, with all relevant checks being carried out on directors, to then immediately change directors to a person who may not have been granted a licence due to their previous convictions. The Bill proposes to **require a body corporate to notify the courts if a person becomes, or ceases to become, a director of a body corporate**. This must be done within 28 days of that change taking

effect. The notice must be served to the chief clerk and the district commander of the police district in which the premises is situated.

Clause 21: Removal of exemption for Angostura bitters

Under current law in Northern Ireland, Angostura bitters are exempt from the definition of “intoxicating liquor”. HMRC removed this duty exemption and Angostura bitters are now liable to excise duty (from April 2013). The Bill will amend the Licensing (Northern Ireland) Order 1996 to include Angostura bitters within the definition of “intoxicating liquor” which means that it may only be sold on licensed premises.

Clause 22: Sporting clubs (extension of premises)

The Bill proposes to permit sporting clubs to apply to the police, for the purposes of holding a function, to extend the area of their premises that is registered to supply alcohol. Police may grant such an authorisation up to **six times in any year**. Each authorisation will last a day, but in exceptional circumstances, an authorisation can last up to five days.

What types of circumstances would be “exceptional” for the purpose of an authorisation lasting up to five days?

Clause 31: Restrictions relating to advertisements (registered clubs)

The Bill proposes to allow registered clubs to **advertise a function outside of club premises** (e.g. in local newspapers and other forms of media). However, this is under the condition that the advertisement provides a **“clear statement” that only members of the club and their guests may attend the function**. Such advertisements are currently not permitted under registration of clubs legislation. Functions where the whole proceeds are **devoted to a charitable or benevolent cause**, will not be subject to such restrictions (given that such events can already be open to the public rather than just members and guests). It is hoped that this provision will assist clubs in financing the sporting, recreational and social activities that they provide in local communities.

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1 Introduction and overview of the Bill

The [Licensing and Registration of Clubs \(Amendment\) Bill](#) was introduced to the Northern Ireland Assembly on behalf of the Minister for Communities, Carál Ní Chuilín MLA, on 19 October 2020. This RaISe paper has been prepared to inform consideration of the clauses of the Bill. The paper explores on a clause by clause basis the current licensing provisions contained within the Licensing (NI) Order 1996 and the Registration of Clubs (NI) Order 1996; the proposals within the Bill to amend this legislation; and where appropriate, makes comparisons with arrangements in other jurisdictions.

It should be mentioned at the outset that the COVID-19 pandemic has introduced profound challenges that could not possibly have been foreseen when the proposals in the Bill were consulted upon in 2019. Therefore, the context in which the Bill is being considered has arguably amplified its importance from both an economic and public health point of view. The pandemic and subsequent restrictions that followed have had an unprecedented impact upon hospitality and tourism, both in Northern Ireland and across the UK and the Republic of Ireland. There is also evidence to suggest that the pandemic has led to a change in consumer behaviour with factors such as stress and anxiety contributing to an increase in alcohol consumption amongst some people^{1 2}.

Given that the Bill contains provisions to both support the licensing trade and registered clubs and to promote and protect public health, **two supplementary RaISe publications** have been prepared in support of this Bill paper to look at some of the recent evidence base around these issues:

A briefing note on “[Alcohol in Northern Ireland](#)” explores some of the existing statistical evidence base on three broad aspects of alcohol use in Northern Ireland, i.e.:

- the **impact of alcohol on health** (looking at issues such as alcohol consumption, alcohol-related harm, mortality and morbidity, hospital admissions, and the costs associated with alcohol misuse to public services and to the economy);
- the **impact of alcohol on the justice system** (exploring issues such as young people’s access to alcohol, and alcohol-related crime); and
- the **impact of alcohol on the economy** (briefly explores some of the evidence base around the impact of the licensing trade to the NI economy).

¹ Alcohol change UK. Research: drinking in the UK during lockdown and beyond.

<https://alcoholchange.org.uk/blog/2020/drinking-in-the-uk-during-lockdown-and-beyond>

² The Observer. Problem drinking soars under UK lockdown, says addiction experts. 3 May 2020.

www.theguardian.com/society/2020/may/03/problem-drinking-soars-under-uk-lockdown-say-addiction-experts

A briefing paper on “[Hospitality sector and the wider economy in NI: key estimated initial impacts of COVID-19 and related government responses](#)” provides an overview of some of the latest available data on the impact of COVID-19 on the hospitality sector. The paper:

- explores **key impacts of the hospitality sector** on the wider Northern Ireland economy *pre-COVID*; and.
- the second half of the paper explores official statistics, novel data sources and analysis commissioned by sectoral representative bodies, to **provide an insight into key estimated initial impacts of COVID-19** and related government responses.

These papers represent an initial scoping exercise on some aspects of the current available evidence base, they are not intended to be definitive and additional issues may arise as the Committee for Communities conducts its scrutiny of the Bill.

An overview of the Bill

The [Licensing and Registration of Clubs \(Amendment\) Bill](#) was introduced to the Northern Ireland Assembly by the Minister for Communities, Carál Ní Chuilín MLA, on 19 October 2020. The provisions of the Bill in many instances mirror those of the [2016 Licensing and Registration of Clubs \(Amendment\) Bill](#), introduced by the then Minister for Communities, Paul Givan, on 19 September 2016³. The 2016 Bill proceeded to Committee Stage; however, the Bill subsequently fell due to the dissolution of the Assembly⁴.

The 2020 Licensing and Registration of Clubs (Amendment Bill) consists of 36 clauses and two schedules and is amending parts of the [Licensing \(Northern Ireland\) Order 1996](#) (which relates to licensed premises such as pubs, restaurants and hotels) and the [Registration of Clubs \(Northern Ireland\) Order 1996](#) (which relates to private members clubs). The 2020 Bill’s [Explanatory and Financial Memorandum](#) highlights that the objectives of the Bill are as follows⁵:

“The aim of the 2016 Bill was to address growing concerns surrounding the level of alcohol misuse in Northern Ireland and to respond to calls from the licensed trade for changes to support the hospitality sector. The aim of this Bill mirrors the 2016 Bill with the policy objectives being to introduce a balanced package of measures to update the law in respect of the retail

³ The 2016 Bill (as introduced) and official reports can be downloaded at www.niassembly.gov.uk/assembly-business/legislation/2016-2017-mandate/primary-legislation---current-bills/licensing-and-registration-bill/

⁴ Northern Ireland Assembly. Primary legislation – Bills that fell due to the dissolution of the Assembly. www.niassembly.gov.uk/assembly-business/legislation/2016-2017-mandate/primary-legislation---current-bills/

⁵ Licensing and Registration of Clubs (Amendment) Bill. Explanatory and Financial Memorandum. www.niassembly.gov.uk/assembly-business/legislation/2017-2022-mandate/primary-legislation---bills-2017---2022-mandate/licensing-and-registration-of-clubs-amendment-bill/efm---as-introduced/

sale of alcoholic drinks and to make it more responsible to the current social and economic environment.”

The Department for Communities website contains an overview of the key features of the Bill, this can be viewed [here](#)⁶. The provisions of the 2020 Bill largely mirror those of the 2016 Bill. However, the 2020 Bill does contain a number of important additions and revisions to the original 2016 proposals as summarised in **Table 1** below. A more in-depth examination of these clauses is contained with remaining sections of this bill paper.

Table 1: Summary of clauses within the 2020 Licensing and Registration of Clubs (Amendment) Bill

Clauses	Summary of provisions within the Bill
1 & 23	<p>Removal of restrictions at Easter (licensed premises and registered clubs) – 2020 Bill proposes to remove all restrictions on licensed premises (both on and off-sales) and registered clubs over the Easter period.</p> <p>The 2016 Bill (as introduced) only provided for the later opening for the Thursday before Good Friday. It did not propose to removal all restrictions at Easter.</p>
2	<p>Public houses and hotels: further additional hours – certain licensed premises (that provide food and entertainment) may currently apply to a court for late opening hours to allow them to open to 1.00am on weekdays and 12.00 on Sundays. It is proposed that courts may grant an additional 1 hour late opening up to 104 times in a year and under certain conditions.</p> <p>The 2016 Bill proposed to allow an additional one hour 12 times in a year.</p> <p>See relate clauses 5 & 24 on the extension of “drinking-up time”</p>
3	<p>Alignment of alcohol and entertainment licences – proposes to amend the law to provide that an entertainment licence will not extend beyond the latest time that alcoholic drinks can be consumed in licensed premises.</p> <p>The same provision was included in the 2016 Bill.</p>
4	<p>Police authorisations for additional hours – this provision allow an increase in police authorisations for late opening for smaller pubs (who are not in a position to provide food or entertainment). Currently the police are permitted to authorise late opening for a maximum of 20 occasions in any year. The Bill provides to increase this to 85 occasions in a year.</p>

⁶ Department for Communities. Proposed changes to liquor licensing laws in Northern Ireland. www.communities-ni.gov.uk/articles/proposed-changes-liquor-licensing-laws-northern-ireland

	<p>This clause also contains proposals to allow larger pubs (that do provide food or entertainment), to also apply to the police for late opening on a night that is not included in their own-late night opening orders (granted by the courts). However, this will only be permitted in respect of 20 authorisations in a year and on the condition that the premises provides food and/or entertainment.</p> <p>The same provision was included in the 2016 Bill.</p>
5 & 24	<p>Extension of “drinking-up time” – the current law provides that alcohol may be consumed 30 minutes after the end of permitted hours for the sale of alcohol. This is commonly known as “drinking-up” time. The 2020 Bill proposes to extend the current drinking-up period from 30 minutes to one hour.</p> <p>The same provision was included in the 2016 Bill.</p>
6 & 25	<p>Major events – it is argued that current licensing law does not adequately provide for major events (e.g. previous events held in Northern Ireland include the Irish Open, 148th Open at Royal Portrush, MTV European Music Awards). The Bill proposes to permit the Department for Communities to designate an event as a major event and to subsequently vary permitted hours and allow certain off-sales at the event.</p> <p>This is a new provision and was not included in the 2016 Bill.</p>
7	<p>Licensed race tracks: Sunday sales –race tracks can be licensed to sell alcohol under the “places of public entertainment” category. However, unlike theatres, race tracks with such a licence are not permitted to sell alcohol on a Sunday. The 2020 Bill proposes to remove this restriction, sales will be brought into line with other places of public entertainment (i.e. sale of alcohol restricted to 30 minutes before and 30 minutes after the entertainment and between the hours of 12.30pm and 10.00pm on Sundays).</p> <p>Note that Down Royal may soon become designated under separate regulations as an ‘outdoor stadia’. As such they may apply for an outdoor stadia licence and less restrictive licensing rules will apply.</p> <p>This is a new provision and was not included in the 2016 Bill.</p>
8	<p>Licence for off-sales (local producers) – proposes to create a new category of licence for local producers (e.g. of beers, ciders and spirits). It proposes to permit local producers to sell their own products from their own premises for consumption off the premises (including online sales); will permit a sample to be provided for consumption on the premises following a tour; and will allow local producers to sell their own products from certain</p>

	<p>other licensed and unlicensed premises for consumption off the premises (e.g. at events such as food and drink fairs).</p> <p>This is a new provision and was not included in the 2016 Bill.</p>
9	<p>Requirement for off-sales (delivery of alcohol) – current licensing law is largely silent on the remote sale of alcohol (e.g. online, via apps, by telephone). The Bill contains provisions to amend the law to ensure that where a sale has taken place remotely, the premises from which the alcohol has been dispatched must be licensed. Where a delivery driver is not acting on behalf of the licensed premises (e.g. a taxi driver), the delivery must be made without delay and the relevant receipt must be carried from the licensed premises along with the purchase.</p> <p>This is a new provision and was not included in the 2016 Bill.</p>
10 & 26	<p>Removal of requirement for children's certificate – proposes to remove the requirement for a licensed premises or registered club to hold a children's certificate. It is proposed to remove this requirement although the conditions and safeguards pertaining to children will remain (e.g. the latest time they may remain in the premises is 9.00pm/9.30pm, they must be seated away from the bar area etc.). The Department states that this is aimed at removing some of the "bureaucracy" from the legislation.</p> <p>The same provision was included in the 2016 Bill.</p>
11 & 27	<p>Underage functions – Licence holders and registered clubs are said to be keen to allow their function rooms to be used for functions attended by young people under the age of 18 (e.g. for school formals). Even where a children's certificate is in force, the latest a young person is permitted to be on a licensed premises is 9.00pm (or 9.30pm where a main meal has been purchased before 9.00pm). This clause proposes to permit a court to make an order specifying that a part of a certain licensed premises or registered club is suitable to hold underage functions and up to 1.00am. However, a number of conditions may be attached to this.</p> <p>This clause enhances the provisions contained within the 2016 Bill.</p>
12 & 28	<p>Private functions (attendance of children and young people) – proposes to permit people under the age of 18 to remain on licensed premises and registered clubs beyond 9.00pm/9.30pm to attend a private function (e.g. wedding related events, birthday and anniversary parties). Certain conditions must be met e.g. the public do not have access to the part of the premises while the function is being held, a meal consisting of at least a main</p>

	<p>course must be served, the person under the age of 18 must be accompanied by a parent or guardian.</p> <p>This is a new provision and was not included in the 2016 Bill.</p>
13	<p>Delivery of intoxicating liquor to young persons – the provision aims strengthen the current law to prevent people under the age of 18 from receiving a delivery of alcohol (limited exemptions would apply).</p> <p>The same provision was included in the 2016 Bill.</p>
14	<p>Restaurant and guest houses: notice displaying licence conditions – under current licensing laws the sale of alcohol in a licensed restaurant is subject to certain conditions e.g. the alcohol must be consumed ancillary to a table meal. Licensed restaurants cannot charge an admission or entrance fee to the premises. The Bill provides that where a restaurant is licensed for the sale of alcohol, the holder of the licence must at all times display a notice, visible to any person seeking to purchase alcohol, the conditions in relation to the sale and consumption of alcohol on the premises.</p> <p>The same provision was included in the 2016 Bill.</p>
15 & 30	<p>Prohibition on self-service and sales by vending machine – licensing law in Northern Ireland has not kept pace with self-service innovations (e.g. pull your own pint tables) and vending machines that dispense alcoholic drinks. This clause proposes to amend the law to prevent the sale of alcohol via self-service and vending machines in licensed premises and registered clubs. (although vending machines may be permitted under certain conditions in premises which provide accommodation for guests).</p> <p>The same provision was included in the 2016 Bill.</p>
16	<p>Restrictions on off-sales drinks promotions in supermarkets etc. – this clause is intended to prevent supermarkets and off-sale premises advertising alcohol offers anywhere other than within the licensed area of their premises. Off-sale premises will also be prohibited from advertising alcohol promotions within the “vicinity of the premises” which is defined as 200 metres of any off-sale premises. It is proposed that the Department would be given the power via regulations to amend the definition of vicinity of the premises.</p> <p>The same provision was included in the 2016 Bill.</p>
17	<p>Prohibition of loyalty schemes – this clause proposes to amend the law to prohibit the award or redemption of loyalty or bonus points for the purchase of alcohol in all licensed premises.</p>

	This is a new provision and was not included in the 2016 Bill.
18	<p>Occasional licences: conditions – permits a district commander from a district where an occasional licence is being sought to request from the court that certain terms and conditions be placed on an occasional licence. Current legislation does not facilitate conditions to be placed on an occasional licence unless a previous function at the same place caused undue inconvenience.</p> <p>This is a new provision and was not included in the 2016 Bill.</p>
19	<p>Code of practice – current licensing law is silent on the use of codes of practice. This clause proposes to provide the Department for Communities with the power to approve codes of practice. The Department must consult with the PSNI before approving a code. Once a code has been approved, a court must be satisfied that an applicant or a licence holder is aware of their responsibilities under the code when considering the grant for a transfer of a licence. Where a licence holder is renewing a licence, the court has to be satisfied that the licence holder has been complying with that code.</p> <p>The same provision was included in the 2016 Bill.</p>
20	<p>Body corporate: change of directors – is it currently possible for body corporate to be granted a licence, with all the relevant checks being carried out on the listed directors, and then change directors (the new director could subsequently hold a criminal conviction which would not have been declared). This clause proposes that changes to the directorship of a body corporate must be notified to the courts.</p> <p>This is a new provision and was not included in the 2016 Bill.</p>
21	<p>Removal of exemptions for Angostura bitters – proposes to amend the law to provide that Angostura bitters will no longer be excluded from the definition of intoxicating liquor in licensing law.</p> <p>The same provision was included in the 2016 Bill.</p>
22	<p>Sporting clubs (extension of premises) – it is currently unlawful for a registered club to supply alcohol to its members and their guests anywhere other than within the physical registered club premises. When a club holds an event on their grounds (other than the licensed area), alcohol can only be supplied by means of an occasional licence (which is granted to either a pub, hotel or restaurant licence holder). This clause proposes to amend the law to permit the police to authorise a <i>sporting club</i> to extend the area of their</p>

	<p>premises within which they can lawfully supply alcohol. This will be limited to 6 occasions per year.</p> <p>The same provision was included in the 2016 Bill.</p>
29	<p>Young people prohibited from bars (young people in sporting club premises) – this clause will permit young people under the age of 18 to be in the bar area of a sporting club up to 11.00pm during the summer months (1 June to 31 August). They will also be able to attend one award ceremony at any other time of the year.</p> <p>The same provision was included in the 2016 Bill.</p>
31	<p>Restrictions relating to advertising (registered clubs) – this clause proposes to amend the Registration of Clubs (NI) Order by removing current advertising restrictions. Currently unless the function involves a sport, game or physical recreation, a function may only be advertised within club premises. This amendment will permit a club to advertise any function outside of club premises (e.g. in the media) providing that advertisement clearly states that only members of the club and their guests may attend. Advertisements relating to functions where the proceeds are devoted to charity or benevolent purposes will not be subject to such restrictions.</p> <p>The same provision was included in the 2016 Bill.</p> <p>Note the other clauses outlined in this table that extend to registered clubs e.g. clauses 23, 24, 25, 26, 27, 28, 29 and 30.</p>

Public consultation

Given the passage of time between the 2012 consultation on proposal changes to licensing laws and subsequent 2016 Licensing and Registration of Clubs (Amendment) Bill, the Department for Communities launched a new [consultation](#) on licensing laws in October 2019⁷. The consultation included a survey of the proposed changes to licensing law, the survey report is available for download [here](#). A total of 1,498 responses were received. The results of the survey are summarised within this bill paper. This is a high response rate for a public consultation and reflective of the depth of interest in licensing law. However, alternative survey methods such as an opinion polls or omnibus surveys may provide a more detailed picture of the views of the Northern Ireland population in relation to liquor licensing reform.

⁷ Department for Communities. Liquor Licensing Laws in Northern Ireland. Consultation document. October 2019.

Explanatory and Financial Memorandum

The Bill's Explanatory and Financial Memorandum (as introduced) is available to download [here](#)⁸. It states that the Department for Communities has identified a number of potential costs which may be incurred by both the private sector and public sector bodies. These relate to both the implementation of the Bill's proposals and recurrent operating costs. Further details can be found in the EFM starting at paragraph 24.

Given that this Bill is an amending Bill and covers a vast array of issues, the provision of comprehensive data and analysis, where it is available, will be important for the scrutiny of the Bill, particularly at Committee Stage.

The EMF states that the PSNI undertook an exercise to estimate the additional policy costs arising from the need to ensure public safety and public order as a result of customers exiting licensed premises at a later time. The EMF states that at the time of print these figures had not been finalised. However, the PSNI did advise that there would be an **impact on its shift system** and therefore expected **"a major impact on resourcing from both a financial and staffing point of view"**. The provision of financial estimates will undoubtedly form an important part of the scrutiny of the proposals contained within the Bill.

The EMF outlines that the **Courts were asked to provide estimates** for any additional costs incurred. No final information on this is included within the EMF (as introduced). The Department states that this is because the "focus of court officials at the time of the Department's request was court recovery in the context of COVID and therefore no figures were available at the time of print".

The EMF highlights that the Department "included its consideration of the potential regulatory impact assessments as part of the public consultation". It concluded that no Regulatory Impact Assessment was required.

Structure of the Bill Paper

The remaining sections of this bill paper explores the clause of the Bill in further detail. The paper does not look at the clauses in the order in which they occur in the Bill. Rather for ease of reference only, this paper divides the clause into the following categories:

	Clause Number
Clauses relating to permitted hours for licensed premises and registered clubs	1, 2, 4, 5, 7, 23, 24.

⁸ Licensing and Registration of Clubs (Amendment) Bill. Explanatory and Financial Memorandum (as introduced). www.niassembly.gov.uk/assembly-business/legislation/2017-2022-mandate/primary-legislation---bills-2017---2022-mandate/licensing-and-registration-of-clubs-amendment-bill/efm---as-introduced/

Clauses relating to children and young people under the age of 18	10, 11, 12, 13, 26, 27, 28, 29.
Clauses that may also contribute to tourism and visitor experience	6, 8, 25.
Clauses relating to regulation	3, 9, 14, 15, 18, 19, 20, 21, 30, 32.
Clauses relating to advertising and loyalty schemes	16, 17, 31.
Additional clauses relating to sporting clubs	22

The UK Government and devolved administrations have put in place current COVID-19 related restrictions which impact on issues such as permitted opening hours. It is important to note that where this paper refers to “current law”, this is a reference to the law as outlined in the Licensing (NI) Order 1996 or the Registration of Clubs (NI) Order 1996. Where information on other jurisdictions is mentioned this refers to the licensing law pre-COVID-19.

2 Clauses of the Bill - proposals to change permitted hours

This section of the Bill paper provides:

- an overview of the current permitted opening hours for licensed premises in Northern Ireland.
- a brief outline of the historical origins of restricted opening hours in Northern Ireland.
- a more detailed examination of the relevant clauses of the 2020 Bill (as introduced) pertaining to permitted hours i.e.
 - **clauses 1 & 23** (removal of restrictions at Easter);
 - **clause 2** (further additional hours for public houses and hotels);
 - **clause 3** (alignment of closing time for liquor and entertainment);
 - **clause 4** (police authorisations for additional hours);
 - **clauses 5 and 24** (extension of ‘drinking up’ time); and
 - **clause 7** (permitted hours on a Sunday for licensed race tracks).

What are the normal permitted licensing hours for licensed premises and registered clubs in Northern Ireland?

The reform of liquor licensing policy in Northern Ireland has been reviewed and consulted upon on several occasions over the past fifteen years, under both direct rule and Northern Ireland Executive Ministers. Arguably elements of licensing reform have been particularly challenging given the need to strike a balance between facilitating growth in the Northern Ireland economy (particularly within the hospitality and tourism sectors) whilst at the same time promoting and protecting public health. These challenges for both legislatures and society are succinctly summarised in a 2005 consultation paper on licensing policy in Northern Ireland which stated:

“It has been rightly said, many times – alcohol is no ordinary commodity. It is a powerful double-edge sword which our society must handle with care. It is a source of pleasure to many and anathema to some. It can brighten our leisure, bolster our tourism and trade and generate profit, revenue and employment. It can also wreck lives and families, destroy health and well-being and place burdens on our police and other public services....As a responsible society we have a duty to manage both elements”

Extract from: ‘Liquor Licensing – The Way Forward: Government Proposals to Reform Liquor Licensing Law in Northern Ireland’ (2005)

Changes to permitted licensing hours have tended to be one of the more widely debated issues with regards to licensing law reform. For many years the licensing trade and wider hospitality industry has called for a modernisation of licensing laws in Northern Ireland, particularly around the issue of permitted opening hours⁹.

Aside from any restrictions put in place by the Northern Ireland Executive due to the COVID-19 pandemic, the normal opening hours for public houses and registered clubs in Northern Ireland is 11.30am to **11.00pm on weekdays** and 12.30pm to **10.00pm on Sundays**, with 30 minutes ‘drinking up’ time.

Late opening hours may be available to public houses, hotels, restaurants, conference centres, higher education establishments, indoor and outdoor stadia which provide food and/or entertainment to the public. These premises are permitted to open to **1.00am on weekdays** and **midnight on Sundays** (with 30 minutes ‘drinking up’ time). Restrictions to opening hours are in place on Easter Sunday, Christmas Day and Good Friday (as set out in Table 2).

⁹ Hospitality Ulster. Press Release. Consultation launched on liquor licensing laws in NI. 14 October 2019. <https://hospitalityulster.org/hospitality-news/voice/Consultation-Launched-on-Liquor-Licensing-Laws-in-NI>

Table 2 Summary of normal permitted licensing hours for on and off-sale premises in Northern Ireland¹⁰

Type of premises	Weekdays (Mon-Sat)	Sunday	Good Friday	Easter Sunday and Christmas Day
Normal opening hours for Licensed Premises (e.g. public bars, hotels) and Registered Clubs	11:30am-11:00pm With 30 minutes drinking up time	12:30pm-10:00pm With 30 minutes drinking up time	5:00pm-11:00pm With 30 minutes drinking up time	12:30pm-10:00pm With 30 minutes drinking up time
Late opening hours for licensed premises providing food and/or entertainment	11:00pm to 1:00am With 30 minutes drinking up time	10:00pm to midnight (or to 1:00am where New Year's Eve Falls on a Sunday) With 30 minutes drinking up time	Late opening is not granted	Late opening is not granted
Off-licences	8:00am – 11:00pm	10:00am to 10:00pm	8:00am to 11:00pm	Not permitted to sell alcohol

In addition to this, the **PSNI may authorise late opening** for public houses, which do not have a court order for such hours (e.g. smaller pubs that do not provide food or entertainment). Applications are made to the local district police commander and late opening may be authorised up to **20 times** in a 12-month period¹¹.

Additionally, on the **Thursday and Saturday** before Easter Sunday licensed premises may sell alcohol between the hours of **11.30am and 11:00pm**. Those with a 'late licence' may sell alcohol until midnight.

A person who is the holder of a licence for a public house, hotel or restaurant may also apply to a magistrates' court for an **occasional licence** authorising the sale of alcohol at a function in unlicensed premises. The sale of alcohol will only be authorised from 11:30am to **1.00am on weekdays** and **12.30pm to midnight on Sundays**¹².

There are different rules for permitted opening hours for '**places of public entertainment**' such as race tracks and theatres. This is covered in further detail in the section of this paper on **clause 7**.

Permitted opening hours for registered clubs

The permitted opening hours for registered clubs are largely governed by [The Registration of Clubs \(Northern Ireland\) Order 1996](#). A 'registered club' is so called

¹⁰ For further information see 'Selling alcohol – when can you sell alcohol in Northern Ireland?'

www.nibusinessinfo.co.uk/content/when-can-you-sell-alcohol-northern-ireland#:~:text=Off-licences%20may%20sell%20alcohol%3A%20from%2008%3A00%20to%2023%3A00,entertainment%20or%20refreshment%2C%20can%20apply%20for%20an%20order

¹¹ Department for Communities. Guide to the Licensing (NI) Order 1996. July 2019. <https://www.communities-ni.gov.uk/sites/default/files/publications/communities/guide-to-the-licensing-ni-order-1996.pdf>

¹² Ibid.

because it is registered under the 1996 Order for the supply and consumption of alcohol to its members¹³. The permitted hours for registered clubs are:

Weekdays (Mon-Sat)	Sunday	Christmas Day	Good Friday
11.30am to 11:00pm With 30 minutes drinking up time	12.30pm to 10.00pm With 30 minutes drinking up time	12:30pm to 10:00pm With 30 minutes drinking up time	5:00pm to 11:00pm With 30 minutes drinking up time

In addition to these permitted hours, a registered club can apply to the PSNI sub-divisional commander for the area in which the club premises are situated for authorisation to **extend the permitted hours**. Currently, **85 such authorisations** may be granted in a 12-month period. An authorisation, may permit the supply of alcohol in registered clubs¹⁴:

- From Monday to Saturday (except Good Friday or Christmas Day) from **11.00pm to 1.00am**;
- On Sunday (except for Christmas Day or Good Friday) from **10.00pm to midnight**; and
- Where New Year's Eve falls on a Sunday, from **10.00pm to 1.00am**.

Article 25 of the Registration of Clubs (NI) Order permits 30 minutes "drinking-up" time at the end of permitted hours, including any additional hours granted under a special occasional authorisation.

The origins of restricted opening hours in Northern Ireland (1872-2020)

One of the earliest pieces of legislation which placed restrictions upon the opening of licensed premises across Ireland (both northern and southern counties) during the Easter period was the [Licensing Act 1872](#). This Act made it illegal to sell alcohol or open premises for the sale of alcohol, on Sunday, Christmas Day, Good Friday or any other day appointed from "public fast or thanksgiving" after 9.00pm (in a city or town with a population of over 5,000) and 7.00pm elsewhere.

The first licensing law enacted by the newly formed Northern Ireland Parliament was the **Intoxicating Liquor (Northern Ireland) Act 1923** which introduced further conservative measures including prohibiting public houses from selling alcohol on Sundays. In addition to abolishing Sunday opening for the vast majority of public houses, the 1923 Act also placed further restrictions on weekday opening hours,

¹³ Department for Communities. Guide to the Registration of Clubs (Northern Ireland) Order. July 2019. www.communities-ni.gov.uk/sites/default/files/publications/communities/guide-to-registration-of-clubs-northern-ireland-order-2016.pdf

¹⁴ Ibid.

abolished spirit grocers¹⁵ and sought to curtail the number of public houses by prohibiting the opening of new public houses (except in limited circumstances)¹⁷.

One of the first reviews carried out into liquor licensing law in Northern Ireland (i.e. the **Report of the Inter-Departmental Review Body on Intoxicating Liquor Licensing in Northern Ireland** in 1979) stated that the 1923 Act was a response to “*extremely high levels of alcohol consumption and of alcohol-related problems around the turn of the century*”¹⁸. The Belfast and Ulster Licensed Vintners’ Association, however, maintained that early liquor licensing laws were influenced by the temperance movement¹⁹. The Inter-Departmental Review Body report concluded that there was a religious element to restricted opening hours and Sunday closure of public houses. However, it also identified other leisure/cultural, health and employment-related reasons why many people at that time were in favour of Sunday closure²⁰:

“We heard four principal objections to the idea of general Sunday opening of licensed premises. The first was based on religious conviction, that Sunday trading constituted a breach of the Christian Sabbath and as such should be prohibited. Secondly there was the social argument that the traditional Ulster Sunday is the day on which family predominates in the absence of other distractions, and that this pattern would be disrupted if the father in particular were to be attracted away from family activities by the opening of “public houses”. Thirdly it was said that general Sunday opening could not but lead to a substantial increase in total alcohol consumption with the adverse consequences attendant upon that. Finally, general Sunday opening, unless it were accompanied by some compensating provision elsewhere, would result in Northern Ireland having substantially longer general permitted hours than other parts of the United Kingdom despite the fact that it has a vastly greater proportion of abstainers.”

The 64-year ban on Sunday drinking in public houses in Northern Ireland came to an end in October 1987 (under the Licensing (Northern Ireland) Order 1987)²¹. The UK Government at that time argued that the law was unenforceable and had given rise to

¹⁵ Spirit grocers were grocers who also sold alcohol.

¹⁶ Hotels and restaurants would be subsequently permitted to serve alcohol on a Sunday to guests and residents providing the alcohol was ancillary to a table meal.

¹⁷ Belfast and Ulster Licensed Vintners’ Association and the Central Council of the Retail Licensed Trade of Northern Ireland (1970) Guide to the Licensing Laws of Northern Ireland.

¹⁸ Report of the Inter-Departmental Review Body on Intoxicating Liquor Licensing in Northern Ireland (1979)

¹⁹ Belfast and Ulster Licensed Vintners’ Association and the Central Council of the Retail Licensed Trade of Northern Ireland (1970) Guide to the Licensing Laws of Northern Ireland.

²⁰ Report of the Inter-Departmental Review Body on Intoxicating Liquor Licensing in Northern Ireland (1979)

²¹ News Letter. Through the Archives – looking back at the implementing of the Sunday opening laws in October 1987.

www.newsletter.co.uk/heritage-and-retro/retro/pictures-through-archives-looking-back-implementing-sunday-opening-laws-october-1987-3026177

people obtaining alcohol illegally²². The move was not without controversy and sparked protests from a number of religious groups²³.

Government reviews and consultations on licensing laws 2005-2010

Permitted opening hours for licensed premises and registered clubs have been reviewed several times under both direct rule and Northern Ireland Executive Ministers but this has arguably not led to the more substantial changes to permitted hours which the licensing trade has long been seeking. These reviews contained a number of proposals in respect of permitted opening hours and are summarised in the remainder of this section of the paper:

Consultation under direct rule: “Liquor Licensing – The Way Forward” (November 2005)

A [consultation](#) on reform of liquor licensing law was launched in **November 2005** by David Hanson, MP (then **Minister of State for Northern Ireland**). The consultation proposed “an extension of current opening hours for licensed premises and registered clubs, creating scope for opening **to 2.00am Monday to Saturday**”. Sunday opening hours and opening hours for off-licences would remain unchanged. With respect to the extended opening hours, the Minister stated²⁴:

“Allowing licensed premises and registered clubs to apply to the courts to extend their opening hours up to 2.00am is the result of careful consideration of the changes in people’s social habits and the opportunities available for developing the night time economy. I have listened very carefully to the arguments made by the licensed trade, the police, health interests and others, and balanced the economic and social advantages of extending opening hours with the public interest and public safety. Accordingly, I have decided that opening to 2.00am will be available to those licensed premises entitled under existing law to apply for later opening but not to off-licensed premises.”

This consultation had emerged from the review of Northern Ireland’s liquor licensing laws announced by John Spellar MP on 2 March 2004. A Liquor Review Team (LRT) was set up to carry out the review with the support of an Inter-Departmental Steering Group. The review team was tasked with exploring a wide range of issues in addition to permitted opening hours including, the ‘surrender principle’²⁵; categories of licence; the protection of children; and environmental and health issues²⁶.

²² Hansard. Licensing (Northern Ireland) Order 1987. 16 July 1987. <https://api.parliament.uk/historic-hansard/lords/1987/jul/16/licensing-northern-ireland-order-1987> and 14 July 1987 www.theyworkforyou.com/debates/?id=1987-07-14a.1060.0

²³ News Letter. Through the Archives – looking back at the implementing of the Sunday opening laws in October 1987.

²⁴ Hansard. Liquor Licensing. 20 July 2006.

²⁵ A court in Northern Ireland will only grant a licence if either there is a lack of similar facilities in the local areas or an existing licence has been surrendered or will be surrendered (i.e. the ‘surrender principle’).

²⁶ Department for Social Development. News Release. ‘Spellar announces review of drinking laws’. 4 March 2004.

A consultation on a draft Licensing and Registration of Clubs Order was published in December 2006. However, neither the proposal nor the draft Order were implemented as liquor licensing passed to the Northern Ireland Executive upon restoration of the Assembly.

Review of Licensing Laws under Minister Ritchie

In 2007, the then Minister for Social Development, Margaret Ritchie MLA, initiated her own review of liquor licensing laws, drawing and building upon the work of her predecessor. The Minister held a series of meetings with key industry bodies and other stakeholders before finalising her own proposals. In a [statement](#) to the Assembly on 17 November 2008, the Minister announced a two-stage approach to licensing reform in Northern Ireland²⁷.

The **first tranche of reforms** (which were subsequently enacted as part of the [Licensing and Registration of Clubs \(Amendment\) Act 2011](#)) introduced new enforcement provisions around penalty points on licences, irresponsible drinks promotions, and police closure powers in regards to licensed premises. This first tranche of reform did not include provisions that would extend opening hours or remove any of the restrictions on Easter opening hours. It did, however, increase the number of occasions on which a registered club could apply to the police for later opening (to 1:00am weekdays, midnight on Sundays) from 52 occasions to 85 occasions in any one year.

The second stage of Minister Ritchie's planned reforms at that time was the introduction of six new statutory licensing objectives, the transfer of responsibility for licensing from the courts to local councils (following the review of public administration); abolition of the then 12 licensing categories with the introduction a dual system of person and premises licences. Such changes would bring Northern Ireland into line with the licensing regimes in England, Scotland and Wales. The Minister also stated that no action would be taken to abolish the surrender principle. The Ministerial Statement did not, at that time address the issue of permitted opening hours or Easter restrictions in her Statement²⁸.

Department for Social Development Consultation on Liquor Licensing Laws (July 2012)

This consultation was launched under the then Minister for Social Development, Nelson McCausland MLA. The proposals in the consultation were aimed at striking a balance between addressing concerns surrounding alcohol consumption but also helping the licensing trade and tourism sector within the context of the economic

²⁷ Northern Ireland Assembly. Official Report. Ministerial Statement on Liquor Licensing and Registered Clubs Law. 17 November 2008. <http://archive.niassembly.gov.uk/record/reports2008/081117.htm#1>

²⁸ Northern Ireland Assembly. Official Report. Ministerial Statement on Liquor Licensing and Registered Clubs Law. 17 November 2008. <http://archive.niassembly.gov.uk/record/reports2008/081117.htm#1>

downturn. The consultation sought views on the following proposals in respect of Easter opening and permitted opening hours generally²⁹:

- To permit late opening on the **Thursday and Saturday** before Easter Sunday (which was 11:00pm to midnight) to those available on weekdays during the rest of the year (i.e. 1:00am).
- The introduction of **occasional additional late opening hours from 1.00am to 2:00am** (providing certain conditions were met e.g. the sale of alcohol was ancillary to the provision of entertainment or food, mandatory provision of door supervision, CCTV footage must operate on the premises etc.). A separate occasional additional late opening application would have to be made to the courts and open to objection by the PSNI.
- To permit the **police to grant authorisations for later opening** to 1:00am for smaller pubs (who could not provide the necessary food or entertainment for the granting of a late licence by the courts. The consultation did not specify a figure but rather sought opinions on a proposed increase to the 20 occasions that were currently available in law.

Many of the proposals contained within the consultation became part of the [Licensing and Registration of Clubs \(Amendment\) Bill \(2016\)](#). Although the Bill reached Committee stage it did not complete its passage through the Assembly. The Bill (as introduced) contained the following proposals in relation to Easter opening and additional permitted hours:

- **Later opening on the Thursday before Easter Sunday** (to 1.00am) – there was no provision for later opening for the Saturday before Easter Sunday as was proposed in the 2012 consultation).
- Additional occasional licences to permit later opening for an **additional one hour on any day** on which an occasional licence is granted (i.e. **1:00am to 2.00am on weekdays; 12 midnight to 1.00am on Sundays**)³⁰. Such a licence would only authorise an additional hour for a maximum of **12 days in any year** (but not for Christmas Day, Easter Day or Good Friday).
- For smaller pubs (who could not get a late licence as they did not provide food or entertainment), the Bill proposed to allow police to authorise later opening (up to 1:00am on weekdays; midnight on Sundays) from 20 to a **maximum of 85 days** in any year. In addition to this larger pubs, who did provide food and entertainment, could apply to the police for late opening on a night that was not included in their own late-opening orders (which are granted by courts). The Bill proposed to permit such authorisations by the police on 20 occasions per year.

²⁹ Department for Social Development. Proposed changes to the law regulating the sale and supply of alcohol in Northern Ireland. Consultation Paper. July 2012.

³⁰ Except for Christmas Day, Easter Day and Good Friday.

The 2019 licensing law consultation and the current Licensing and Registration of Clubs (Amendment Bill)

Given the passage of time between the 2012 consultation and the 2016 Licensing and Registration of Clubs (Amendment) Bill, the Department for Communities launched a new [consultation](#) on licensing laws in October 2019³¹. The outcome of the consultation helped to shape the proposals contained within the 2020 Licensing and Registration of Clubs (Amendment) Bill. The next section of the paper provides an overview of normal permitted opening hours and the proposals on opening hours contained within the Bill (as introduced).

What changes to permitted hours are proposed in the Licensing and Registration of Clubs (Amendment) Bill 2020?

For ease of reference the table below summarises the proposed changes to permitted opening hours outlined in the Bill (each of the corresponding clauses are examined in further detail throughout this Bill paper)³².

	What does the law currently provide for?	Proposed changes
Additional permitted hours for certain licensed premises	The normal opening hours for licensed premises are to 11.00pm on weekdays and 10.00pm on Sundays (11.00pm on Good Friday). The law currently provides 30 minutes “drinking-up” time. Certain licensed premises may apply to a court for late opening hours until 1.00am on weekdays and midnight on Sundays (with 30 minutes drinking up time).	The Bill proposes to permit courts to grant an additional 1 hours late opening (i.e. to 2.00am on weekdays and 1.00am on Sundays) up to 104 times in a year for certain licensed premises and under certain conditions. See section on clause 2 of this bill paper for further information.
Removal of restrictions at Easter	On-sale licensed premises are only permitted to sell alcohol between 5.00pm and 11.00pm on Good Friday and from 12.30pm to 10.00pm on Easter Sunday . Late opening (normally 11.00pm to 1.00am) in pubs and other licensed premises that provide food or entertainment must end at midnight on	The Bill proposes to remove all restrictions over the Easter weekend by removing all references to Good Friday and Easter Sunday for both on and off-sales.

³¹ Department for Communities. Liquor Licensing Laws in Northern Ireland. Consultation document. October 2019.

³² Information extracted from Department for Communities. Proposed changes to liquor licensing laws in Northern Ireland: purpose and key features of the Bill. www.communities-ni.gov.uk/articles/proposed-changes-liquor-licensing-laws-northern-ireland

	the Thursday and Saturday before Easter Sunday.	
Additional permitted hours for smaller pubs – police authorisations	Pubs which are not in a position to provide food or entertainment, may not be granted late opening hours by the courts. However, the police may authorise late opening of such premises (to 1.00am on weekdays and midnight on Sunday) on a maximum of 20 occasions in a 12 month period. 30 minutes ‘drinking-up’ time is also provided.	The Bill proposes to increase the number of PSNI late opening authorisations for these licensed premises from 20 to 85 . It will also permit licensed premises, which provide food and entertainment, to apply to the police for late opening on a night that is not currently included in their own late-opening orders. But this will be restricted to 20 such authorisations in a 12 month period (and they will still need to provide food and/or entertainment) as normal.
Extension of “drinking-up” time	Current law provides that alcohol may be consumed for a period of 30 minutes after the end of the permitted hours. This is commonly known as “drinking-up” time.	The Bill proposes to extend the current drinking up time in all licensed premises and registered clubs from 30 minutes to 1 hour . The Department for Communities states that this is to discourage customers from drinking too quickly and to allow more gradual departure especially from large venues.
Alignment of alcohol and entertainment licences	The granting of liquor licenses is the responsibility of the courts, the granting of entertainment licences is the responsibility of local councils. Currently, entertainment licences may be granted beyond the late permitted opening hours. The Department for Communities has expressed concern that this has “led to illegal sales of alcoholic drinks and an increase in drug use”.	The Bill proposes to amend the law to ensure that entertainment cannot continue after the end of “drinking-up” time.
Permitted licensing hours for race tracks	A place of public entertainment may be granted a liquor licence this includes theatres, ballrooms and race tracks (that are licensed under the Betting, Gaming, Lotteries and Amusements) (NI) Order 1985). Theatres are currently the only place of public entertainment with	In recognition of on-course betting being permitted on a Sunday, it is proposed to include Sunday in the permitted opening hours for licensed race tracks.

	permitted opening hours on a Sunday. Race tracks were not permitted to sell alcohol on a Sunday. Licensing legislation was not updated to reflect a change in the law which permitted on-course betting on a Sunday.	
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Clause 1: Removal of restrictions at Easter

What is the current law?

The Easter period is a spiritual part of the year across the island of Ireland, especially for people of Christian faith. Restrictions on Easter opening hours in licensed premises both north and south date back before partition. Many churches and faith-based organisations and individuals may understandably be concerned with the proposals in the Bill to lift the restrictions on opening hours at Easter.

Easter is also one of the most important times of the year for the hospitality industry and for tourism in Northern Ireland. Speaking in March 2016, in the run up to the introduction of the 2016 Bill, the CEO of Tourism NI, was reported to have stated that³³:

“We cannot expect the hospitality sector to be operating to legislation that is no longer fit for purpose...Easter is a crucial period for the tourism industry...the restrictive conditions mean that the hospitality sector cannot meet the expectations of many of our visitors who expect to experience a vibrant night time economy over the bank holiday weekend. We operate in a very competitive marketplace and we urgently need to modernise our licensing legislation otherwise people may choose not to visit Northern Ireland”

Similar views have been echoed by industry bodies such as Hospitality Ulster with regards to Easter opening hours. In a press release in 2018, the CEO of Hospitality Ulster stated that³⁴:

“It is estimated that in previous years the licensing hours cost the hospitality sector in the province £16 million in lost trade...This year, with the Republic opening, we can be sure the losses will run toward £20 million.

³³ Pinsent Masons. Easter licensing restrictions in Northern Ireland unpopular with tourism and hospitality bodies. 23 March 2016. www.pinsentmasons.com/out-law/news/easter-licensing-restrictions-in-northern-ireland-unpopular-with-tourism-and-hospitality-bodies

³⁴ Hospitality Ulster. Press Release. ‘No April Fool – Easter losses for NI hospitality sector will run toward 20M’. 28 March 2018. <https://hospitalityulster.org/hospitality-news/support/NO-APRIL-FOOL--Easter-Losses-For-NI-Hosp-Sector-Will-Run-Toward-20M>

Of course the Easter licensing laws are a farce, for if they are really about religion, why are supermarkets able to sell discounted alcohol across the Easter period including on Good Friday, when pubs, restaurants and hotels in Northern Ireland are banned from selling alcohol until 5pm?"

The economic fallout of the COVID-19 pandemic has undoubtedly placed the hospitality industry in Northern Ireland under an unprecedented level of stress. The Hospitality Ulster/Northern Ireland Hotels Federation/BDO report "[The Road to Recovery](#)" (published in May 2020) estimates that the potential for job losses and businesses closures in Northern Ireland is significant with an estimated loss of £1.1bn turnover in this year alone³⁵. The balancing of the interests of the licensing trade and public consumer demand with the interests of public health is a very difficult task for any legislature. The financial impact of the pandemic on the hospitality sector, arguably makes what is already an intrinsically difficult balancing act even more complicated.

What are the provisions in the Bill?

As highlighted in previous sections, the **current permitted hours** that licensed premises are allowed to sell alcohol during the Easter period is as follows³⁶:

- On the **Thursday before Easter Sunday – 11.30am to 11.00pm**, those with a late licence may sell alcohol until **midnight**. Office licences may sell alcohol 8.00am to 11.00pm.
- On **Good Friday – 5.00pm to 11.00pm**, no late opening. Off-licences may sell alcohol 8.00am to 11.00pm.
- On the **Saturday before Easter Sunday – 11.30am to 11.00pm**, those with a late licence may sell alcohol until **midnight**. Office-licences may sell alcohol 8.00am to 11.00pm.
- On **Easter Sunday – 12.30pm to 10.00pm**, even if a late licence is held. Off-licences are not permitted to sell alcohol on Easter Sunday.
- **Easter Monday and Tuesday – normal licensing hours resume**, i.e. **11.30am to 11.00pm**, or until **1.00pm** where a late licence is in operation. Off-licences may sell alcohol 8.00am to 11.00pm.

Clause 1 of the Bill proposes to remove the restrictions to permitted hours at Easter, for both on and off-sales premises. Easter weekend permitted hours would mirror what is available for any other weekend during the rest of the year.

³⁵ Hospitality Ulster, Northern Ireland Federation of Hotels, BDO. The Hospitality Sector in Northern Ireland: the Road to Recovery. May 2020. www.bdoni.com/getattachment/Insights/Featured-Insights/The-Hospitality-Sector-in-NI-The-Road-to-Recovery/FINAL-Hospitality-Sector.pdf.aspx?lang=en-GB

³⁶ For further information see "Selling alcohol: Northern Ireland Easter licensing hours 20220" www.nibusinessinfo.co.uk/content/northern-ireland-easter-licensing-hours-2020

How do the 2016 and 2020 Bills compare?

The Easter provisions of the Licensing and Registration of Clubs (Amendment) Bill 2020 (as introduced) are more generous in comparison to those of the Licensing and Registration of Clubs (Amendment) Bill 2016. The 2016 Bill (as introduced) only provided for the later opening for the Thursday before Good Friday (i.e. if the Bill had been enacted premises would close at 1:00am as opposed to midnight on the Thursday before Good Friday). No further concessions on Easter opening hours were made in the Bill (as introduced).

What was the outcome of the Department's public consultation survey?

The Department for Communities [survey report](#) (published in July 2020) stated that respondents were asked “**Do you think the current opening hours for Easter are appropriate?**”. There were 1,498 responses to the question. 93% of respondents felt that the current opening hours should be more flexible; 4% believed the current opening hours at Easter were appropriate; 1% felt that they should be restricted further and 2% were undecided. It may have been interesting to see a breakdown of responses by type of respondent e.g. member of the licensing trade/representative body; health-related organisation or body; individual members of the public etc.

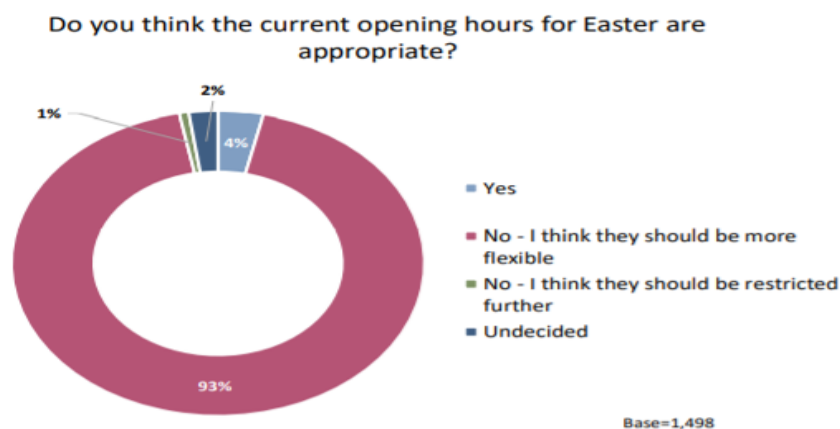


Chart extracted from DfC [“Consultation on liquor licensing laws in NI: Survey Report”](#)

The Department for Communities survey report states that respondents were asked several specific questions about opening hours during different days at Easter:

- **Do you think normal late-night opening (currently 1am) should be permitted on the Thursday before Good Friday?** There were 1,400

responses. 97% of respondents agreed that late night opening to 1:00am should be permitted on the Thursday; 3% felt that late night opening should not be permitted.

- **Do you think the current restrictions (5pm to 11pm) on Good Friday should be removed?** There were 1,397 responses to this question. 99% of respondents felt that the restrictions should be removed; 1% believed that they should not.
- **Do you think normal late opening (currently 1am) should be permitted on the Saturday before Easter Sunday?** There were 1,400 responses to the survey. 96% of respondents felt that late opening should be permitted; 4% of respondents felt it should not be permitted.
- **Do you think normal late opening should be permitted on Easter Sunday?** There were 1,400 responses to the survey. 95% of respondents felt that late opening should be permitted; 5% of respondents disagreed.

What is the position in other jurisdictions?

The **Republic of Ireland** use to have a ban on the sale of alcohol on licensed premises on Good Friday with a limited number of exceptions (e.g. restaurants and hotels could serve alcohol providing it was accompanying a substantial meal). However, **the Good Friday ban on the sale of alcohol in licensed premises is no longer in place and pubs** can serve alcohol with the remit of normal licensing hours (i.e. between the hours of **10.30am and 12.30am** and up to 2.30am if a Special Exemption Order is in place)^{37 38}. A Private Members' Bill (the Intoxicating Liquor (Amendment) Bill 2017) which contained provisions to amend the liquor licensing legislation to allow the selling of alcohol in licensed premises on Good Friday was signed into law by the President of Ireland in **January 2018**³⁹.

There are no Easter restrictions on permitted opening hours in **England, Scotland or Wales**. These jurisdictions have very different licensing regimes to that in Northern Ireland. Licensed premises will propose opening hours as part of a statutory operating plan for each premise licence, the local licensing authority (as is the case in England) or local Licensing Board (as is the case in Scotland) will either approve or amend these hours based on its individual merits and within the context of the Board's or authority's policy on licensing hours. The licensing regimes of England, Scotland and Wales are considered in further detail under clause 2 of this Bill Paper.

³⁷ Citizens Information. Alcohol and the law.

www.citizensinformation.ie/en/justice/criminal_law/criminal_offences/alcohol_and_the_law.html#l42e37

³⁸ RTE. Dublin pub granted appeal to open late on Good Friday. 9 March 2018. www.rte.ie/news/courts/2018/0309/946199-dublin-pub-court/

³⁹ RTE. President signs Bill allowing drink sales on Good Friday. 31 January 2018. <https://www.rte.ie/news/politics/2018/0131/937366-good-friday/>

Discussion points:

Has there been any independent analysis of the loss of revenue to licensed premises due to the Easter restrictions? Hospitality Ulster estimated that in 2016 approximately £16 million in revenue was lost due to these restrictions, how is this figure derived and are there updated figures?

To what extent would removing the restrictions at Easter help to address some of the financial challenges experienced by the hospitality sector and tourism as a result of the pandemic?

The voice of faith-based groups and individuals is important given the religious significance of Easter. Do the proposals provide a balance between the promotion of tourism and hospitality and the protection of a traditional religious holiday and public health in general?

Clause 2: Further additional hours for public houses and hotels

What is the current law?

Under current licensing law, normal opening hours in public houses and other on-sales premises ends at:

- **11.00pm on weekdays** (with 30 minutes drinking-up time); and
- **10:00pm on Sundays** (with 30 minutes drinking-up time).

Public houses, hotels, restaurants, conference centres, higher education establishments, which provide food and/or entertainment may apply to a court for late opening hours which are as follows:

- **11.00pm to 1.00am on weekdays;**
- **10:00pm to midnight on Sunday** (or 10.00pm to 1.00am where New Year's Eve falls on a Sunday⁴⁰).

What are the provisions in the Bill?

Clause 2 of the 2020 Licensing and Registration of Clubs (Amendment) Bill proposes to permit that a licence holder may seek the court to grant late opening until **2.00am on weekdays**, and **1:00am on Sundays** on up to **104 nights in a year**. This would mean that such licensed premises could open until 2.00am every Friday and Saturday night if they so wished.

⁴⁰ Department for Communities. Guide to the Licensing (NI) Order 1996. July 2019. www.communities-ni.gov.uk/sites/default/files/publications/communities/guide-to-the-licensing-ni-order-1996.pdf

The 2016 Licensing and Registration of Clubs (Amendment) Bill proposed to allow an additional 1 hour (until 2.00pm) in certain circumstances, **12 times in a year** (not including Christmas Day, Good Friday, or Easter Sunday).

The Department have informed the Committee for Communities that a number of safety mechanisms have been built into this clause 2 of the Bill⁴¹:

“The PSNI, councils and local residents can object to that additional hour, and the courts can add conditions. On top of that, the courts will have an opportunity to amend or revoke an order for further additional hours should the need arise.”

What was the outcome of the Department’s public consultation survey?

The Department for Communities [survey report](#) (published in July 2020) stated that respondents were asked **“Do you think the current permitted hours for licensed premises are appropriate?”**. There were 1,498 responses to the question. 88% of respondents felt that they should be increased; 8% felt that the current permitted hours were appropriate; 1% felt that the hours should be decreased and 3% of respondents were undecided. It may have been interesting to see a breakdown of responses by type of respondent e.g. member of the licensing trade/representative body; health-related organisation or body; individual members of the public etc.

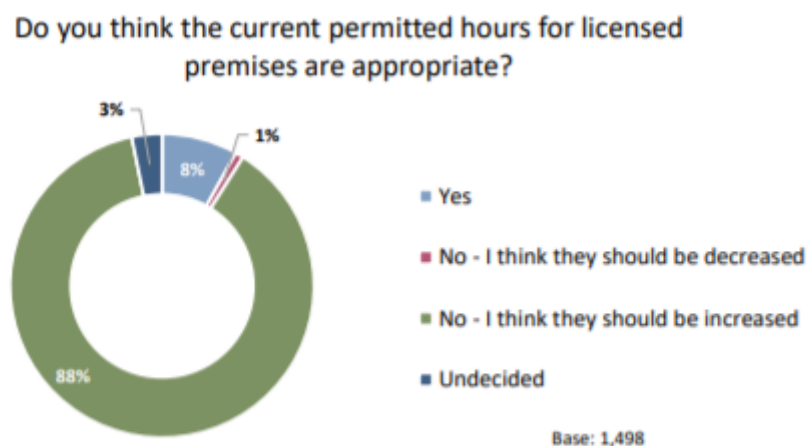


Chart extracted from DfC [“Consultation on liquor licensing laws in NI: Survey Report”](#)

Respondents who agreed that permitted hours should be increased were asked what time they thought closing time should be extended to and were given four options.

⁴¹ NI Assembly Official Report. Committee for Communities. Licensing and Registration of Clubs (Amendment) Bill: Department for Communities. 8 October 2020. <http://data.niassembly.gov.uk/HansardXml/committee-23609.pdf>

There were 1,321 responses and results are outlined in the table below which has been extracted from the Department's survey report:

What time do you think permitted hours should be extended to?	Response count	Response %
2:00am	284	21%
3:00am	351	27%
4:00am	391	30%
Other	295	22%
Total	1,321	100%

Comments from those who responded "other" to the question of "what time do you think permitted hours should be extended to?" are reported to have had a number of common themes⁴²:

"While comments were invariably different, there were a number of common themes throughout.

The most common theme was to implement a 24 hour licence, or to make licences completely unrestricted. Those respondents who provided further comment on this suggested that, rather than a carte blanche approach, opening hours would be at the discretion of the licence holder, with a few highlighting how this operates effectively in England and the rest of the UK. Moreover, a few suggested opening hours should also be dependent on the neighbourhood the premises are located in, with the licence holder taking into consideration the views of the local council and working with police when deciding their opening hours. Following the suggestion, of a 24 hour licence, the next most common suggestion was for an extension to 5am or 6am".

The survey report also highlighted that a further common theme for justifying an extension of permitted hours was that of staggered closing times:

"Approximately, one in ten respondents were of the opinion that this would be of benefit by limiting the numbers of people out on the streets at the same time. It was argued that this would reduce anti-social behaviour and fights, reducing pressures on both police and emergency services. Comments also suggested that staggering closing times would reduce pressure on taxi services, allowing people to get home safely as people would filter out at different times instead of all at once."

⁴² Department for Communities Consultation on Liquor Licensing laws in Northern Ireland. Survey Report. July 2020. www.communities-ni.gov.uk/sites/default/files/consultations/communities/dfc-liquor-licencing-consultation-survey-report.pdf

What is also evident, however, is that when it came to written responses to the Department's public consultation there was a difference of opinion between organisations representing the licensing and hospitality sector and those organisations responding from a public health perspective. For example, organisations such as the British Beer and Public Association, Hospitality Ulster, The Northern Ireland Federation of Hotels welcomed greater flexibility in permitted opening hours and remarked on the positive impact that this would have on tourism and the economy⁴³.

However, the British Medical Association (NI) argued that there *"is comprehensive evidence that the more widely alcohol is available, the higher the levels of consumption and harm...we believe that considering this evidence the department should carefully consider the potential increase in permitted/additional hours on the health of the population"*⁴⁴. The Institute of Public Health Ireland cited a study by the Institute of Alcohol Studies which concluded that the late night opening of licensed premises in England and Wales (under the Licensing Act 2003) had spread crime and disorder back into the early hours and not resulted in the relaxed continental drinking culture that was envisaged by the 2003 Act⁴⁵.

What is the position in other jurisdictions?

Extended opening hours in Scotland

There are no nationally set permitted hours for licensed premises such as pubs and clubs in **Scotland**. In order to be licensed, each premises must have an **operating plan** which sets out its opening hours, the activities that will be undertaken on the premises, and their policy in relation to access for children. Decisions on the granting of premises licences in Scotland is the responsibility of local **Licensing Boards** (and not courts as is the case in Northern Ireland). Each local authority in Scotland is required to establish at least one Licensing Board for their area. The membership of Licensing Boards is comprised of elected councillors.

Whilst each application for a premises licence and operating plan is to be considered on its individual merits, the Licensing Board's 'Statement of Policy' should provide information on licensing hours for that particular local authority area. Each Licensing Board is required, under the 2005 Act, to produce a Statement of Licensing Policy which is tailored to its particular local circumstances. The 24-hour opening of licensed premises will only be granted in "exceptional circumstances" (e.g. special events such as one-off local or national festivals).

⁴³ Ibid.

⁴⁴ British Medical Association NI. Response to the liquor licensing laws in Northern Ireland consultation. November 2019. www.bma.org.uk/media/1892/bma-liquor-licensing-consultation-response-dec-19.pdf

⁴⁵ Institute of Public Health Ireland. IPH response to the consultation on Liquor Licensing Law in Northern Ireland. 6 December 2019. www.publichealth.ie/sites/default/files/20191206_Liquor%20Licensing%20Laws%20in%20Northern%20Ireland_IPH%20Response.pdf

Guidance issued by the then Scottish Executive to Licensing Boards advises that opening hours for up to 14 hours are “reasonable”. However, it also states that local circumstances and the views of **Local Licensing Forums** should always be considered. The guidance also states that licensing hours “*should not however unnecessarily inhibit the development of thriving and safe evening and night-time local economies which are important for investment, employment, and tourism*”⁴⁶.

What are Local Licensing Forums?⁴⁷

The Licensing (Scotland) Act 2005 requires every local authority to establish a Local Licensing Forum for their area. Membership of the Forum can include, for example, licence holders; the police chief constable for the area; persons having functions relating to health, education or social work; young people; and residents within the local authority area.

The role of the Local Licensing Forum is to provide advice and recommendations to the Licensing Board and to keep under review the licensing system in their area. The Forum should develop an identify that is clearly separate from the Board in order to ensure independence.

Local Licensing Boards have a duty to “have regard” to the Forum’s views. Licensing Standards Officers are required to attend Local Licensing Forums.

What are Licensing Standards Officers?⁴⁸

Broadly speaking Licensing Standards Officers (LSOs) can provide information and guidance on the operation of the 2005 Act (e.g. to licence holders). They supervise holders of licences in terms of their compliance with the conditions of their licence and the 2005 Act and they provide mediation services for the purposes of resolving disputes or disagreements e.g. between licence holders and any other person concerned with any matter relating to compliance of licensing conditions. LSOs can issue notices requiring licence holders to remedy a breach of their licensing conditions. They can also make a premises licence review application to the Local Licensing Board if they believe that a premises is operating contrary to the statutory licensing objectives (i.e. preventing public nuisance; preventing crime and disorder; protecting children and young people from harm).

LSOs also have the power to enter and inspect licensed premises at any time. During an inspection they have the power to inspect any substances, articles or documents. The licence holder and any person working on the premises must provide such assistance, information and documents as a LSO may reasonably require. It is also an offence under the 2005 Act to intentionally obstruct an LSO or fail to provide assistance without reasonable excuse.

⁴⁶ Scottish Executive. Licensing (Scotland) Act 2005. Section 142: Guidance for Licensing Boards. April 2007. www.gov.scot/publications/licensing-scotland-act-2005-section-142-guidance-licensing-boards-local-authorities/

⁴⁷ Ibid

⁴⁸ Glasgow City Council. Licensing Standards Officers. www.glasgow.gov.uk/index.aspx?articleid=17603

Licensing conditions for premises that open after 1.00am

There is one **mandatory condition** that must be attached to the licences of all premises in Scotland that state in their operating plan that they intend to open after 1:00am. The condition is that each premises must have present, between the hours of 1.00am to 5.00am, a person trained to the satisfaction of the Licensing Board in administering first aid. Licensing Boards may attach additional conditions depending on the type of premises (i.e. different conditions depending on the size of the premises, whether it plays loud music, the standing and seating capacity etc.).

Examples of extended opening hours in Scotland

Pre-COVID 19, Edinburgh Licensing Board's '[Statement of Licensing Policy](#)' provided that licensed premises offering restaurant facilities and entertainment may be able to open until **3:00am** (off-sales premises to close at 10.00pm; other licensed premises at 1.00am). It also provided for variations to opening hours during "festive periods", e.g. during the Edinburgh Festival and Fringe a two hours extension to the normal licensing hours may be permitted. The policy states that the Board would consider restricting licensing hours in cases where the premises is situated in the vicinity of residential property, where it will put undue pressure on the public transport system, or where it was likely to lead to public nuisance or anti-social behaviour⁴⁹.

In 2018, **Glasgow Licensing Board** intended to pilot a scheme which allowed the granting of licensing hours up to **4.00am to night club premises** with the city centre. To be eligible a licence holder had to demonstrate that (a) the premises makes a positive contribution to the night time economy and (b) were able to provide evidence of the provision of safety and security measures for both staff and customers. It was originally to be piloted for a 12-month period the Board felt allowed "*for a controlled experiment without a full change in policy or permanent variations to premises licences*".

Whilst each case was to be considered on its own merits, the Board stated that it would have regard to issues such as e.g. the extent to which CCTV and stewarding provision was provided throughout the premises, first aid provision and facilities; written policies and procedures for customer safety; the history of past complaints about the premises (including consideration of police objections), and arrangements for the late night dispersal of customers from the premises⁵⁰. A public consultation on the pilot was opened in August 2018⁵¹. From around May 2019, 10 nightclubs were reportedly allowed to change their closing hours from 3:00am to **4.00am**⁵².

⁴⁹ Edinburgh Licensing Board. Statement of Licensing Policy. November 2018.

www.edinburgh.gov.uk/downloads/file/24379/alcohol-licensing-policy-november-2018

⁵⁰ City of Glasgow Licensing Board. Licensing Policy Statement. November 2018.

www.glasgow.gov.uk/CHttpHandler.ashx?id=17578&p=0

⁵¹ BBC News. Views sought on plans to grant Glasgow nightclubs a 4am licence. 15 August 2018. www.bbc.co.uk/news/uk-scotland-glasgow-west-45197005

⁵² Ibid.

Study to examine the impact of extended opening hours in Scotland

In October 2020, the University of Stirling [announced](#) that it is to led on a new three-year £1.1 million study, funded by the National Institute for Health Research, which will seek to understand how extended opening hours for bars and clubs in Scotland have impacted on health, crime levels, and emergency services. The study will focus on Aberdeen and Glasgow, which prior to COVID-19, had extended the opening hours for some licensed premises. It is reported to be the first study in the UK to look at how opening hours impact upon ambulance call outs and crime, as well as the impact on public services and business operations⁵³.

The study will be split into five sections:

- Understanding why the changes came about, what effects are expected and how public services and businesses are affected;
- Identifying whether and when bars and nightclubs have been using their extra hours (prior to and during the pandemic) and exploring what happens during later opening hours including alcohol consumption, drug use and violence.
- Using data from the Scottish Ambulance Service and Police Scotland to explore whether changes in call-outs and assaults have resulted from later opening hours.
- Evaluating any costs/benefits to the changes including cost impacts on health services, the police and businesses.
- Identifying whether other councils across the UK are considering similar changes and modelling the likely impacts of the changes on issues such as long-term health and healthcare costs.

Extended opening hours in England, Wales and the Republic of Ireland

In **England and Wales**, local licensing authorities are given the power to make decisions about the hours during which premises can conduct licensable activities. [Guidance](#) issued by the Home Office states *that “Licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities”*. Each licensing application must be accompanied by an operating schedule outlining the intended licensing hours and the guidance states that each application (and proposed opening hours) must be considered on its own merits⁵⁴.

Licensing authorities can opt to restrict or vary the licensing hours of individual premises if they felt that the four licensing objectives, as set out in the Licensing Act 2003 (i.e. the prevention of crime and disorder; the protection of public safety; the

⁵³ University of Stirling. Press Release. 'New £1.1m study to assessment impact of bar/club opening hours on emergency services'. 28 October 2020. www.stir.ac.uk/news/2020/october-2020-news/new-11m-study-to-assess-impact-of-barclub-opening-hours-on-emergency-services/

⁵⁴ Home Office. Revised guidance under section 182 of the Licensing Act 2003. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_is_sued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf

prevention of public nuisance; the protection of children from harm) have been not been met. Statistics produced by the Home Office state that, as at 31 March 2018, there were⁵⁵:

- **212,800 premises licences** in England and Wales (Westminster City Council area has the highest number of premises licences – 3,364).
- **8,100 premises with 24-hour** alcohol licences (a 6% increase on the previous year). 34% of these licenses were for supermarkets and stores; 38% by hotel bars; 9% by pubs, bars and restaurants; 9% “other” and 3% premises type not reported by the local authority. Note that not all premises that have a 24 hour licence may necessarily open on a 24 hours basis.
- **£1.7 million** had been raised via **late night levies** (a means by which licensing authorities can raise a contribution from late-opening licensed premises to meet the extra enforcement costs that the night-time economy generates for police and licensing authorities). Eight local authorities had a **late-night levy** in place.

In the **Republic of Ireland**, hours in which alcohol can be sold in pubs are⁵⁶:

- Monday to Thursday from 10.30am to 11.30pm
- Friday and Saturday from 10.30pm to 12.30am
- Sunday from 12.30pm to 11.00pm.

A **Special Exemption Order** permits a licence holder to serve alcohol outside of ordinary opening hours. Applications for an order must be lodged at the local district court. The latest time that alcohol can be served for drinking on the premises is **2.30am**. A further 30 minutes of drinking-up time is also permitted, meaning that closing time for many premises using this facility is **3.00am**. Special exemption orders are reported to be used extensively by hotels, late bars and nightclubs. District courts may decide to grant an order for a shorter period⁵⁷.

What evidence exists on the impact of extended opening hours on issues such as crime?

The findings of studies into the impact of extended opening hours is somewhat inconsistent in that there are studies that conclude that there is an association between extending opening hours and increased rates of violence; and other studies that concluded that there is no association between rates of violence and increased trading hours. Many of these studies are not from within the UK, which is why the outcome of

⁵⁵ Home Office. Alcohol and late night refreshment licensing, England and Wales, year ending 31 March 2018. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/750830/alcohol-late-night-refreshment-licensing-2018-hosb2318.pdf

⁵⁶ Citizens Information. Alcohol and the law. www.citizensinformation.ie/en/justice/criminal_law/criminal_offences/alcohol_and_the_law.html#l42e37

⁵⁷ Dáil Éireann Debate. 8 May 2019. Question to the Minister for Justice and Equality. www.oireachtas.ie/en/debates/question/2019-05-08/478/

the research conducted by the University of Stirling (outlined in the previous section) into extended opening hours in Scotland may prove particularly invaluable to local policy makers.

Outlined below are just a few examples of studies on the impact of licensing hours on variables such as assaults. It **is by no means intended as a comprehensive analysis or literature review** on the issue:

- **Rossow & Norström** (2011) in a study entitled "[The impact of small changes in bar closing hours on violence: the Norwegian experience from 18 cities](#)", concluded that a one hour change in closing hours for on-premises sales was accompanied by an approximate 20% increase in violent crime rates at weekend nights in city centres⁵⁸. However, the study noted that violence in or around licensed premises varied significantly, and tended to occur in noisy and crowded establishments.
- **Foster & Charalambides** (2016) in '[The Licensing Act \(2003\): its uses and abuses 10 years on](#)' argued that late night opening in England and Wales had spread crime and disorder back into the early hours. It found that most police forces had to rearrange shift patterns and allocate increased resources to the night time economy to address this change. The study also concluded that late night opening seemed not to have increased the amount of time or money that people spent in the night-time economy but rather people were going out later in the evening (with evidence of pre-loading alcohol before going out)⁵⁹.
- **Chikritzhs & Stockwell** (2001) in "[The impact of later trading hours for Australian public houses \(hotels\) on levels of violence](#)" concluded that late trading was associated with both increased violence in and around hotels in Perth and increased level of alcohol consumption. The study suggested that greater numbers of patrons and increased levels of intoxication contributed to the observed increase in violence and recommended that a systemic evaluation of late trading licences was required⁶⁰.
- **Norström, Ramstedt & Svensson (2018)** in '[Extended opening hours at nightclubs in Visby \(Sweden\)](#)' conducted a study based on a 10 week extended opening hour period for nightclubs in Visby (a popular tourist destination in Sweden) during the summer of 2014. Licensing hours were extended by 1 hour (permitting premises to close at 3:00am rather than the usual time of 2.00am). The study evaluated the impact of the trial on police-reported violence. It concluded that there was a reduction in police-reported violence during this time, which it attributed to a number of factors including

⁵⁸ Rossow, I. & Norstrom, T. The impact of small changes in bar closing hours on violence: The Norwegian experience from 18 cities. *Addiction*, Volume 107, Issue 3. 10 September 2001. <https://onlinelibrary.wiley.com/doi/full/10.1111/j.1360-0443.2011.03643.x>

⁵⁹ Foster, J. & Charalambides, L. (2016) *The Licensing Act (2003)* Institute of Alcohol Studies. www.ias.org.uk/uploads/pdf/IAS%20reports/rp22032016.pdf

⁶⁰ Chikritzhs, T. & Stockwell, T. (2002) The impact of later trading hours for Australian public houses (hotels) on levels of violence. *Journal of Studies of Alcohol*, 63(5), 591-599. www.jsad.com/doi/abs/10.15288/jsa.2002.63.591

(a) the strengthening of preventative measures (e.g. increased communication between police and nightclubs); visits by an alcohol inspector during opening hours) and (b) decreased congestion in the streets resulting from increased spread of closing hours.

Discussion points:

Has the Department either conducted or commissioned any research on the impact of extending by one hour (i.e. in terms of its impact on the (a) the economy including the night-time economy (b) on alcohol consumption (c) on crime (e.g. assaults) and (d) emergency services (e.g. PSNI, ambulance service, A&Es)?

The 2016 Bill proposed allowing such an extension on 12 occasions in any year, however, the 2020 Bill (as introduced) proposes to increase this to 104 occasions. What is the rationale behind such a significant increase?

In Scotland, Local Licensing Forums (which are multi-disciplinary bodies whose membership consists of e.g. police, health trusts, child safeguarding, local residents, environmental health) can share local intelligence on the activities of licensed premises with local Licensing Boards. Northern Ireland does not have a similar statutory licensing infrastructure. By what means will local intelligence regarding opening hours be gathered and communicated to and between relevant bodies such as the PSNI and the Department?

If extended opening hours are permitted, will it be rolled out on a Northern Ireland-wide basis, or will it be piloted in a number of areas first in order to assess its impact?

How does the Department intend to review the operation of extended opening? If there is to be a review, who will conduct the review (i.e. the Department or by an independent body/organisation)? How soon after the introduction of extended hours should such a review be carried out?

Will comprehensive statistical data be gathered on extended opening hours (e.g. the number of premises availing of extended hours and how often, data on local crime and policing, data on the positive impacts of extended hours to the night-time economy, costs of policing etc.)?

Clause 4: Police authorisation for additional hours

What is the current law?

Public houses in Northern Ireland that are not in a position to provide food or entertainment cannot apply to the courts for a late licence. However, they can apply to the PSNI for a late opening. Applications are made to the local district police commander and late opening may be authorised up to **20 times in any year** (to 1:00am on weekdays and midnight on Sundays (with 30 minutes drinking-up time)⁶¹.

⁶¹ Department for Communities. Guide the Licensing (NI) Order 1996. July 2019. www.communities-ni.gov.uk/sites/default/files/publications/communities/guide-to-the-licensing-ni-order-1996.pdf

The 2016 Licensing and Registration of Clubs (Amendment) Bill proposed to increase the number of PSNI authorisations **from 20 to 85 occasions** in any year in recognition of the fact that an increase in late openings for registered clubs, from 52 to 85 occasions, in a year has already been implemented (under the Licensing and Registration of Clubs (Amendment) Act (Northern Ireland) 2011).

What are the provisions in the Bill?

Clause 4 of the 2020 Licensing and Registration of Clubs (Amendment Bill) retains the provisions outlined in the 2016 Bill by proposing to increase the number of occasions in which the PSNI can authorise late opening from 20 to 85 occasions in any year.

Clause 4 also proposes to permit pubs, that do provide food and entertainment, to apply to the police for late opening on a night that is not included on their own late opening order (i.e. the late opening order granted by the courts). The Bill provides that this can only be used on up to 20 occasions in a year, and that the premises would still have to provide food and/or entertainment.

What was the outcome of the Department's public consultation survey?

The Department for Communities [survey report](#) (published in July 2020) stated that respondents were asked '**Do you think the current 20 occasions where a small pub can apply for a late opening is appropriate?**'. There were 1,498 responses to the question. 86% of respondents felt that the number of occasions should be increased; 1% said they should be reduced; 10% felt that the status quo was appropriate; and 3% were undecided.

Those respondents who agreed that there should be an increase in the number of occasions for late opening were subsequently given options for the number of occasions for late opening i.e. 85 occasions, 52 occasions or "other". The results are outlined below:

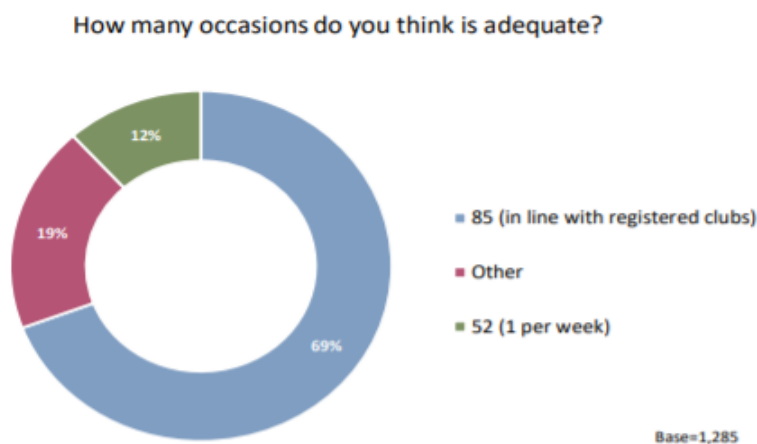


Chart extracted from DfC ["Consultation on liquor licensing laws in NI: Survey Report"](#)

What is the position in other jurisdictions?

As highlighted in previous sections, the licensing regime in Scotland, England and Wales is different to that in Northern Ireland. Decisions on late opening hours are made by Licensing Boards (Scotland) or licensing authority (England and Wales) and not by the police or courts. Each local Licensing Board or licensing authority will determine its own policy in relation to late opening hours for its geographical area and will set this out in a statement of licensing policy.

Discussion points:

How many police authorisations are currently provided to licensed premises in Northern Ireland? Is data available by geographic area (e.g. council level)? Is data available on how many authorisations have been refused and on what grounds? Has any information been gathered as to the potential uptake of such authorisations if they are increased from 20 to 85 occasions in a year?

Clauses 5 and 24: Extension of 'drinking-up' time

What is the current law?

Licensed premises and registered clubs must not sell alcohol outside of opening hours (including late opening). However, customers (and members and guests in the case of registered clubs) are permitted 30 minutes 'drinking-up' time during which alcohol can be consumed after the end of the permitted hours.

The 2016 Licensing and Registration of Clubs (Amendment) Bill proposed to extend the 'drinking-up' period from 30 minutes to one hour. The 2019 consultation paper explained the Department's rationale for this proposal⁶²:

"The 2016 Bill proposed changing this to one hour to allow for a more gradual dispersal of customers. The argument for this was that it would have eased the noise levels for nearby residents, pressure on bar staff to clear the premises in an orderly fashion, and difficult for those getting taxis or waiting on lifts."

What are the provisions in the Bill?

The 2020 Licensing and Registration of Clubs (Amendment) Bill proposes to increase the duration of 'drinking-up' time from 30 minutes to 60 minutes for licensed premises (**clause 5**) and registered clubs (**clause 24**). Clause 5 and clause 24 propose to provide the Department for Communities with the power to make regulations to permit

⁶² Department for Communities. Liquor Licensing Laws in Northern Ireland. Consultation Document. October 2019.

“drinking-up’ time to revert to 30 minutes. A draft of the regulations must be laid before, and approved by a resolution of, the Assembly.

What was the outcome of the Department’s public consultation survey?

The Department for Communities [survey report](#) (published in July 2020) stated that respondents were asked “**Do you think the current 30 minutes drinking up time is adequate?**”. There were 1,498 responses to the survey. 25% of respondents felt that the current drinking-up time was adequate; 69% did not think it was adequate; and 6% were undecided. Respondents who answered that they did not feel 30 minutes was adequate were invited to provide additional comments. The Department’s survey report states that approximately four out five of these respondents thought it should be extended to one hour⁶³.

What is the position in other jurisdictions?

In the **Republic of Ireland**, the Intoxicating Liquor Act 1962 (as amended by the [Intoxicating Liquor Act 2003](#)) allows for a 30 minute drinking-up period. A licensee is not permitted to provide or permit entertainment during drinking up time. Contravention of this is liable to a fine on summary conviction of €1,500 on first offence, and €2,000 for any subsequent offences⁶⁴.

In **Scotland**, [section 63](#) of the Licensing (Scotland) Act 2005 permits a drinking-up time of 15 minutes at the end of licensed hours, providing the alcohol was sold within permitted licensing hours. However, if alcohol is being consumed with a meal, then the drinking-up time is extended to **30 minutes**.

In **England and Wales**, there is no reference to drinking-up time in the Licensing Act 2003. The 2003 Act requires that a licensed premises operating schedule should set out “*any other times during which it is proposed that the premise are to be open to the public*” but does not specify a drinking-up period. The 2003 Act requires each licensing authorities in England and Wales to prepare a licensing policy statement which sets out how the licensing authority intends to exercise their functions in their particular geographical area (e.g. with regards to granting licences, setting permitted opening hours etc.).

It appears that only a very small number of licensing authorities explicitly recommended a period of drinking-up time for licensed premises under its remit. For example, Leeds City Council in its statement recommends a 30-minute drinking up time to assist in the gradual dispersal of customers⁶⁵. Other licensing authorities tend offer

⁶³ Department for Communities. Consultation on Liquor Licensing Law in Northern Ireland. Survey report. July 2020.

⁶⁴ Intoxicating Liquor Act 2003 <http://www.irishstatutebook.ie/eli/2003/act/31/section/12/enacted/en/html#sec12>

⁶⁵ Leeds City Council. Statement of Licensing Policy. 2019-2023. www.leeds.gov.uk/docs/Statement%20of%20Licensing%20Policy.pdf

guidance on customer dispersal policies for licensed premises (e.g. recommending a reduction in music volume 30 minutes before the end of permitted licensing hours, changing music styles, increased lighting, a focus on the provision of food and non-alcoholic drinks).

Licensing authorities in England and Wales may also control the dispersal and high concentrations of people in an area with a large concentration of licensed premises through a statutory tool known as a '**Cumulative Impact Assessment**' (**CIA**). A Cumulative Impact Assessment may be published by a licensing authority to help limit the number or types of licensing applications granted in areas where there is evidence to show that the number or density of licensed premises in the area is having a cumulative impact and leading to problems undermining the licensing objectives (e.g. the prevention of crime and disorder). The assessment may concentrate upon a particular geographical area or a particular types of premise (e.g. nightclubs)⁶⁶.

A licensing authority in England and Wales may also choose to impose a **Late Night Levy** which enables them charge a levy to licensed premises who sell or supply alcohol between midnight and 6am. The revenue raised from the levy is split between the licensing authority and the police to meet costs associated with managing and policing the night-time economy. The late-night levy is currently only used by a very small minority of licensing authorities and there have been calls to reform the levy⁶⁷.

Discussion points:

Has the Department found any independent evidence which demonstrates that extended drinking-up time will lead to a reduction in factors such as alcohol-related harm, assaults and crime?

What is the view of the taxi industry on the proposal to extend late opening and drinking up time?

How can the stockpiling of alcoholic drinks be prevented (whereby customers buy large amounts of alcohol before the end of the period in which alcohol can be sold to consume during the drinking up period)?

What are the estimated increased costs associated with policing the night-time economy? According to the Bill's Explanatory and Financial Memorandum, the PSNI have advised that there would be an impact on its shift system and therefore expected a major impact on resourcing both from a financial and staff point of view.

⁶⁶ Further information on cumulative impact assessments is available from the Home Office guidance on the Licensing Act 2003. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_is_sued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf

⁶⁷ Woodhouse, J. The late night levy. House of Commons Library Briefing Paper. 22 March 2019. <https://commonslibrary.parliament.uk/research-briefings/sn07100/>

Have there been any discussions around the introduction of some sort of levy on licensed premises that opt for later licensing hours? What are the arguments for and against this type of approach to generating extra revenue to manage and police the proposed extended night-time economy?

Clause 3: Alignment of closing time for liquor and entertainment

What is the current law?

A person providing certain types of entertainment in Northern Ireland must have a valid entertainment licence. Whilst liquor licenses are issued by the courts, the entertainment licensing regime in Northern Ireland is administered by local councils in accordance with Part II and Schedule 1 of [The Local Government \(Miscellaneous Provisions\) \(Northern Ireland\) Order 1985](#). The Belfast City Council website provides some illustrative examples of the types of entertainment that require an entertainment licence⁶⁸:

Type of Entertainment	Licence Needed
Theatrical performances Dancing Singing Music or other similar entertainment Circuses Public contests, matches or exhibitions or displays of boxing, wrestling, judo or karate (or similar sport) Billiards, pool, snooker or darts (or other similar game)	Indoor licence
Any public musical entertainment held entirely or mainly in the open air on private land	Outdoor licence
Garden fetes or bazaars Religious meetings or services Exhibitions or sales of work Sporting or athletics events Other functions or events of a similar nature (limited to one day or extended over two or more days)	No licence needed

The purpose of the entertainment licensing regime is to ensure the safety of individuals attending the entertainment and to avoid the entertainment causing undue disturbance to residents in the surrounding area. Licensed premises, may at any one time, hold both a liquor and an entertainment licence. However, currently there is no requirement in law for the hours permitted under each licence to correlate. This means that a licensed premises may remain open and provide entertainment after the bar is closed.

⁶⁸ Belfast City Council. Entertainment licences. [Accessed 28 October 2020]. <https://www.belfastcity.gov.uk/planning-and-building-control/licences-and-permits/entertainment-licence>

The Department for Communities [consultation](#) paper on liquor licensing laws (published in 2019) highlights the reason for seeking an alignment of closing time in respect of liquor and entertainment licences⁶⁹:

“Some councils grant entertainment licences beyond the late opening hours under a liquor licence, meaning that entertainment can continue in a licensed premises after the bar must be closed.

Concerns have been raised that this practice has led to illegal sales, which is unfair on premises that obey the law. It also creates difficulties for the PSNI in enforcing liquor licensing law”.

An ‘[Entertainment Licensing Review](#)’ report by the Entertainment Licensing Review Group was published by the then Department of the Environment in 2015. The report and its recommendations can be viewed [here](#)⁷⁰.

What are the provisions in the Bill?

The Bill proposes to amend The Licensing (Northern Ireland) Order 1996 to ensure that entertainment provided during late opening under Article 44 or further late opening under Article 44A, is **not permitted to continue after the end of “drinking-up” time**.

What was the outcome of the public consultation?

The Department for Communities [survey](#) (report published in July 2020) asked the question “**Do you think entertainment should end at the end of drinking-up time?**”. There were 478 responses to this question. 68% of these respondents felt that entertainment should cease at the end of drinking-up time, 32% of respondents stated that it should not end at the end of drinking up time.

Discussion points:

Given that the regulation of liquor licensing and entertainment licensing rests with different bodies, how will compliance with this provision be monitored and intelligence shared between different bodies?

Does the current definition of “entertainment” in respect of entertainment licences adequately reflect modern forms of entertainment including entertainment that may occur outside permitted licensing hours e.g. concerts or sporting events which may take place in other countries and in which the performer(s) is not physically present?

⁶⁹ Department for Communities. Liquor Licensing Laws in Northern Ireland: Consultation. October 2019. www.communities-ni.gov.uk/sites/default/files/consultations/communities/dfc-liquor-licencing-consultation-1019.pdf

⁷⁰ Entertainment Licensing Review. Report by the Entertainment Licensing Review Group. February 2015. www.communities-ni.gov.uk/sites/default/files/consultations/doe/council-consultation-entertainment-licensing-review-2015.pdf

Clause 7: Permitted hours on a Sunday for licensed race tracks

What is the current law?

In [Article 5](#) of the Licensing (Northern Ireland) Order 1996 “places of public entertainment” is one of the categories eligible for the granting of a liquor licence. This includes race tracks licensed (for gambling purposes) under the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985. The other ‘places of public entertainment’ defined in the 1996 Act are theatres and ballrooms. The current permitted licensing hours for places of public entertainment are set out in [Article 42](#) of the 1996 Act, i.e. 11:30am to 11.00pm (weekdays) and 5:00pm to 11.00pm (on Good Friday). In addition to this, theatres’ permitted hours on Sundays and on Christmas Day are between 12.30pm and 10.00pm (however, these hours are limited to 30 minutes prior to and 30 minutes following entertainment).

Race tracks are currently not permitted to sell alcohol on a Sunday. The Department for Communities 2019 consultation paper explains that this is because at the time the liquor licensing legislation was enacted (i.e. 1996) betting at a race track on Sundays was not permitted. However, [Article 4](#) of the Betting and Gaming (Northern Ireland) Order 2004, relaxed some of the restrictions to enable on-course betting at race tracks. There was no subsequent amendment to liquor licensing law to permit the sale of alcohol at race tracks on a Sunday. The consultation highlights that following the consultation of the Department’s 2012 consultation “*and during the early passage of the Bill, representations were made to amend the law to allow permitted hours on a licensed race track on a Sunday*”⁷¹.

There are currently two licensed dog racing tracks and two licensed horse racing tracks in Northern Ireland (i.e. licensed for on-course betting). Down Royal is soon to become designated as an ‘outdoor stadia’ under [The Licensing \(Designation of Outdoor Stadia\) Regulations \(Northern Ireland\) 2020](#), if it is granted an outdoor stadia (liquor) licence less restrictive licensing rules will may apply with regards to permitted licensing hours.

What are the provisions in the Bill?

Clause 7 proposes to amend Article 42 of the Licensing (Northern Ireland) Order 1996 enables licensed race tracks to sell alcohol on Sundays (but not on Christmas Day), from 30 minutes before entertainment until 30 minutes after, between the hours of **12.30pm and 10.00pm**.

⁷¹ Department for Communities. Liquor Licensing Laws in Northern Ireland. Consultation Document. October 2019. www.communities-ni.gov.uk/sites/default/files/consultations/communities/dfc-liquor-licencing-consultation-1019.pdf

What was the outcome of the Department’s public consultation survey?

The Department for Communities [survey report](#) (published in July 2020) stated that respondents were asked “**Do you think the current permitted hours for licensed race tracks are appropriate?**”. There were 1,498 responses to the question. The results are outlined in the chart below.

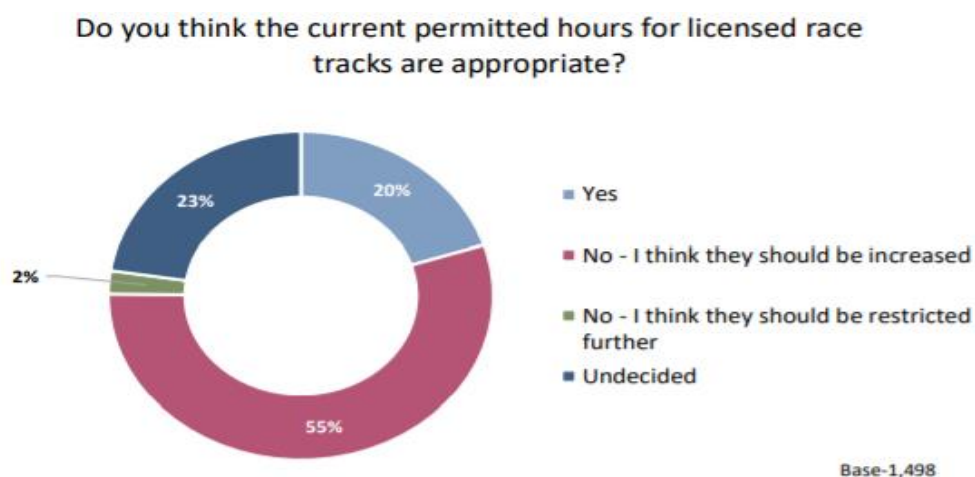


Chart extracted from DfC [“Consultation on liquor licensing laws in NI: Survey Report”](#)

The survey report states that respondents who believed permitted hours for licensed race tracks should be restricted further were invited to provide additional comments. A number of respondents believed race tracks should not be licensed to sell alcohol at all, while others suggested a more moderate reduction in the permitted hours, similar to previous responses for other types of premises. However, the report highlights that within the comments on permitted hours at licensed race tracks two further broad themes arose. There were those who were opposed to gambling, especially so when alcohol was involved and others were against animal cruelty, which they associated with horse and dog racing.

Discussion points:

Has any assessment been carried out to evaluate what benefits Sunday opening may have on race tracks that hold licences under the ‘places of public entertainment’ category?

3 Clauses of the Bill – children and young people (under the age of 18)

This section explores:

- **Clauses 10 & 26** (the removal of the requirement for children’s certificates);
- **Clauses 11 & 27** (underage functions);

- **Clauses 12 & 28** (attendance of children and young people at private functions);
- **Clause 13** (delivery of alcohol to children and young people)
- **Clause 29** (young people and sports clubs)

Clauses 10 and 26: removal of requirement for children's certificates

What is the current law?

In Northern Ireland, young people under the age of 18 are not permitted to be in any bar area of a licensed premises or registered club unless the premises has been granted a "children's certificate" by a county court⁷². A children's certificate allows young people under the age of 18 to be present in the bar area of a licensed premises or registered club until 9.00pm (or until 9:30pm to consume a meal that was purchased before 9:00pm) providing certain conditions are met⁷³. For example, the young person must be in the company of a person who is 18 years old and over and the premises must have an adequate number of tables and chairs to meet the requirement that a person under the age of 18 must be seated away from the bar.

The holder of the licence must keep posted a notice "in some conspicuous place" in the area in which the children's certificate applies, stating that a children's certificate is in force in relation to the area and which explains the effect of the certificate and any conditions attached to it.

Courts currently have the power to revoke a children's certificate or modify the time it ceases to be operational if the licensed premises or registered club is not compliant. A court will not grant a children's certificate unless the part of the premises for which the certificate is being sought is a suitable environment for a person under the age of 18 (the court may consider issues such as the physical or structural condition of the premises)⁷⁴.

What are the provisions in the Bill?

The Bill contains provisions to **repeal the requirement for licensed premises and registered clubs to hold a children's certificate** (Clause 10 relates to the repeal of this requirement for licensed premises and Clause 26 the requirement for registered clubs). The Department for Communities states that this proposal "*aims to reduce*

⁷² Under [Article 59](#) of The Licensing (Northern Ireland) Order 1996 and [Article 33](#) of The Registration of Clubs (Northern Ireland) Order 1996

⁷³ The exception to this is sporting clubs. Unlike other registered clubs, persons under the age of 18 are allowed in the bar and drinking areas of sporting clubs until 10.00pm without a children's certificate being operational. This concession does not, however, allow persons under the age of 18 to be supplied with, or to consume, alcohol.

⁷⁴ Department for Communities. Guide to the Registration of Clubs (Northern Ireland) Order 1996. July 2019. www.communities-ni.gov.uk/sites/default/files/publications/communities/guide-to-registration-of-clubs-northern-ireland-order-2016.pdf

some of the bureaucracy from the legislation”⁷⁵ and that the same conditions would apply but the licence holder would not have the expense of applying for a physical certificate⁷⁶.

However, there are provisions within the Bill that are aimed at ensuring **that the safeguards currently associated with children’s certificates remain in place.**

That is a young person under the age of 18⁷⁷:

- Must only be in the premises at a time when meals, and beverages suitable for persons under that age (including drinking water), are also available for consumption on the premises; and
- Must be accompanied by an adult; and
- Must sit at a table away from the bar; and
- Must leave the premises by 9:00pm (or 9:30pm if a meal is purchased before 9:00pm).

What was the outcome of the Department’s public consultation survey?

The Department for Communities [survey report](#) (published in July 2020) stated that respondents were asked “**Do you think the current law regarding children’s certificates is adequate?**”. There were 1,498 responses to the question, the results are outlined below:

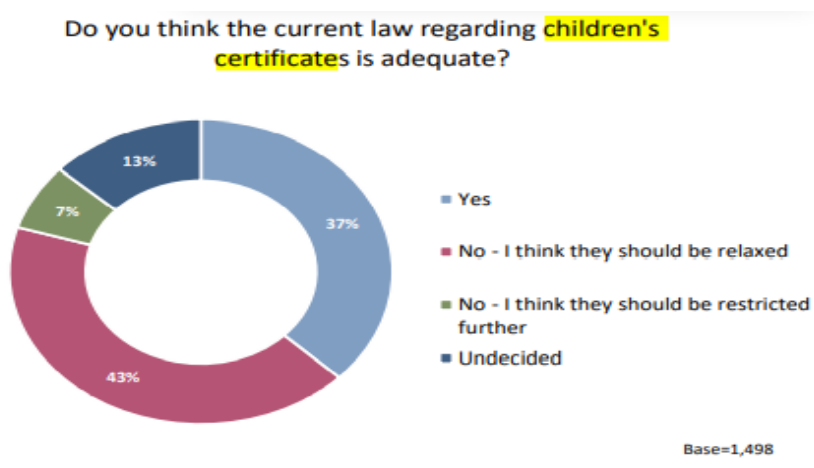


Chart extracted from DfC “[Consultation on liquor licensing laws in NI: Survey Report](#)”

⁷⁵ Department for Communities. Proposed changes to liquor licensing laws in Northern Ireland [accessed 13 October 2020]. www.communities-ni.gov.uk/articles/proposed-changes-liquor-licensing-laws-northern-ireland

⁷⁶ Department for Communities. Liquor Licensing Laws in Northern Ireland. Consultation document. October 2019. www.communities-ni.gov.uk/sites/default/files/consultations/communities/dfc-liquor-licencing-consultation-1019.pdf

⁷⁷ Licensing and Registration of Clubs (Amendment) Bill. Explanatory and Financial Memorandum. www.niassembly.gov.uk/assembly-business/legislation/2017-2022-mandate/primary-legislation---bills-2017---2022-mandate/licensing-and-registration-of-clubs-amendment-bill/efm---as-introduced/

Those who felt that children's certificates should be removed were asked the question "**Do you think the current safeguards and conditions should be retained?**". 52% of these respondents felt that they should be retained whilst 48% felt that they should not be retained. The respondents who stated that they should not be retained were asked to provide further information on what they felt should be changed (305 comments in total). There were a number of themes identified, i.e.:

- That children on licensed premises should be the responsibility of the accompanying adult(s);
- That legislation should be brought into line with the rest of the UK;
- That current safeguards should be relaxed or more lenient, or even abolished altogether; and
- It should be up to each individual licensed premises to self-regulate in terms of allowing and monitoring children on their premises.

There were 107 comments on why the law regarding children's certificates should be strengthened. The most frequently cited comment was in relation to the time that children should be allowed into a bar (which ranged in opinion from 6:00pm to 10:00pm for older children). The next most frequently recurring comment was that children should not be allowed into bars at all. Some respondents felt that children should on be allowed on licensed premises where food was served or if the child is accompanied by a responsible adult. Other respondents felt that there should be better enforcement of the legislation⁷⁸.

What is the position in other jurisdictions?

There is **no requirement to obtain a children's certificate from a court in England, Scotland, Wales or the Republic of Ireland**. The admission of children to licensed premises in other jurisdictions is largely administered through legislation, the discretion of the premises themselves and through regulation by licensing authorities (in the case of Scotland, England and Wales).

In the **Republic of Ireland**, persons under the age of 18 are only permitted to be in licensed premises in line with certain restrictions⁷⁹:

- Children under 15 years old must be supervised at all times;
- Children under 15 years old can only be on the premises up until 9:00pm (or 10:00pm from May to September);

⁷⁸ Information extracted from Department for Communities. Consultation on Liquor Licensing laws in Northern Ireland. Survey Report. July 2020. www.communities-ni.gov.uk/sites/default/files/consultations/communities/dfc-liquor-licencing-consultation-survey-report.pdf

⁷⁹ Information extracted from Citizens Information. Alcohol and the Law. [Accessed 13 October 2020]. www.citizensinformation.ie/en/justice/criminal_law/criminal_offences/alcohol_and_the_law.html#

- Children aged 15 and over, who are accompanied by a parent or guardian, can stay on the premises after 9:00pm (or 10:00pm from May to September) if they are attending a private function where a substantial meal is being served.

The licence holder can refuse to allow children and young people (under the age of 18) on the premises if they believe that doing so would be harmful to the child's health, safety or welfare. There are a number of fines associated with contravention of the legislation, for example, a parent allows their child to be on licensed premises without supervision can be fined up to €300 (unless it can be established that the child or young person was there without knowledge and consent of the parents)⁸⁰.

In **England and Wales**, the Licensing Act 2003 relaxed many restrictions on the presence of young people under the age of 18 in licensed premises and premises that hold a club's certificate. It is an offence under the 2003 Act to⁸¹:

- Permit children under the age of 16 who are not accompanied by an adult to be present on premises being used exclusively or primarily for the supply of alcohol for consumption on those premises under the authorisation of a premises licence, club premises certificate or where that activity is carried on under the authority of a Temporary Events Notice; and
- Permit the presence of children under 16 who are not accompanied by an adult between midnight and 5am at other premises supply alcohol for consumption on the premises under the authority of any premises licence, club premises certificate or Temporary Event Notice.

Generally, children and young people under the age of 18 are permitted to be in licensed premises and certified clubs (that are not primarily or exclusively for the supply and consumption of alcohol e.g. hotels, restaurants etc.) unless that premises has particular licensing conditions that placed restrictions on this. Local licensing authorities in England and Wales have the power to impose licensing conditions on a premises including conditions relating to the times in which children can be admitted. However, guidance published by the Home Office (April 2018) under the title "protection of children from harm" states that conditions restricting the access of children to premises should be strongly considered in circumstances where⁸²:

- Adult entertainment is provided;
- A member or members of the current management have been convicted for serving alcohol to minors or with a reputation for allowing underage drinking;
- It is known that unaccompanied children have been allowed access; or
- There is a known association with drug taking or dealing.

⁸⁰ Citizens Information. Alcohol and the law. [Accessed 13 October 2020].

⁸¹ Home Office. Revised Guidance issued under section 182 of the Licensing Act 2003. April 2018. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_is_sued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf

⁸² Home Office. Revised Guidance issued under section 182 of the Licensing Act 2003. April 2018.

The guidance states clearly that licensing *authorities* “*should give considerable weight to representations about child protection matters*”. When applicants are applying for a licence or club certificate they must prepare an ‘operating schedule’ which must include details such as the type of business to be conducted on the premises, seating arrangements, opening hours, types of entertainment to be provided etc. The Home Office guidance states that the operating schedules must be clear about the activities and times at which events take place to help determine when it is not appropriate for children to enter the premises. It further states that licensing authorities should expect applicants to set out the steps to be taken to protect children from harm when on the premises.

In **Scotland**, access to a licensed premises or a private members’ club by persons under the age of 18 is to a large degree influenced by the discretion of the premises and the opinion of their local Licensing Board. The Scottish system is similar in many respects to that operating in England and Wales whereby premises must have an operating plan that includes a statement detailing whether children and young people are to be allowed entry to the premises; the ages of the children permitted to enter; and the times and parts of the premises where children are permitted.

Licensing Boards in Scotland will assess the operating plan for suitability and may add additional conditions with regards to access to the premises by children. On-sales premises must display a statutory notice on the premises which is visible to customers, which details whether children are admitted, ages for admittance, and times and parts of the premises applicable. This is known as a Children and Young Persons Access Notice an [example](#) of which is available to view on the Argyll and Bute Council website⁸³.

Examples of hours of access for children:

- **The City of Glasgow Licensing Board ‘[Licensing Policy Statement](#)’ states that children (aged 15 and under) will normally only be permitted to be on licenced premises until 9pm.** However, the Board states that a different limit may be applied to hotels, theatres and other family focused entertainment centres, and in such circumstances the Board is of the view (with the exception of any bar area) that responsibility for determining permitted hours should be left to the licence holder. The Board states that it will generally only review the permitted hours for children where there is a concern that the Licensing Objective of “protecting children’ from harm is not being met. The permitted hours for **young people (aged 16 and 17) is up to 11.00pm**. But the Board expects licence holders to clearly set out what safeguards will be in place for young people.
- **Moray Licensing Board ‘[Statement of Licensing Policy](#)’ considers up to 10.00pm to be a suitable time for children to remain on licensed premises believing it to be reflective of international practice.** However, it states that it recognised that certain activities may justify

⁸³ Argyll and Bute Council. Children and Young People: The Licensing Objectives. [access 13 October 2020]. www.argyll-bute.gov.uk/law-and-licensing/children-and-young-persons-licensing-standards

later access to children and each premises' operating plan will be judged on its own merits. The policy states that the Board will generally make a site visit to inspect premises where there is an application for a new licence or where there is an application to vary the provisions of the licence in relation to access for children and young people.

In considering issues relating to the protection of children from harm, Licensing Boards can seek the views of relevant bodies such as child protection committees and local licensing forums (whose membership includes councillors, residents, licensees, police, persons having functions relating to health, education or social work)⁸⁴. Licensing Boards can also carry out on-site visits to assess suitability. The City of Edinburgh Licensing Board, for example, had agreed that where licence holders and applicants make applications seeking increased access to premises by children and young people it will (where necessary) carry out site visits to the premises to assess their suitability prior to considering applications⁸⁵. Licensing Boards will also take into consideration factors similar to those in the Home Office Guidance for England and Wales e.g. whether members of staff at the premises have previously been convicted for serving persons under the age of 18.

Discussion points:

Would it be useful to require premises to display a notice similar to Scotland's Children and Young Persons Access Notice which is visible to the public which sets out if under 18s are admitted to the premises; the hours in which they are permitted; and the parts of the premises which are restricted to adults only? This may be helpful for local families and tourists in deciding which premises are family friendly. The process would need to be uncomplicated e.g. a notice could be downloaded from a website and completed by the licence holder or a member of staff.

Is there a need for a much wider conversation around safeguarding under 18s whilst they are on licensed premises? Whilst the vast majority of licensed premises, registered clubs and parents will act responsibly, would it be useful to have further guidance on what is expected in terms of supervision, safeguarding, the structure of the premises etc.?

Clauses 11 and 27: Underage functions

Well-structured and supervised recreational and social activities are advantageous to the mental, physical and social wellbeing of children and young people. They are often used as diversionary tools to distract young people from engaging in damaging behaviours (e.g. alcohol and drug misuse, crime and anti-social behaviour) and negative peer groups. Alcohol-free discos for the under 18s (typically targeted at young people of secondary school age) are an example of a type of diversionary and social

⁸⁴ Section 10 of the Licensing (Scotland) Act requires every local authority to establish a Local Licensing Forum

⁸⁵ City of Edinburgh Licensing Board (2013). Licensing (Scotland) Act 2005. Statement of Licensing Policy.

activity that is popular with young people. In Great Britain, it is legal for such underage functions to be held in licensed premises and certified private members' clubs providing that certain conditions are met (e.g. the premises provide adequate supervision by trained staff).

What is the current law?

Under [Article 58](#) of the Licensing (Northern Ireland) Order 1996 a person under the age of 18 should not be in a part of a licensed premises during permitted opening hours which (a) contains a bar or (b) is used exclusively or mainly for the sale and consumption of intoxicating liquor. The exception is where a licensed premises (or registered club) holds a children's certificate and even then young people are only permitted to be in the bar area of licensed premises up until 9.00pm (or 9:30pm if a meal has been purchased before 9.00pm).

Many public houses and hotels are said to be keen to allow their function rooms to be used for underage functions such as school formals and discos. These types of venues appeal to young people because they often comprise of comfortable surroundings and professional music and lighting systems. However, under current legislation those that seek to provide such events are likely to be breaching the law, such as in the case of Glenavon House Hotel in Cookstown. The directors of the hotel were found guilty in 2014 of permitting persons under the age of 18 to be in licensed premises during the permitted hours. The offences related to a popular teenage disco held at 'Sense Nightclub' (part of the hotel complex). The hotel had been running the disco (advertised as Club 13-17) since 1994 and could attract upwards of 1,000 people. The judgment stated that considerable effort had gone in to ensuring that no alcohol was consumed at the event and that when police attended to inspect the event in June and August 2013 they found that⁸⁶:

- No alcohol was on display and that optics had been removed and refrigerators covered;
- The bar was closed for the sale of alcohol and only soft drinks were served in plastic cups;
- No person on the premises was observed consuming alcohol and there was no suspicion of any alcohol consumption;
- Youths present were well behaved; and,
- There was a high level of supervision by adults.

Despite this, the judgment (which was upheld at a subsequent appeal) found the hotel to be in breach of current licensing laws.

⁸⁶ Morris v The Director of Public Prosecutions [2015] NICA. 2 July 2015.

What provisions are in the Bill?

Clause 11 of the Bill contains provisions to amend the 1996 Licensing Order by inserting two new articles which would:

- Permit a county court, provided it is satisfied that a number of conditions have been met, to make an order **specifying that a part of certain licensed premises as suitable to hold underage functions**; and
- Permit a court of summary jurisdiction or the clerk of petty sessions in certain circumstances, **to authorise underage functions in licensed premises, up to 1:00am** in a part of licensed premises to which an order under the above provision applies.

A court should not make an order if it is not satisfied that:

- The part of the premises specified in the order is **structurally adapted** for the purpose of having functions held in it;
- Appropriate steps have been taken for **securing the safety of persons under the age of 18** while attending an underage function in that part of the premises and that it is otherwise suitable for underage functions; and
- Suitable arrangements are in place for securing that persons under the age of 18 attending the function **do not have access to any other part of the premises which is used for the sale of intoxicating liquor**.

A number of conditions must be met and an offence is added (punishable by a fine of up to £1,000) for contravention of any of the conditions (Level 3 on the standard scale).

One of the conditions of authorisation is that during the period in which the authorisation is in force **dispensers of intoxicating liquor** (in the part of the premises in which the authorisation is in force) must be **incapable of operation** and that access to another container of intoxicating liquor that part of the premises must be prevented.

The premises to which this would apply are those which are “structurally adapted and used, or intended to be used, for the purpose of providing persons frequenting the premises with a main table meal at midday or in the evening, or both. The Bill lists those premises as:

- A hotel
- A restaurant
- A conference centre
- A higher education institution
- An indoor arena
- An outdoor stadium

The Bill also contains provisions to amend Article 108 of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (use of gaming machines in other

premises) to make it an offence for gaming machines to be made available in any part of a licensed premises in which an underage function is being held.

In addition to this:

- Alcohol must not be made available for purchase by a person over the age of 18 or over on the part of the premises authorised to hold the function;
- Each alcohol dispenser in that part of the premises must be incapable of operation;
- Access to any other container of alcohol in that part of the premises must be prevented; and
- The holder of a licence (or a person working for the licensee) must not sell, or make available for sale, alcohol in that part of the premises. They must also not permit those aged 18 or over to consume alcohol in that part of the premises.

In addition to this, a person aged 18 or over who consumes intoxicating liquor in a part of a premises for which an authorisation is in force would be guilty of an offence and is liable on summary conviction to a fine of up to £1,000 (Level 3 on the standard scale).

Clause 27 of the Bill inserts a new Article in the Registration of Clubs (NI) Order 1996 which would create similar provisions in relation to underage functions held in registered club premises. Authorisation must be given by the PSNI district commander for the police district in which the club is situated.

What was the outcome of the Department's public consultation survey?

The Department for Communities [survey report](#) (published in July 2020) stated that respondents were asked “**Do you think the current law regarding young people at an underage function is adequate?**” There were 1,498 responses to the question.

Half of respondents (50%) felt that the current law regarding young people at functions should be relaxed; 33% thought that the law was adequate; 3% felt that the law should be restricted further and 14% were undecided.

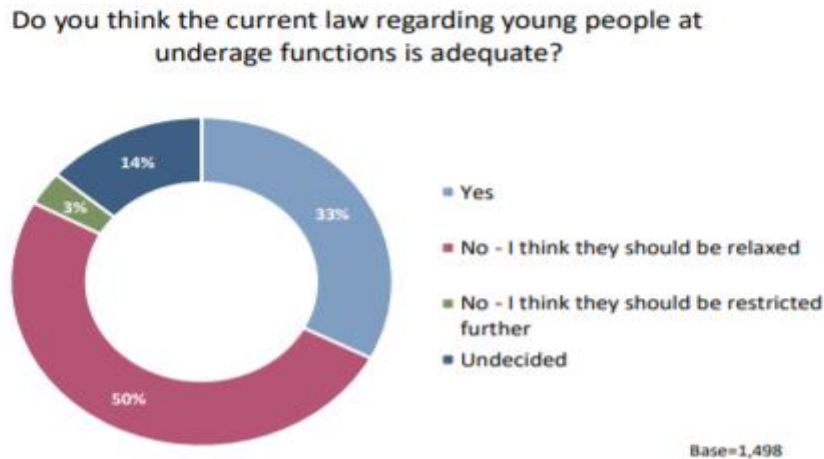


Chart extracted from DfC [“Consultation on liquor licensing laws in NI: Survey Report”](#).

Those who felt there should be further restrictions were asked to provide comments on the changes they thought were necessary. There were 50 such comments in total including better ID checks; young people not being admitted to the event unless they were under 18, no sale of alcohol, and no bar to be open on the premises.

What is the position in other jurisdictions?

Under 18s functions in licensed premises and private members’ clubs are common and popular permissible events in **Scotland, England and Wales**. However, licensing law in Great Britain is different to that in operation in Northern Ireland. Generally speaking, the licensing laws in **England, Scotland and Wales** do not place specific national restrictions on the times in which young people can be present on licensed premises and registered clubs. However, that does not mean that persons under the age of 18 have unlimited and unrestricted access to such premises. Often licensed premises and clubs will themselves place restrictions on the age, times and parts of the premises in which persons under the age of 18 are permitted.

However, Licensing Authorities in **England and Wales** and Licensing Bodies in **Scotland** can have considerable influence over whether events attended by under 18s will be permitted. Every application or variation of a premises licence or club premises certificate must be accompanied by an operating schedule (or operating plan in Scotland) outlining the measures the licensee proposes to put in place to protect children from harm (protecting children from harm is a mandatory licensing condition). The Licensing Authority (in **England and Wales**) or Licensing Board (in **Scotland**) may place conditions on the licence relating to the times, ages of the children, or any other measure they deem necessary to protect those under the age of 18.

With regards to events targeted at the under 18s, the Licensing Authority or Licensing Board rather than the police or courts, will make the decision as to whether the event, premises and admittance criteria etc. set out in the operating schedule/plan are

suitable. However, advice can be sought from the police, child protection services and other relevant individuals and bodies when assessing an application for a licence or variation of a licence. Decisions on such events are usually taken on a case by case basis and it is possible that there may not be standardisation across licensing bodies as to the conditions it places upon premises holding such events, and on monitoring or enforcement measures.

Under 18s events - conditions

Licensed premises, private members' clubs and companies that have been set up to run under 18s events across various premises in different locations, will often put in place a range of measures to safeguard young people attending such events. Safeguarding Children Boards in England, will often provide or publish guidance on safeguarding measures for under 18s events (not just those that take place in licensed premises). The table below provides examples of measures collated from a range of different sources⁸⁷.

Overarching aim	Safeguarding Measure
Event is suitably age restricted	<ul style="list-style-type: none"> • Minimum age for restriction (e.g. 12, 13, 14 years old) • Customers aged 18 years or over are not permitted • Proof of age (ID) requested, photographic ID such as a passport.
Responsible promotion and ticketing	<ul style="list-style-type: none"> • If an event is organised by a third party promoter/organiser, the premises management should impose a condition that all promotional material must be approved by the premises management (e.g. including social media e.g. Facebook/websites etc.). • Events promoted as pre-purchased tickets with a reserved number sold on the door to prevent over-attendance and ensure compliance with capacity. • Tickets for each event must be numbered, dated or otherwise coded to ensure control and an audited account of ticket sales should be maintained. • Police or venue to contact (e.g. via letter) off-licensed premises advising them of the date and time of event and public transport providers advising them of the date and time of event.
External Environment remains safe and appropriate	<ul style="list-style-type: none"> • All security staff to the SIA registered, uniformed and easily identifiable (although this may differ for registered clubs in which club officials or other relevant persons may provide supervision depending on the size of the event) • Gender appropriate bag searches/pat downs a condition of entry • Confiscation of alcohol, tobacco, drugs, weapons and reported to police • Refusal of entry for young people who are, or are suspected to be intoxicated or who are behaving in an anti-social manner. • Doors to open 30 minutes prior to advertised time. • Queue barriers in place to maintain order • Security staff to monitor external areas in the proximity of the premises to prevent unsafe, illegal or anti-social activity • Suspicious activity (e.g. loitering of adults/cars) to be recorded in an incident book (including vehicle registration details) and reported to police

⁸⁷ Primarily extracted from the Safeguarding Sheffield's 'Under 18 Events: Examples for Safeguarding children and Young People'. www.safeguardingsheffieldchildren.org/sscb/children-licensed-premises/events

	<ul style="list-style-type: none"> The premises management should liaise with local youth services and police to determine whether a youth service/charity presence is required outside the event to assist vulnerable young people.
Internal Environment remains safe and appropriate	<ul style="list-style-type: none"> No alcohol on sale or display No alcohol branding is displayed Free tap water available on request There will be regular patrols and floor walks by designated staff to monitor the activity inside the premises (toilets and other areas) The premises management/event organiser should liaise with the police to check that the promoter/DJ/entertainer is reputable Ensure the music policy for the event is appropriate There will be appropriately qualified First Aiders with a designated First Aid areas For those refused entry or removed from the venue, parents/responsible adult will be contacted (either by the young person or the venue) if the person is intoxicated or has taken drugs If the young person has not taken alcohol or drugs and but has been refused entry or removed from the venue the use of a telephone to contact parents/responsible adult will be made available.
After-event safety measures are put in place	<ul style="list-style-type: none"> Event will finish in time for children and young people to access public transport for travel home. A pick-up point in proximity to the premises will be identified and promoted for parents/carers to collect children and young people. This area must be well-lit and monitored by security staff/CCTV for up to 30 minutes after the event has closed.
Protecting vulnerable children and young people	<ul style="list-style-type: none"> A suitable member of staff will be assigned as the lead for safeguarding at each event. They will be responsible for producing a written risk assessment prior to the event; liaise with relevant authorities where necessary e.g. the police; providing briefing and training prior to the event; ensure that there is a procedure and that the procedure is followed when young people are ejected from the venue and who are in a vulnerable state (this process must be recorded in writing and auditable); A secure and appropriate child welfare area within the premises should be provided.

The Bill outlines a number of conditions attached to the granting of authorisation to hold underage functions e.g. each dispenser of alcohol at the bar in the part of premises the function is held must be incapable of operation. However, it is evident from the table above that there are many other conditions that *could* be considered for inclusion as part of the authorisation process depending on the type and size of the function.

Alternative views on underage events

It is important to recognise that a minority of people may either not support, or have reservations, about underage functions. In Great Britain, these concerns primarily relate to large-scale events held in nightclubs. A judge in England, commenting on a case involving a teenage girl who attended such an event stated⁸⁸:

⁸⁸ Bristol Post. 'Judge condemns "kids" club nights at Bristol's Oceana'. 24 July 2012.

'I want to say something about [the nightclub] and its so-called kids' night. That a nightclub should advertise and seek to attract children between the ages of 13 to 16 is in my view regrettable.

The club's closing time of 11pm inevitably means that those attending will probably not be home until midnight or later.

It is naïve to assume that these youngsters will not drink alcohol even if it is not provided by the club...

It is naïve to assume that they will not be tempted by other and more pernicious substances...'

While these may indeed be quite legitimate concerns, large scale events on licensed premises can potentially be well organised and supervised and could be beneficial to the needs of young people in the area. Many issues identified by the judge in England are outside the control of the licensed premises e.g. the pre-loading of drinks and other substances before reaching the event. Clear guidelines for licensed premises and registered clubs seeking to hold events targeted at the under 18s may be beneficial. Although an extreme case, events at the [DJ Hardwell gig](#) at the Odyssey Arena in 2014⁸⁹, demonstrate the need to enforce a strict no admittance policy for those who are intoxicated and/or have consumed other substances, and have adequate support and guidelines in place on assisting them⁹⁰.

Discussion points:

Will there be guidance or a code of practice/guidance/safeguarding document setting out further conditions on underage functions? If so, who would produce such guidance?

To what extent should such guidelines or a code reflect the scale and nature of events e.g. large scale events held in nightclubs in comparison to small events held in a registered club or school formals?

What arrangements will be put in place to monitor events to ensure that they are in compliance with the legislation?

⁸⁹ BBC News. DJ Hardwell gig cancelled in Edinburgh after Belfast drink and drug problem. 7 February 2014. www.bbc.co.uk/news/uk-scotland-edinburgh-east-fife-26090805

⁹⁰ BBC News NI. 'Belfast's Odyssey: 'Disaster zone' outside DJ Hardwell gig'. 7 February 2014.

Clauses 12 and 28: Attendance of people under the age of 18 at private functions

What is the current law?

Under current licensing law ([Article 58](#) of the Licensing (Northern Ireland) Order 1996) young people under the age of 18 are prohibited from being in any part of a licensed premises that (a) contains a bar and (b) is used exclusively or mainly for the consumption of alcoholic drinks. The same rules apply to registered clubs (under [Article 32](#) of the Registration of Clubs (Northern Ireland) Order 1996

The exception to this is where the licensed premises or registered club has a Children's Certificate which permits people under the age of 18 to be in licensed premises up until 9pm (or 9:30pm where a meal has been ordered before 9.00pm). Person under the age of 18 are permitted in the bar and drinking areas of sporting clubs until 10.00pm without a children's certificate being in operation. In all cases under 18s must not be supplied with, or consume, alcohol⁹¹.

Holding family events, such as birthday parties, anniversary celebrations, wedding and wedding receptions in licensed premises and registered clubs is a common occurrence. However, under current licensing law, the latest a person under the age of 18 should be on a licensed premises or registered club is 9.00pm or 9.30pm (where a meal has been ordered before 9:00pm) or 10.00pm in the case of registered sporting clubs.

This situation said to have created operational difficulties for both licensed premises and the PSNI. For example, following the [Glenavon House Hotel ruling](#)⁹², the PSNI stated that it wrote to the then Minister for Social Development advising that it was reviewing the consequences of the ruling for both the PSNI and the wider community. It highlighted that there was an urgent need to address the licensing legislation as it related to children on licensed premises. In a written submission to the then Committee for Social Development's consideration of the Licensing Bill (relating to outdoor stadia) the PSNI made the Committee aware that current legislation relating to under 18s in licensed premises continued to create difficulties for them⁹³:

'...this places the Police Service into a very difficult position if we rigidly enforce the legislation, with the result that on every occasion the police become aware of these functions including those listed above [i.e. school formals, concerns/supports events where alcohol is being served and consumed, an after-wedding party, family birthday party] we must submit a

⁹¹ Department for Communities. Guide to the Registration of Clubs (Northern Ireland) Order 1996. July 2019.

⁹² *Morris v The Director of Public Prosecutions* [2015] NICA. 2 July 2015.

⁹³ PSNI. Written submission to the Committee for Social Development: <http://nia1.me/3eu>

file to the Public Prosecution Service (PPS) in every case as it is for the PPS to decide whether to prosecute.'

What are the provisions in the Bill?

Clause 12 of the Bill contains provision to add a new paragraph to Article 58 of Licensing (NI) Order 1996 (young people persons prohibited from certain premises) to permit young people under the age of 18 to be on the premises after 9.30pm providing certain conditions are met. That is, if:

- A private function is being held in that part of the premises and the **public do not have access** to that part of premises while the function is being held;
- The person under the age of 18 is attending the function in the **company of a parent**; or those with parental responsibility (within the meaning of the Children (Northern Ireland) Order 1995; or who has care of that person;
- A **meal consisting of at least a main course** is being served at the function; and
- The person under the age of 18 does not consume any part of the meal at the “counter or structure” which is being used **“wholly or mainly” as a bar**.

Clause 28 contains provisions to insert the same rules and conditions into Article 32 of the Registration of Clubs (Northern Ireland) Order 1996.

What was the outcome of the Department’s public consultation survey?

The Department for Communities [survey](#) (report published in July 2020) stated that consultees were asked the question “**Do you think young people should be allowed to attend family functions in licensed premises beyond 9pm?**”. There were 803 responses to the question of which 95% stated that they believed young people should be able to attend family functions beyond 9pm and 5% felt that they shouldn’t. The Department’s [survey report](#) states that those who thought young people should not be able to attend such functions beyond 9pm provided with the opportunity to comment further on what changes to the law they felt were necessary. Comments included permitting young people to be on premises until 9:00pm if food was available; that parents/guardians should be responsible for children; and some commented that children should not be permitted at all.

What are the provisions in other jurisdictions?

The [guidance](#) issued on the *Licensing (Scotland) Act 2005* to local Licensing Boards in Scotland highlights that the intention of this legislation is to “*encourage licensed premises to become more child-friendly and to encourage an environment where*

*families can socialise safely together*⁹⁴. The 2005 Act replaced the old system of children's certificates and replaced it with a system in which the hours during which children would be permitted in licensed premises would be included within the premises operating plan which would be agreed by the local Licensing Board.

However, a key objective of the licensing system in Scotland is to protect children from harm. The guidance states that there is an expectation on Licensing Boards to maintain close contact with the police, young offenders' teams, and trading standards officers regarding the extent of unlawful sales and consumption of alcohol by children and young people. It further encourages open communication between bodies when warnings have been issued to retailers and licensed premises. The aim of the legislation in Scotland is to *"see the development of these offences as having a deterrent effect on sales of alcohol to children by raising the risk of detection and by making the consequences of non-compliance significant"*.

The guidance issued by the **Home Office** on the Licensing Act 2003 for **England and Wales**, similarly does not specifically mention the attendance of children at family functions in licensed premises. Rather, it outlines in general, measures that are required to protect children from harm. As outlined in the previous section, this guidance states that conditions restricting the access of children to premises should "be strongly considered" in circumstances where, for example, adult entertainment is provided (e.g. entertainment with strong or offensive language); a member or members of the current management have been convicted for selling alcohol to minors or with a reputation for under-age drinking; or where there is a known association with drug-taking or dealing⁹⁵.

The guidance states that the operating schedules of licensed premises should, where appropriate, include conditions to protect children from harm and it outlines some examples:

- Restrictions on the hours children may be present;
- Restriction or exclusions on the presence of children under certain ages when particular specified activities are taking place; and
- Restrictions or exclusions when certain activities are taking place.

Similar to the situation in Scotland, there is an expectation under the guidance that licensing authorities in England and Wales will maintain close contact with the police, young offender's teams and trading standards officers etc. regarding the extent of unlawful sales or the consumption of alcohol to minors and for these groups to be

⁹⁴ Scottish Government. Licensing (Scotland) Act 2005. Section 142: guidance for licensing boards and local authorities. www.gov.scot/publications/licensing-scotland-act-2005-section-142-guidance-licensing-boards-local-authorities/pages/12/

⁹⁵ Home Office. Revised Guidance issued under section 182 of the Licensing Act 2003. April 2018. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_is_sued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf

involved in the development of any strategies to control or prevent such unlawful activities.

Many safeguarding boards in England have published guidance specifically in relation to protecting children while they are on licensed premises. See for example, Hull Safeguarding Children's Partnership's '[Safeguarding children in licensed premises – including safeguarding children at Temporary Events](#)'. These documents are not specially about children at private family functions but rather the presence of children at all functions on licensed premises. Many do, however, include sections on the "supervision of children" which outline the responsibility of adults who are responsible for the child; the responsibility of licence holders and supervisors to ensure the safety of children on the premises; and they provide advice and contact numbers should a person become concerned about a child's safety⁹⁶.

Discussion points:

What is the exact definition of a "private function", what types of event would not be defined as a "private function"?

What current structures are in place to ensure that the PSNI, local councils, the Department for Communities and other relevant bodies can share information regarding premises that may not be in compliance with the law in relation to the sale and supply of alcohol to children?;

Should there be guidance, as in England, as to the types of activities at private events that are not suitable for children and young people?;

Is there a need for information and advice, similar to that published by some safeguarding boards in England on the issue of safeguarding children in licensed premises and clubs?

Clause 13: Delivery of alcohol to children and young people

What is the current law?

The then Department for Social Development's first consultation paper on '[proposed changes to the law regulating the sale and supply of alcohol](#)' published in July 2012 stated that there had been ongoing concerns that current licensing law in Northern Ireland was insufficiently robust in ensuring that young people under the age of 18 could not avail of home deliveries of alcohol.

The consultation paper highlighted that there are some safeguards in place in the current legislation regulating the delivery of alcohol whereby details of alcohol purchased and delivery locations have to be entered into a day book held in the

⁹⁶ Hull Safeguarding Children's Partnership. Safeguarding children in licensed premise – including safeguarding children at temporary events. https://hullscb.proceduresonline.com/chapters/p_sg_licensed.html#drinks_promotions

premises. However, current law *does* permit a young person under the age of 18 years of age to accept a delivery of alcohol made to the residence or working place of the purchaser (under [Article 60](#) of The Licensing (NI) Order 1996).

Article 67(9) and Article 68(5) of the 1996 Licensing Order currently permits the delivery of alcohol by the person in the premises to which he is residing. Clause 9 of the Bill contains a provision to ensure that the delivery of alcohol to persons residing in an unlicensed premises where entertainment is being held or which is used by a club do not extend to any persons under 18 years of age in that premises.

What are the provisions in the Bill?

The Bill contains provisions to amend Article 60 of The Licensing (NI) Order 1996 to **make it an offence for a licensee or member of staff to make a home delivery of alcohol to any person under the age of 18 years old**. The Bill's [Financial and Explanatory Memorandum](#) states that this offence could be punishable by a fine of up to £5,000 and/or imprisonment for up to six months⁹⁷ and carry associated penalty points.

Clause 13 would also amend Article 60 by permitting in court proceedings, that licensees or members of staff who are charged with an offence of delivery alcohol to persons under the age of 18, may rely on a **defence of due diligence**. Due diligence in this case may be demonstrated if the licensee or member of staff can demonstrate that, when delivering alcohol, they recorded details of any proof of age document that had been requested in the delivery book or on an invoice.

Article 67(9) and Article 68(5) of the 1996 Licensing Order currently permits the delivery of alcohol by the person in the premises to which he is residing. Clause 13 of the Bill contains a provision to ensure that the delivery of alcohol to persons residing in an unlicensed premises where entertainment is being held or which is used by a club **do not extend to any persons under 18 years** of age in that premises.

What was the outcome of the Department's public consultation survey?

The Department for Communities [survey](#) (report published in July 2020) asked the question "**Do you think safeguards regarding deliveries of alcohol to young people are adequate?**". There were 1,498 responses to the question. 51% of respondents felt that the safeguards were adequate; 16% felt that they should be restricted further; 16% felt that they should be relaxed; and 17% were undecided.

⁹⁷ Licensing and Registration of Clubs (Amendment) Bill. Explanatory and Financial Memorandum. www.niassembly.gov.uk/globalassets/documents/legislation/bills/executive-bills/session-2017-2022/licensing-and-registration/licensing-and-registration-bill---efm---as-introduced.pdf

Do you think the current safeguards regarding deliveries of alcohol to young people are adequate?

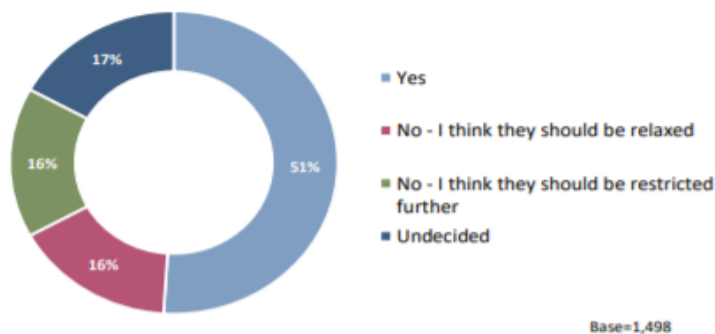


Chart extracted from DfC [“Consultation on liquor licensing laws in NI: Survey Report”](#)

What is the position in other jurisdictions?

In **England and Wales**, [Section 151](#) of the Licensing Act 2003 continues to permit under 18s to take a delivery of alcohol at a place in which the purchaser or person supplied lives or works. A [report](#) on a post-legislative review of the Licensing Act conducted by a **House of Lords Select Committee** (published in April 2017) highlighted the difficulties associated with the delivery of alcohol to under 18s⁹⁸:

“The sale of alcohol online is a further emerging development in the world of off-trade sales. We heard evidence suggesting that verifying the age of purchasers of alcohol online, both from supermarket chains with online sales and from more specialist online retailers, could be challenging. Some respondents expressed uncertainty about the legal position when, for example, an individual under the age of 18 took receipt of a mixed delivery of shopping which included alcohol on behalf of their parents, who legally purchased the alcohol. However, it appears that supermarkets, especially the larger operators...have sensible policies in place, such as age-verification at the door and the withholding of alcohol products or entire deliveries if this is failed.”

[Guidance](#) on the Licensing Act 2003 issued by the Home Office states in relation to the delivery of alcohol in England and Wales that⁹⁹:

“Where alcohol is sold remotely (for example, online or through a telephone transaction)...Age verification measures (for example, online verification) should be used to ensure that alcohol is not sold to any person under the

⁹⁸ House of Lords. Select Committee on the Licensing Act 2003. The Licensing Act 2003: post-legislative scrutiny. Report of Session 2016-17. April 2017. <https://publications.parliament.uk/pa/ld201617/ldselect/ldlicact/146/146.pdf>

⁹⁹ Revised Guidance issued under section 182 of the Licensing Act 2003. April 2018. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_is_sued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf

age of 18. However, licence holders should also consider carefully what steps are appropriate to ensure that the age verification takes place before the alcohol is served (i.e. physically delivered) to the customer to be satisfied that the customer is aged 18 or over. It is therefore, the responsibility of the person serving or delivering the alcohol to ensure that age verification has taken place and that photo ID has been checked if the person appears to be less than 18 years of age.”

A number of charities have called for tighter rules on the delivery of alcohol under 18s in England and Wales. Recent [research](#) conducted by Wrexham University argued that age-verifications measures used by suppliers and delivery firms were weak with online checks easy to circumvent¹⁰⁰. Alcohol Concern UK, who funded the research, maintained that licensing laws were drafted before the advent of round-the-clock deliveries in England and Wales and needed to be addressed¹⁰¹.

In **Scotland**, it is an offence (under the Licensing (Scotland) Act 2005, for someone (either paid or unpaid) knowingly to deliver to a person under the age of 18 alcohol which is sold on the premises. The offence covers, for example, circumstances where a child takes delivery of alcohol ordered by an adult by telephone. It is also an offence for a person working on licensed premises to knowingly allow another person to deliver alcohol to individuals under the age of 18. This offence would cover, for example, a person who authorises a delivery of alcohol knowing that the recipient will be someone under the age of 18¹⁰².

Similar to proposals in the Northern Ireland Bill (as introduced), in considering prosecution for non-compliance in Scotland, it will be a defence to show that the person making or allowing the delivery has been shown documents bearing the proof of age of the child or young person (e.g. a passport, European Union driving licence).

Discussion points:

The robustness of the verification process in relation to the sale of alcohol is obviously a key issue in preventing both the sale and delivery of alcohol to persons under the age of 18. The *point of verification* is also clearly very important i.e. verification of age at *point of sale*, and verification of age at *point of delivery*.

Whilst restricting under 18's access to alcohol via online deliveries is to be welcomed, the problems associated with under 18s access to alcohol in general goes beyond the remit of the Department of Communities. In many instances, children and young people may not be

¹⁰⁰ Muirhead, J. & Grout, V. Effective age-gating for online alcohol sales. June 2020. Funded by Alcohol Change UK.

¹⁰¹ The Guardian. Tighter rules needed online alcohol orders to protect underage teenagers, warns charities. 13 September 2020. www.theguardian.com/society/2020/sep/13/home-delivery-firms-blamed-for-enabling-problem-drinkers

¹⁰² Scottish Government. Licensing (Scotland) Act 2005. Section 142: guidance for licensing boards and local authorities. April 2007.

accessing alcohol via online purchase and delivery but from younger adults and in some cases even parents and other relatives.

Clause 29: Under 18s attendance in sports club premises

What is the current law?

Article 14 of the [Licensing and Registration of Clubs \(Amendment\) Act \(Northern Ireland\) 2011](#) amended the Registration of Clubs (Northern Ireland) Order 1996 to extend the latest time in which young people under the age of 18 were permitted to be present in the bar area of a sporting club¹⁰³ from up until 9.00pm to up until 10.00pm (without a children's certificate being in operation). The 2011 Act also increased the number of occasions each year (from 52 to 85) on which registered clubs may keep their bars open to 1am rather than the earlier closing time of 11pm. The Minister for Social Development at that time stated that these flexibilities were provided to help clubs, and in particular sporting clubs, to '*maintain profitability and continue the valuable contributions they make to their communities*'¹⁰⁴.

What is a "sporting club"?

The Department for Communities [guide](#) to the registration of sports clubs highlights that under the Registration of Clubs (Northern Ireland) Order 1996, sporting clubs are defined as¹⁰⁵:

Those "occupying a hereditament to which Article 31 of the Rates (Northern Ireland) Order 1977 applies (rates relief) being a hereditament which is used solely or mainly for the purposes of physical recreation". The phrase "solely or mainly" is particularly important here. It means that a club with a room set aside for darts or snooker or which have football teams cannot necessarily regard themselves as sporting clubs. Many clubs indulge in sporting activities as a sideline or even support particular sporting teams, but as they do not exist solely or mainly to actively participate in one or more physical recreations, they are unlikely to be regarded as sporting clubs for the purposes of the Order."

¹⁰³ Or any other area used exclusively or mainly for the supply, consumption or storage of alcohol.

¹⁰⁴ Northern Ireland Assembly Official Report. Licensing and Registration of Clubs (Amendment) Bill: Final Stage. 22 February 2011.

¹⁰⁵ Department for Communities, Guide to the Registration of Clubs (Northern Ireland) Order 1996. July 2019.

www.communities-ni.gov.uk/sites/default/files/publications/communities/guide-to-registration-of-clubs-northern-ireland-order-2016.pdf

What are the provisions in the Bill?

Clause 29 of the Bill (entitled young people prohibited from bars) contains provisions to [Article 32](#) of the Registration of Clubs (Northern Ireland) Order 1996 (young people prohibited from bars) to further extend the latest time in which young people are permitted to be in the bar area of a sporting club premises from **10.00pm** (the current position) to **11:00pm** during summer months (i.e. **1 June to 31 August**).

In addition to this, Clause 29 also proposes to allow a young person under the age of 18 to remain in the bar area until 11.00pm to **attend one prize giving ceremony** in a calendar year.

Why have these changes been proposed?

The Department for Communities [consultation](#) on liquor licensing laws in Northern Ireland, published in October 2019 states that¹⁰⁶:

“Sporting clubs make a valuable contribution to society and provide opportunities for young people to learn new skills, discipline and lead healthy lives...During the summer months, sporting activities often extend into the evening and sporting bodies and clubs have asked for an extension to the time young people can remain in a sporting club”.

In addition to this, the consultation highlights that many sporting clubs hold awards ceremonies, usually in the evening, and that often these include presentations to young people. Hence the provision to amend the legislation to allow young persons under the age of 18 to attend one “bona fide awards” night per year (up until 11:00pm)¹⁰⁷.

What was the outcome of the Department’s public consultation survey?

The Department for Communities [survey](#) (report published in July 2020) asked the question “**Do you think the current law regarding young people in sporting clubs is adequate?**”. There were 1,498 responses to the question. 34% states that they thought the current law was adequate; 49% felt that the law should be relaxed; 2% believed the law should be strengthened and 15% were undecided.

¹⁰⁶ Department for Communities. Liquor Licensing Laws in Northern Ireland. Consultation document. October 2019. www.communities-ni.gov.uk/sites/default/files/consultations/communities/dfc-liquor-licencing-consultation-1019.pdf

¹⁰⁷ Ibid

Do you think the current law regarding young people in sporting clubs is adequate?

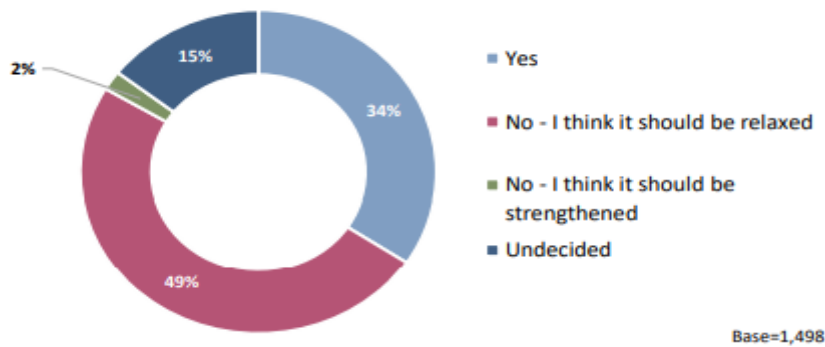


Chart extracted from DfC [“Consultation on liquor licensing laws in NI: Survey Report”](#)

Those who indicated that the law should be relaxed where then asked about the time and number of occasions that a young person should remain in a sports club. The majority of those responses (61%) felt that young people should be allowed to remain in a sports club until 11.00pm all year.

Do you think that young people should be allowed to remain in a sporting club until:

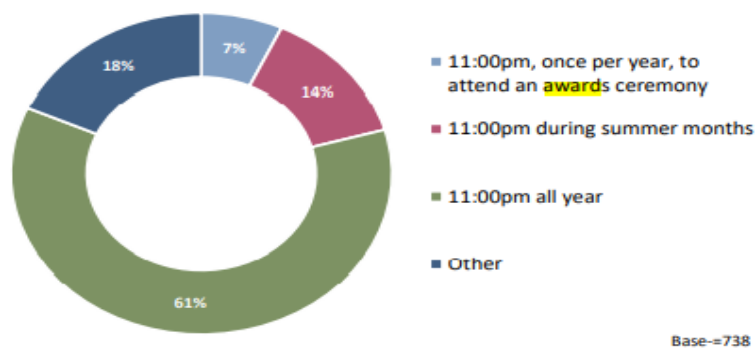


Chart extracted from DfC [“Consultation on liquor licensing laws in NI: Survey Report”](#)

Discussion points:

It is proposed that sporting clubs can permit the attendance of under 18s at one awards ceremony per calendar year (up until 11am). How can this be monitored to ensure that clubs are not holding more than one such event per calendar year?

Many sporting clubs, especially those used by children and young people, will already have safeguarding documents in place to protect children whilst they are on the premises. The Committee may wish to explore how best practice can be disseminated amongst all sporting clubs.

4 Clauses of the Bill – enhancing the tourism and visitor experience

The Minister for Communities, during Second Stage of the Bill stated that aim of the Bill was to “*contribute to a reduction in alcohol-related harm while providing some much-needed assistance to the hospitality sector as it supports out tourist offering*”¹⁰⁸. Two clauses of the Bill in particular would introduce two new opportunities for tourism and the enhancement of visitor experience i.e. (a) introduction of major event orders and (b) new opportunities for local producers to sell their products directly to the public. There are of course, matters of public health to be considered regarding the impact of alcohol consumption and preventing alcohol-related harm.

This section explores:

- **Clauses 6 & 25** (major events); and
- **Clause 8** (licence for off-sales – local producers).

Clauses 6 and 25: major events

What is the current law?

As outlined in previous sections the permitted hours for the sale of alcohol in licensed premises in Northern Ireland are:

- **11.30am to 11.00pm on weekdays** (i.e. Monday to Saturday) and from **11.00pm to 1.00am where late opening** is permitted; and
- **12.30pm to 10.00pm** on Sundays and from **10:00pm to midnight** where late opening is permitted.

The Department for Communities states that it is aware that organisers of a number of prestigious events have found these hours restrictive and have reported that they have impacted negatively on visitor experience. The Department launched a separate consultation on ‘[The sale and supply of alcoholic drinks at ‘special events’ in Northern Ireland](#)’ in March 2019.

¹⁰⁸ Northern Ireland Assembly. Official Report. 3 November 2020. <http://data.niassembly.gov.uk/HansardXml/plenary-03-11-2020.pdf>

The consultation outlined the desire of the Department to seek powers to vary the permitted hours at 'special events' and to permit off-sales in certain circumstances. The consultation paper argued that¹⁰⁹:

"This would mean that events which attract significant public interest, such as The BBC Good Food Show, The Irish Open Golf Tournament, the Open Golf Tournament and the MTV Music Awards may have the opportunity to extend their offering by serving alcoholic drinks outside the current permitted hours, or in certain circumstances to sell alcoholic drinks for consumption at home"

In relation to the proposals in relation to the sale of alcoholic drinks for consumption at home the consultation paper noted:

"The sale of alcoholic drinks for consumption at home (off-sales) is only permitted from pubs and off-licences. The Department has been advised that this has also impacted negatively on a number of events held in Northern Ireland in recent years where organisers wanted to sell commemorative bottles of alcoholic drinks for consumption off the premises"

The consultation stated that whilst the Department believed that it is important to recognise the significant contribution that hospitality makes to the local economy, it also had a responsibility to ensure that any increase in opportunity to purchase and consume alcohol would be considered within the context of public safety and public health¹¹⁰.

With regards to the number and type of events that would be designed as 'special events' the consultation stated that the Department:

"...intends to limit the type of premises which may benefit from such a designation and to impose conditions where necessary. It is anticipated that the number of events designated as special events by the Department will be very small."

The Department for Communities published a number of documents in support of the consultation – an initial economic impact assessment; an economic impact assessment; a health impact assessment; a human rights impact assessment; a regulatory impact assessment; a rural needs impact assessment; and equality screening. These documents are available to download [here](#)¹¹¹.

The consultation sought views on four questions:

¹⁰⁹ Department for Communities. The sale and supply of Alcoholic Drinks at 'Special Events' in Northern Ireland. Consultation Document. March 2019. www.communities-ni.gov.uk/sites/default/files/consultations/communities/dfc-sale-supply-alcohol-special-events.pdf

¹¹⁰ Ibid.

¹¹¹ www.communities-ni.gov.uk/consultations/sale-and-supply-alcoholic-drinks-special-events-northern-ireland

- Should the Department be given the power to designate an event as a ‘special event’?;
- Should the Department be given the power to vary permitted hours at an event, having designated it as a ‘special event’?
- Should the Department be given the power to permit the sale of alcoholic drinks for consumption off the premises at a ‘special event’?
- Should the Department be given the power to impose conditions on an event designated as a ‘special event’?

The Department’s [consultation outcome report](#) was published in May 2019. A total of 239 responses were received, the vast majority of which were from the hospitality industry (169). The outcome report states that the majority of the hospitality industry responses were submitted by email as part of an organised campaign by Hospitality Ulster. The campaign opposed the progression of the proposals, calling for them to be progressed as part of a wider review of liquor licensing legislation. The report states that following the closure of the consultation and the completion of the report, Hospitality Ulster “formally withdrew its opposition for the proposals and that of its members”.

The Department consulted again on the issue of ‘major events’ part of its wider public [consultation](#) on liquor licensing laws which opened in March 2019, the results of which are explored later in this section of the Bill Paper.

What are the provisions in the Bill?

Clause 6 of the Bill (as introduced) proposes to introduce two new Articles (Articles 48A and 48B) to the Licensing (Northern Ireland) Order 1996 in relation to “major event orders”.’

The making of ‘major event orders’

Article 48 provides that “Where the Department considers that an event which is to **take place in Northern Ireland** will attract significant public interest (whether throughout Northern Ireland or in certain areas only) may make an order (to be known as a ‘**major event order**’ which would:

- **Designate the event as a major event;** and
- **Specify the permitted hours** for any place or premises to which the order applies – which could be outside of what is currently available under the Licensing (NI) Order 1996.

A major event order may apply to:

- All licensed premises either in Northern Ireland as a whole or the areas specified.

- All licensed premises of a specified kind either in Northern Ireland as a whole or in the area or areas specified.
- Any place or premises for which an occasional licence has been granted and which is or are situated on the site where the event is to take place.

Article 48A would also provide the Department with the power to revoke a major event order (e.g. in the case of disorder, or expected disorder, at or in the vicinity of the premises at which the event is taking place).

A major event order may not be made on Christmas Day.

Before making a major event order, the Department must consult “such persons as it considers appropriate”.

The conditions on major event orders

New Article 48B contains provisions in relation to the conditions attached to major event orders. This proposes to provide the Department with the power to impose or vary conditions for on or off-sales in any major event order. It adds an offence (punishable by a fine of up to £1,000) for failing to comply with those conditions. 3-4 penalty points may also be applied for “contravening conditions of a major event order”.

The new Article would also allow the Department to permit off-sales, but only from the place or premises at which the event is taking place (provided that is not where an occasional licence is in force which was granted to the holder of a restaurant licence)¹¹². “Drinking-up time” of 60 minutes would apply.

Major events orders and registered clubs

Clause 25 of the Bill proposes to introduce a new Article (Article 26A) to the Registration of Clubs (Northern Ireland) Order 1996 (‘extension of permitted hours). The Bill’s Explanatory and Financial Memorandum states that the provisions within Article 26 correspond to those set out for major events in Clause 6 of the Bill.

What was the outcome of the Department’s public consultation survey?

The Department for Communities [survey report](#) (published in July 2020) stated that respondents were asked “**Do you think current licensing laws regarding major events are adequate?**”. There were 1,498 responses to the question. A breakdown of respondents is not provided in the survey report (e.g. into members of the public, members of the licensing trade etc.). 76% of respondents stated that “no” there were

¹¹² The Licensing and Registration of Clubs (Amendment) Bill. Explanatory and Financial Memorandum. www.niassembly.gov.uk/assembly-business/legislation/2017-2022-mandate/primary-legislation---bills-2017---2022-mandate/licensing-and-registration-of-clubs-amendment-bill/efm---as-introduced/

not adequate; 13% of respondents felt that they were adequate; and 11% were undecided.

Do you think the current licensing laws regarding major events are adequate?

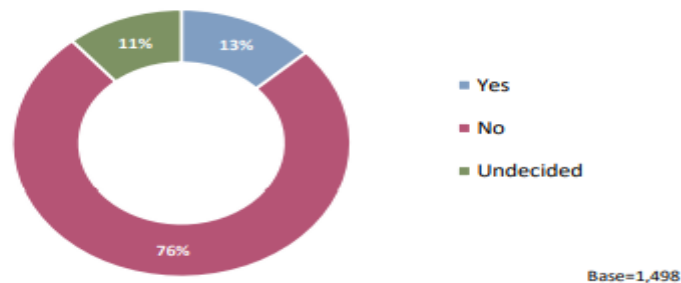


Chart extracted from DfC [“Consultation on liquor licensing laws in NI: Survey Report”](#)

Those who did not think that current licensing laws in relation to **“Do you think, with the appropriate controls in place, certain events should be allowed alternative permitted hours?”**. There were 1,134 responses to the question. 99% of these respondents agreed that with the appropriate controls in place, certain events should be allowed to have alternative permitted hours.

What is the position in other jurisdictions?

In **Scotland**, Licensing Boards are permitted to consider extending licensing hours for *“a special event or occasion to be catered for on the premise or a special event of local or national significance”*. The policy with regards to extended licensing hours for special events is typically set out in detail in a Licensing Boards licensing policy statement. An extension of licensing hours will have effect for such a period that the Licensing Board considers appropriate, but it must not exceed one month.

There are a number of ways in which extended opening hours can be granted to licensed premises in Scotland¹¹³. For example:

- (a) Premises will include **within their operating plan** that they propose to open for extended hours during recurrent special events (e.g. the Edinburgh Fringe Festival, New Year’s Eve etc.). Licensing Boards will either accept or vary these hours depending on the circumstances of the local area.
- (b) Where an event of local and national significance arises which could not have been anticipated when the operating plan was prepared (e.g. national success in a sporting event). An **extended hours application** can be made by the premises. In this case, the chief constable and the licensing standards officer must be notified

¹¹³ Scottish Executive. Licensing (Scotland) Act 2005. Section 142: Guidance for Licensing Boards. April 2007.

by the Licensing Board when it receives an extended hours application and the chief constable may object to the application (e.g. on the grounds that it compromises any of the licensing objectives e.g. securing public safety, preventing crime and disorder). There is provision in the 2005 Act to deal with an application in a shorter period.

- (c) Where an event is of local or national significance the 2005 Act provides the Licensing Board with the power to make a **‘determination’** to grant extensions to licensing hours either (a) within the whole of the Licensing Board’s area; (b) specific parts of the area; (c) all licensed premises in the Licensing Board’s areas; or (b) only specified descriptions of premises within an area.

Examples of permitted hours and special events in other jurisdictions

The Edinburgh Festival and Fringe¹¹⁴

COVID-19 restrictions aside, Edinburgh Licensing Board normally extended opening hours during the Edinburgh Festival and Fringe in the form of a 2 hour extension to a premises usual closing time. However, this will only apply where the operating plan for the premises contains a statement of intention to take advantage of extended trading during the Festival and Fringe. If a premises does not contain such a statement in the operating plan then they must apply to the Licensing Board and setting out the specific days and hours they intend to trade.

The Licensing Board’s policy on special events is identified in its [Statement of Licensing Policy](#). Other special events identified as “events of local or national significance” include Burns Night, St Andrew’s Day, St Patrick’s Day, Edinburgh Pride, and televised major sporting events provided beyond normal licensing hours including football and rugby world cups, Olympics and American Superbowl.

Similar to the proposals contained within the Bill in relation to major events orders, Licensing Boards have the power to vary the conditions on an application for extended hours as they see fit (e.g. requiring door supervision, or the use of plastic cups). These variations can be applied to the whole period the premises are open or just to the “extra hours”.

In **England and Wales**, guidance issued by the Home Office states that licensed premises should be able to anticipate when special occasions (e.g. St George’s Day or St Patrick’s Day) are likely to occur and that they should be factoring the need for

¹¹⁴ Information extracted from the Edinburgh Licensing Board. Statement of Licensing Policy. 2018. www.edinburgh.gov.uk/downloads/file/24379/alcohol-licensing-policy-november-2018

extended hours into their operating schedules (when they are first applying for a premises licence)¹¹⁵.

However, the guidance does acknowledge that there are exceptional events of local, national and international significance which may arise which could not have been anticipated when the application was first made. In these, circumstances, the **Secretary of State may make a licensing hours order** (under section 172 of the Licensing Act 2003) to allow premises to open for specified, and generally extended hours, on such occasions. This is to avoid the need for large numbers of applications to vary premises licences and club premises certificates (the guidance lists examples of such events as a one-off local festival or a Royal Jubilee)¹¹⁶.

Some of these occasions are subject to public consultation before being implemented. For example, plans to extend pub opening hours for the Royal Wedding of Prince Harry and Meghan Markle was open to a four-week [public consultation](#) in January 2018. However, the extension would only apply to 1.00am (for two nights) and would only be beneficial to smaller pubs who had earlier closing times under the condition of their premises licence. This would save such pubs a fee of £21 if they had wished to extend their hours via a Temporary Event Notice¹¹⁷.

Such licensing orders have previously been made for occasions of national significance including the Queen's 90th birthday, the wedding of Prince William and Kate Middleton in 2014 and the England football team's matches in the World Cup in 2014. A UK Government press release stated that there¹¹⁸:

“had been no reports of increased disorder as a result of the previous extensions to licensing hours including the extension for the weekend of Her Majesty's 90th birthday, which coincided with two Euro 2016 matches involving England and Wales, and the extension of licensing hours during the World Cup 2014”.

Discussion points:

The Bill (as introduced) states that the Department, before making a major event order must consult with “such persons as it considers appropriate”. In evidence to the Committee for Communities the Department indicated that the intention is that there will be consultation with the PSNI, local councils and bodies such as Tourism NI. From a public safety point of view should there be certain mandatory consultees e.g. the PSNI; local council; local health trust etc.?

¹¹⁵ Home Office. Revise guidance issued under section 182 of the Licensing Act 2003. April 2018.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_is_sued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf

¹¹⁶ Ibid

¹¹⁷ UK Government. Government announces plans to extend pub opening hours for Royal Wedding. 7 January 2018.

www.gov.uk/government/news/government-announces-plans-to-extend-pub-opening-hours-for-royal-wedding

¹¹⁸ Ibid.

Could the Department outline in further detail how it anticipates the consultation will operate? What would happen if the Department and a consultee (e.g. the PSNI) are in disagreement regarding the making of an order?

Will some form of impact assessment be carried out (see [example](#) of impact assessment in regards to extended hours for significant national events in England and Wales)? Are there any circumstances in which proposals for a major event notice should be subject to public consultation?

The Bill proposes to permit the Department to attach certain conditions to a major event order. Could illustrative examples of conditions be provided, should consideration be given to introducing certain mandatory conditions given that licensing hours may be extended (e.g. provision of persons trained in first aid, adequate numbers of door staff)?

How does the Department propose to advertise that it is either (a) considering the making of a major event order or (b) that it has made a major events order?

The Bill (as introduced) provides that major event orders will be considered for events which are to take place *in* Northern Ireland which will attract significant public interest. Does this mean that events which occur *outside* Northern Ireland may not be designated as major events (e.g. local sporting success in international tournaments or all-Ireland tournaments)?

Clause 8: local producers – licence for off-sales

What is the current law?

The following categories of premises may hold a licence to sell alcohol in Northern Ireland¹¹⁹:

- public houses;
- off-licences;
- hotels; guest houses;
- restaurants;
- conference centres;
- higher education institutions;
- places of public entertainment (i.e. theatres, ballrooms, racetracks);

¹¹⁹ Department for Communities. Guide to the Licensing (NI) Order. July 2019. www.communities-ni.gov.uk/sites/default/files/publications/communities/guide-to-the-licensing-ni-order-1996.pdf

- refreshment room in public transport premises (i.e. railway or bus stations, airports and harbours);
- seamen's canteens;
- non-sea going vessels;
- indoor arenas; and
- outdoor stadia.

There, is no separate licensing category for local alcohol producers such as breweries, cideries or distilleries. These types of business can only sell alcohol directly to members of the public if they hold a licence in one of the other categories above e.g. a public house licence. The Department for Communities consultation paper published in October 2019, notes that that there has been a significant increase in the number of local producers in the past 15 years (approximately 43 breweries, 7 cideries and 15 distilleries). The paper goes on to state that¹²⁰:

“A number of representations have been made to the Department in recent years from local producers of beer, cider and spirits for a change in the law to allow them to sell their products directly to the public. Currently, these producers need to involve a third party to sell their products, which affects profits, or they need to obtain a public house licence which currently holds a value of approximately £95,000.”

Consumer demand in the US and Europe for locally produced artisan beers, ciders, and spirits has grown in recent years. Consumers are reported to be particularly interested in products such as craft beer for their unique branding and distinctive tastes¹²¹. Consumers are also said to be attracted to brands which are produced by local independent brewers using traditional methods and quality local ingredients.

It is suggested that younger consumers in particular are looking buy into brands with ethical standards and values. That is, businesses which invest in local communities, charities, environmental projects and ethical working practices¹²². There is some research to suggest that craft beer drinkers put quality and taste above factors such as price, i.e. are willing to pay more for a high-end product. It is also suggested that craft beer drinkers are also more likely to try different new brands, i.e. do not have a specific brand loyalty¹²³.

The number of independent breweries in the UK has grown rapidly from 1,218 in 2012 to a peak of 2,266 in 2017. However, the industry is reported to have stalled somewhat within the past two years, the suggested reasons for this are increased competition

¹²⁰ Department for Communities. Liquor Licensing in Northern Ireland: Consultation Document. October 2019.

www.communities-ni.gov.uk/sites/default/files/consultations/communities/dfc-liquor-licencing-consultation-1019.pdf

¹²¹ DSM. The Craft Revolution in Brewing. Insight Series. www.dsm.com/food-specialties/en_US/insights/beverage/consumers-positive-about-craft-beer.html

¹²² SIBA Independent Brewers. The SIBA Craft Beer Report 2009. The UK's independent craft beer sector in focus. https://issuu.com/societyofindependentbrewers/docs/the_siba_british_craft_beer_report?e=28684874/68424516

¹²³ DSM. The Craft Revolution in Brewing. Insight Series.

from multinational brewers (i.e. launching their own craft brewing varieties) with some multinationals acquiring many of the emerging independent craft breweries¹²⁴. The call for evidence on the Bill is likely to result in much more locally based intelligence on whether these are actually challenges for the local market in Northern Ireland. It may also reveal more about the current climate in which local producers are operating during the pandemic and forecasts about the challenges and opportunities it may experience post-pandemic.

What are the provisions in the Bill?

The Department for Communities in evidence to the Committee for Communities on 8 October 2020, summarised the provisions within clause 8 of the Bill as thus¹²⁵:

“Clause 8...relates to local producers of alcohol drinks such as beers, ciders and spirits. A new category of licence for those premises will be created. A local producer’s licence – we will call it that for the moment – will permit three things. It will allow producers to sell their own products from their own premises for consumption off the premises, and that will include online sales. A sample will be permitted to be provided for consumption on the premises following a tour. The volume of that sample will be set by regulation. It will also allow local producers to sell their own products from certain other licensed premises for consumption off the premises at events such as food and drink fairs...

Finally, it will allow local producers to sell their own products from unlicensed premises for consumption off the premises at events such as food and drink fairs. A number of conditions must be met for this scenario as it relates to unlicensed premises, and this includes receiving approvals from the local senior police officers.”

The Bill’s Financial and Explanatory Memorandum (as introduced) provides some further details on the elements of the Bill relating to local producers:

- The Bill will permit a local producer to apply for a licence which would permit them to sell their own products, from their own premises, for **consumption off the premises**.
- Consumption on the premises is **restricted to samples**, as **part of an organised tour** on its own premises. The holder of the licence is required to display a notice containing relevant information in the premises at all times. A **new offence** will also be added to the Licensing (NI) Order, punishable by a fine of up to £1,000 for providing samples in excess of the amount specified

¹²⁴ UHY Hacker Young. Stall in number of UK breweries as craft beer boom slows down. 4 May 2020. <https://www.uhy-uk.com/insights/stall-number-uk-breweries-craft-beer-boom-slows-down>

¹²⁵ Northern Ireland Assembly. Official Report. Committee for Communities Licensing and Registration of Clubs (Amendment) Bill: Department for Communities. 8 October 2020. <http://data.niassembly.gov.uk/HansardXml/committee-23609.pdf>

for consumption on the premises; not displaying the relevant notice; for consuming “the liquor in the premises or in the premises adjoining or near, which belong to or are under the control of the licence holder”.

- A **new offence** will be added to the Licensing (NI) Order 1996 punishable by a fine of up to £2,500 or imprisonment for up to 3 months, or both, for selling alcohol which was not produced on the premises, or for selling it for consumption on the premises.
- Local alcohol producers would be permitted to sell their own products, for consumption off the premises, **ancillary to certain events**, from **other specified licensed premises**. The Department would be provided with the power to add or remove categories of premises from which local producers may sell their products. A new offence will be added, punishable by a fine of up to £2,500 or imprisonment for up to 3 months, or both) for selling alcohol for consumption on the premises or not ancillary to a relevant event.
- The Bill also provides that local produced will be able to sell their own products, ancillary to certain events, for consumption off the premises, from **unlicensed premises**. However, **a number of conditions must be satisfied before an authorisation can be made**, i.e.
 - The **Department**, in response to a request made by the person organising the event, has **published a statement** that in its opinion the event is being held to promote food, drink or craftwork produced in Northern Ireland or relates to agriculture in Northern Ireland and (b) is of importance to the area of Northern Ireland in which it is being held.
 - A **senior local police officer**, in response to a request made by the person organising the event, has **given the person written approval for alcohol to be sold at the event for consumption away from the place where the event is being held**.
 - A **senior local police officer**, in response to a request made by the holder of the local producers licence, has given the **holder written approval** for the sale by the holder (his servant or agent) their alcohol at the event.
 - Requests for the published statement and requests for authorisation from the police **must be made in writing at least two weeks** before the day (or first day) on which the event is due to be held. “Senior local police officer” is defined as an officer of, or above, the rank of inspector designated for the purpose of giving such approvals by the district commander for the police district in which the place where the event is being held is situated.
- Amends article 42 of the Licensing Order (NI) 1996 (General permitted hours) to include premises for the production of alcohol **in the hours that relate to off-sales**.

- The clause outlines the **arrangements for the application for granting and renewal of a local producer’s licence** i.e. a copy of any certificate of registration, licence or other forms of statutory authorisation or licence in relation to the production of alcohol.
- The clause also provides to **introduce a number of penalty points** for a range of offences – e.g. 3-4 points for failure to adhere to the rules regarding the provision of samples; 3-4 points for consumption on the premises of alcohol purchased on the premises; 4-5 points for failure to comply with licence on premises etc.
- The clause also includes provisions which relate to **remote sales** (e.g. online sales) e.g. regarding the arrangements for the delivery of alcohol dispatched from premises in Northern Ireland.

The provisions contained within clause 8 of the 2020 Licensing and Registration of Clubs (Amendment) Bill (as introduced) were not included in the 2016 Bill.

What was the outcome of the Department’s public consultation survey?

The Department for Communities [survey report](#) (published in July 2020) stated that respondents were asked “**Do you think the current 12 categories of licence are adequate?**”. There were 1,498 responses to the question. The Department’s survey report states that the consultation document had made mention of the increase in breweries, cideries and distilleries within Northern Ireland in the past 15 years, and that local producers did not fall into any of the current categories of licence. The results of the survey question are outlined below. It is not possible from the information provided in the survey report to ascertain what different groups felt about this question e.g. local producers, licence holders, members of the general public.

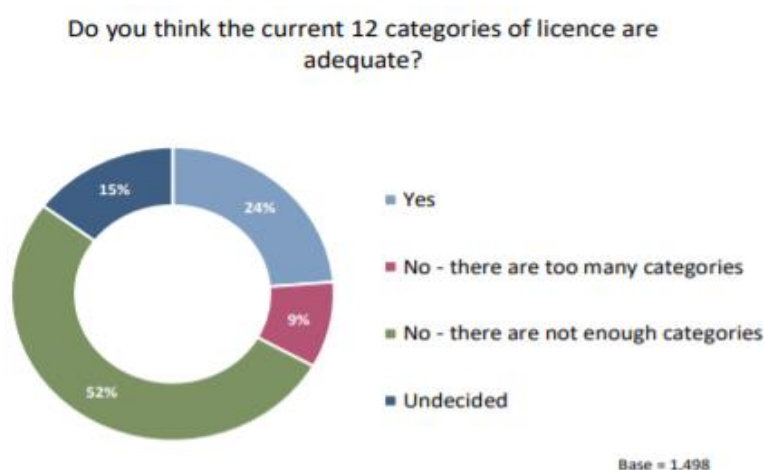


Chart extracted from DfC [“Consultation on liquor licensing laws in NI: Survey Report](#)

The survey report highlights that respondents who believed that there should be further categories of licence were invited to provide additional comments on what categories of licence should be added. There were 780 comments, of which approximately four out of five respondents, suggested a “producers’ licence” be made available for breweries, cideries and distilleries. The report also highlights that “Many respondents also mentioned the disparity in licensing law in Northern Ireland in comparison to the rest of the UK, and the impact of this in hindering local producers and stifling the industry and competition”¹²⁶.

The survey report also highlights that there were a number of other suggestions for additional categories of licence, although these “were considerably lower than that of a producers’ licence (e.g. a licence to sell in convenience/small shops and cafes. Respondents who felt that there were currently too many categories of licence were asked which categories they felt should be removed. The results are outlined in the table below, which has been extracted directly from the survey report.

Table 3: responses to which categories of licence should be removed

Type of premises	Response count	Response %
Seaman's canteen	109	77%
Refreshment room in public transport premises	88	62%
Conference Centre	87	61%
Higher Education Institution	79	56%
Guest House	63	44%
Outdoor stadium	46	32%
Indoor arena	44	31%
Place of public entertainment	39	27%
Restaurant	21	15%
Hotel	18	13%
Public House	15	11%
Off-licence	11	8%
All respondents	142	100%

Table extracted from DfC [“Consultation on liquor licensing laws in NI: Survey Report](#)

¹²⁶ Department for Communities. Consultation on Liquor Licensing laws in Northern Ireland. Survey Report. July 2020.

What is the position in other jurisdictions?

Tours of microbreweries, whisky distilleries and other such producers have an important contributory role in the tourism industry in many countries. In Scotland they are widely promoted by [VisitScotland](#) (the national tourism organisation for Scotland), the website of which includes, for example, a [craft beer map](#) of Scotland listing over 100 breweries and advertising events such as craft beer festivals, 'real ale trails' etc¹²⁷. [Scotch whisky](#) and [gin distillery](#) tours and tastings are similarly promoted by the tourism body.

Some local producers in Great Britain have diversified their business to not only provide tours of the facilities but also provide e.g. tap rooms, tasting masterclasses, festivals, pop-up restaurants, and walking and sightseeing tours. A number of tour operators across the UK have also based their business around providing day trips or weekend or extended breaks which involve a mixture of whisky tours or gin distillery tours, with activities such as coastal walking, restaurants, golfing etc. These are targeted at both the national and international tourism market.

The COVID-19 pandemic and associated restrictions has of course profoundly affected local producers and tour operators and the licensing trade in general. Local independent breweries, distilleries and cideries, both **Northern Ireland and the Republic of Ireland**, are reliant upon sales through third parties given that sales to members of the public are restricted unless another form of licence is in place (e.g. a pub licence¹²⁸).

The law the **Republic of Ireland** has changed relatively recently in relation to local alcohol manufacturers, before this restrictions on local producers was quite similar to that in Northern Ireland. That is, if a producer wishes to sell their product directly to the public, they needed a licence such as a publican's licence¹²⁹. The [Intoxicating Liquor \(Breweries and Distilleries\) Act 2018](#) introduced a "**Producer's Retail Licence**" which allows breweries and distilleries to sell their alcohol to visitors. The Act came into force in September 2018. There are, however, a number of restrictions in that it only authorises the sale of **alcoholic products that are manufactured on the premises**; consumption of the product on the premises is **only available only to visitors who have taken a guided tour** of the premises; **trading hours are restricted**. There are rules of what constitutes a guided tour (e.g. it must be ticketed, there must be tour guide, it should include an explanation of the alcohol manufacturing process).

A producer who intends for their product to be consumed on and off premises must apply to the Circuit Court for a certificate entitling it to the licence. A producer that wants to sell their product to be consumed off premises only (i.e. off-sales) must apply

¹²⁷ VisitScotland. www.visitscotland.com/see-do/food-drink/breweries-craft-beer/

¹²⁸ Irish Independent. Craft beer and cider producers hit as lockdown wipes out restaurant sales. 18 May 2020. www.independent.ie/world-news/coronavirus/craft-beer-and-cider-producers-hit-as-lockdown-wipes-out-restaurant-sales-39212405.html

¹²⁹ Lemans Solicitors. Distilling Ireland's potential for whiskey and liquor manufacturing. 30 May 2016. <https://leman.ie/distilling-irelands-potential-for-whiskey-and-liquor-manufacturing/>

to the District Court for the certificate. Once the certificate is issued, it must be lodged with the Revenue Commissioner who will issue the licence. At the hearing of the court application, the producer must demonstrate that there will be **appropriate mechanism in place to restrict the sale of alcohol that will be consumed on the premises** to visitors who've completed a guided tour. The latest time in which alcohol can be sold for either consumption on or off the premises is 7.00pm¹³⁰.

The licensing regimes in England, Scotland and Wales are very different to that in Northern Ireland and there is greater scope for independent local producers to diversify their businesses including sales to the public. Where there are multiple categories of licences in Northern Ireland, there are just two different types of licences in these other jurisdictions, i.e.:

- (a) a licence for the premises known as a “**premises licence**”; and
- (b) a “**personal licence**” the intention of which is to ensure that anyone managing premises is suitable capable to do so. Holding a personal licence authorises that person to supervise or authorise the sale of alcohol (e.g. a designated premises manager).

There is no direct equivalent to the proposed producers' licence in the other jurisdictions. Producers such as breweries, distilleries and cideries do not require a premises licence if the alcohol they produce is sold to wholesale trade. A premises licence is required in England, Scotland and Wales if a producer wishes to sell alcohol to directly to the public either off-licence or on the premises.

Internet/remote sales of alcohol are a critical means by which independent producers sell their products. In England, Scotland and Wales a premises licence is required for the place from which the alcohol is dispatched.

5 Clauses of the Bill - regulation

Clause 9: Remote sales of alcohol – requirement for off-licence

What is the current law?

The Department for Communities 2019 [consultation paper](#) on liquor licensing laws highlights that legislation in Northern Ireland is largely silent on the remote sale of alcoholic drinks (i.e. alcohol delivery services) whether this by online, via app, by telephone etc. The consultation goes on to state that¹³¹:

¹³⁰ Drinks Industry Ireland. What does the Breweries & Distilleries Act mean? November 2018.

www.drinksindustryireland.ie/breweries-and-distilleries-act-what-does-it-mean/

¹³¹ Department for Communities. Liquor Licensing Laws in Northern Ireland: Consultation Document. October 2019.

“Concerns have been raised that illegal sales of alcoholic drinks to the public are taking place via these methods, with the potential for young people in particular to access alcohol”.

It should be noted that there are some safeguards within the Licensing (Northern Ireland) Order 1996 regarding deliveries. Under [Article 66](#) details of the quantity, description and price of the alcohol and the name and address of the person to whom it is being delivered must be entered into a day book. The day book must be held on the premises from which the alcohol was dispatched. Additionally, the same details must be entered into a delivery book or invoice carried by the person delivering the alcohol. The details must be entered into the day book and the delivery book/invoice before the alcohol it is dispatched. The day book and/or delivery book/invoice can be examined by the PSNI.

What are the provisions in the Bill?

According to the Explanatory and Financial Memorandum, **Clause 9** of the Bill contains provisions where a sale of alcohol takes place in any way other than in person, the place of despatch in Northern Ireland must be licensed to sell alcohol for consumption off-the premises. Any person, who is not a servant or agent of the licence holder, and who is delivering alcohol to the purchaser, must make the delivery without unreasonable delay, and to have with them a receipt from the holder of the licence. A new offence will be added for non-compliance (publishable by a fine of up to £1,000)¹³².

In evidence to the Committee for Communities, a Departmental official summarised clause 9 as follows¹³³:

“Clause 9 is ‘Requirement for off-licence’. This will require that, where a sale takes place other than person, such as over the phone, the internet or an app, the place the alcoholic drink is dispatched from must be licensed under the Licensing (Northern Ireland) Order. Where a delivery driver is not acting on behalf of a licensed premises, it will require that the delivery has to be made without delay, and the relevant receipt must be carried from the licensed premises along with the purchase. An example of this is a taxi driver who is making a collection of alcohol drinks for someone.”

What was the outcome of the Department’s public consultation survey?

The Department for Communities [survey](#) (report published in July 2020) asked the question **“Do you think the law should be clarified in respect of the remote sale of**

¹³² Licensing and Registration of Clubs (Amendment) Bill. Explanatory and Financial Memorandum. www.niassembly.gov.uk/assembly-business/legislation/2017-2022-mandate/primary-legislation--bills-2017--2022-mandate/licensing-and-registration-of-clubs-amendment-bill/bill--as-introduced/

¹³³ Committee for Communities. Official Report: Minutes of Evidence. 8 October 2020. <http://aims.niassembly.gov.uk/officialreport/minutesofevidencereport.aspx?AgendaId=23609&evidID=12240>

alcoholic drinks?”. There were 1,498 responses to the question. The majority of respondents (64%) felt that the law should be clarified; 14% thought it should not and 22% were undecided.

Do you think the law should be clarified in respect of the remote sale of alcoholic drinks?

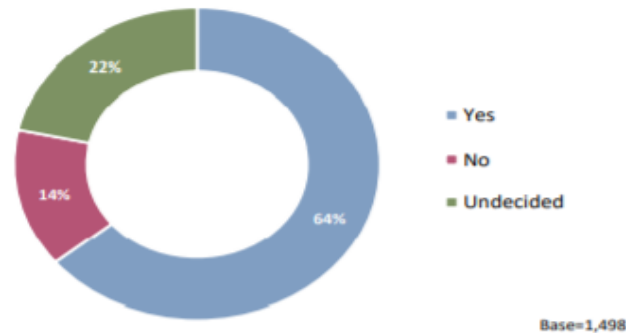


Chart extracted from DfC [“Consultation on liquor licensing laws in NI: Survey Report”](#)

What is the position in other jurisdictions?

In **England**, Section 190 of the Licensing Act 2003 provides that the premises from which alcohol is dispatched must be licensed. For example, an external call centre receiving orders for alcohol would not need to be licensed but the warehouse where the alcohol is stored and dispatched from would require a licence. Guidance issued by the Home Office on the 2003 Act states that persons who run premises providing ‘alcohol delivery services’ should notify the relevant authority that they are operating such a service. This is to provide the local licensing authority with the opportunity to consider what conditions it should attach to the premises licence¹³⁴.

In **Scotland**, all deliveries (and the carriage of alcohol in vehicles) must be “properly and clearly recorded” as determined by the Licensing (Scotland) Act 2005. The provisions in the Act are currently the same as those outlined in Northern Ireland Licensing law. That is, the Scottish Government guidance on the 2005 Act states that:

- Before a delivery of alcohol is dispatched the delivery driver must ensure that the quantity, a description and the price of the alcohol and the name and address of the person to whom the alcohol is being delivered must be recorded in a day book. The day book must be kept on the premises from where the alcohol is being dispatched; and
- The driver must carry an invoice or delivery book on his person containing the same information.

¹³⁴ Home Office. Revised guidance issued under section 182 of the Licensing Act 2003. April 2018. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_is_sued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf

However, in Scotland it is also an offence for any person to **deliver the alcohol to an address other than that listed** in the day book (although these requirements do not apply to deliveries of alcohol to a trader e.g. retailers' distribution networks delivering to stores). Additionally, there is a **prohibition on late night deliveries of alcohol** in Scotland. It is an offence anyone who works in a licensed premises, which sells alcohol for consumption off the premises, to **deliver alcohol between midnight and 6am**¹³⁵.

What about illegal 'dial a drink/dial a booze' operations?

'Dial a drink' or 'Dial a booze' are illegal sales of alcohol deliveries offered by unlicensed premises and individuals which often advertise their "services" via social media. Police in Scotland, have reportedly raised concerns regarding the number of illegal "dial a drink" services emerging throughout Scotland and are said to have in the past carried out undercover operations to tackle the problem. Commenting on the issue one Chief Inspector based in Glasgow stated that¹³⁶:

"Dial a booze is essentially a trade name for a large number of these groups...It is the provision of alcohol to people out with legal licensing hours and conditions, may that be by phone or online contact, through for example, social media. It is a widespread problem and there are different levels of offender. You have your entrepreneur who will purchase large amounts of alcohol from a supermarket and sell it on at an inflated price....Then there are organised crime groups who buy large quantities of alcohol in bulk from cash and carries, and sometimes abroad, to sell on"

*...These people have no regard for the age of the people they are selling to, how intoxicated they are"*¹³⁷.

Most recently, the issue has been raised by a Senator in the Republic of Ireland who is calling for operators of illegal 'dial a drink' Facebook pages to be prosecuted and has expressed concern that these operators are fuelling "unsafe parties and social gatherings" in breach of current COVID-19 restrictions¹³⁸.

How has COVID impacted on consumer demand for alcohol delivery?

COVID-19 has undoubtedly brought the issue of the remote sale of alcohol, and the way in which it is regulated, to the forefront. COVID-related restrictions have meant that the public has sought new ways in which to interface with local licensed premises in order to purchase alcohol and as a means of supporting their local businesses. Licensed premises on the other hand, have sought to meet the demand of their

¹³⁵ Licensing (Scotland) Act 2005. Section 142: Guidance for Licensing Boards. 4 April 2007.

¹³⁶ STV news. 'Illegal 'dial a booze' alcohol delivery services growing in Scotland'. 6 January 2016.

<https://archive.news.stv.tv/west-central/1338103-illegal-dial-a-booze-alcohol-delivery-services-spreading-in-scotland.html>

¹³⁷ STV news. 'Illegal 'dial a booze' alcohol delivery services growing in Scotland'. 6 January 2016.

<https://archive.news.stv.tv/west-central/1338103-illegal-dial-a-booze-alcohol-delivery-services-spreading-in-scotland.html>

¹³⁸ Irish Independent. 'Calls for crackdown on 'dial a drink' Facebook pages. www.msn.com/en-ie/news/world/calls-for-crackdown-on-dial-a-drink-facebook-pages/ar-BB1arLPR

customers whilst generating much needed revenue within the context of the most challenging economic climate for their industry. The difficult task for the legislature, and for bodies tasked with monitoring and regulating the sale of alcohol, is to strike a balance between meeting consumer demand, averting excessive alcohol consumption, and preventing the illegal sales of alcohol by unlicensed premises.

COVID-19 has arguably changed consumer behaviour in relation to the demand for alcohol delivery services, not just in the UK but in other countries. In the USA, for example, many states, as part of their early pandemic emergency legislation or temporary measures, permitted the delivery of alcohol to consumers given the restrictions on movement. An article by ABC News states that many local legislatures are now considering extending the period that they had originally set out for the delivery of alcohol. It reports that Illinois' state legislature, for example, passed a bill to retain its emergency alcohol delivery measures in place for an extra year in order to provide flexibility and kickstart business recovery. The Washington DC Mayor is reported to have said that she is looking to change the city's laws to make alcohol deliveries more permanent¹³⁹.

In a number of states, such as New Orleans, a restaurant cannot deliver alcohol unless it is accompanied by a food order and deliveries of alcohol cannot be made to anyone under the age of 21¹⁴⁰. However, some states in the USA attach conditions to the delivery of alcohol. For example, in August of last year, Georgia passed legislation approving the delivery of alcohol from certain types of licensed premises. However, delivery drivers must successfully complete a **state-approved online delivery training course** which includes strategies and guidelines to protect against sales to underage or intoxicated customers¹⁴¹.

Discussion points:

The illicit sale and delivery of alcohol by unlicensed premises and individuals was an issue considered during deliberations of the 2016 Licensing and Registration of Clubs (Amendment) Bill. The Committee may wish to revisit some of these issues with relevant stakeholders (e.g. the PSNI) to gain an understanding of the nature and scale of the problem in Northern Ireland. The Committee may wish to consider whether COVID-19 and the closure of licensed premises has had an impact on deliveries of alcohol from unlicensed premises or individuals.

Are there plans for the introduction of training for delivery drivers to ensure that they are familiar with the law on deliveries and to equip them to deal with underage customers and people who are already intoxicated?

¹³⁹ ABC News. 'States explore keeping alcohol on-demand delivery permanent after COVID.

<https://abcnews.go.com/US/states-explore-keeping-alcohol-demand-delivery-permanent-covid/story?id=70902208>

¹⁴⁰ New Orleans City Business. 'Waitr adds alcohol delivery in New Orleans market'. 2 November 2020.

<https://neworleanscitybusiness.com/blog/2020/11/02/waitr-adds-alcohol-delivery-in-new-orleans-market/>

¹⁴¹ Yahoo News. Georgia approves responsible alcohol delivery online course. 27 October 2020.

<https://news.yahoo.com/georgia-approves-responsible-alcohol-delivery-124300415.html>

Should the number of licensed premises offer remote sales be recorded for monitoring purposes. If so, who should collect this data, and what information should be submitted? This may be useful for statistical purpose e.g. to monitor alcohol consumption for remote sales from licensed premises. Although notably, large supermarkets are likely to account for a significant part of remote alcohol sales.

Should the provision or intention to provide remote sales and delivery be recorded upon application and renewal of licences?

Clause 14: Restaurants and guest houses – notices displaying licensing conditions

What is the current law?

Under [Article 51](#) of the Licensing (Northern Ireland) Order 1996, a licensed restaurant is not permitted to sell alcohol, or allow alcohol to be purchased or consumed unless certain conditions are met. For example:

- The alcohol must be consumed as ancillary to a main table meal;
- The alcohol must be paid for at the same time, and on the same bill as the meal; and
- There must be no payment by way of an entrance fee to the premises containing the restaurant.

Also under Article 51, guest houses that are licensed for the sale of alcohol, must not sell alcohol, or make it available for purchase, or permit it to be consumed by any person unless the alcohol is sold to a resident and is consumed by the resident or his guest either (a) on the premises or (b) with a meal supplied at, but consumed off, the premises. If a restaurant is also operating in the guest house premises, then the licensee (or servant or agent) must not sell, or make available for purchase, or permit such alcohol to be consumed unless the conditions that apply to restaurants (set out above) are met.

What are the provisions in the Bill?

The Department for Communities 2019 [consultation paper](#) states that there “is evidence that some licensed restaurants have been operating into the early hours, providing entertainment and charging an entrance fee”¹⁴². **Clause 14** of the Bill contains provisions to amend Article 51 of the Licensing (Northern Ireland) Order 1996 to require a restaurant, or guest house which is also a restaurant, to **display a notice**

¹⁴² Department for Communities. Liquor Licensing Laws in Northern Ireland. Consultation Document. October 2019.

detailing the conditions in relation to the sale and consumption of alcohol on the premises. The notice must be displayed in each part of the premises that is set aside for food and drink service and must be visible to anyone who wishes to purchase an alcoholic drink. An offence will also be added (punishable by a fine of up to £1,000) and penalty points (3-4 points) for failure to display such a notice.

What was the outcome of the Department’s public consultation survey?

The Department for Communities [survey](#) (report published in July 2020) asked the question “**Do you think the law in relation to the provision of entertainment in restaurants should be changed?**”. There were 1,498 responses to the question.

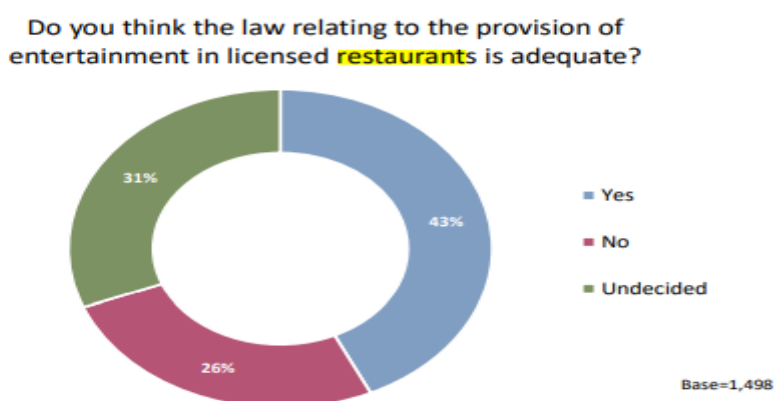


Chart extracted from DfC [“Consultation on liquor licensing laws in NI: Survey Report”](#)

What is the position in other jurisdictions?

As previously highlighted, the licensing regime in Scotland, England and Wales is different to that in Northern Ireland. A restaurant seeking to sell alcohol is required to have a premises licence. The conditions set out in the premises licence must be approved by the Local Licensing Board (Scotland) or Licensing Authority (England and Wales). Therefore, decisions regarding opening hours, entertainment and restrictions are determined at a local level. Each premises must also submit an operating plan which must set out clearly the activities that would be undertaken in the premises, the opening hours and their policy in relation to access for children.

In **Scotland**, policies towards restaurants vary according to Local Licensing Board. The City of Glasgow Licensing Board states that applicants seeking premises licences where the principle activity will be the provision of “full restaurant facilities” will generally be permitted to open until 1.00am across the city. However, at least 75% of the floor area of such a premises must be given over to the provision of full restaurant facilities at all times. Licences holder must also be able to demonstrate that after 12

midnight alcohol is only sold to, and consumed by, persons who have had a meal at the premises and that the sale of alcohol is ancillary to such as meal¹⁴³.

Discussion points:

What arrangements will be put in place to monitor compliance with the new provision?

Clause 15: Prohibiting the sale of alcohol by self-service and vending machines

What is the current law?

Current licensing law in Northern Ireland is silent on the issue of alcohol self-service facilities and vending machines that dispense alcohol. Technological developments in recent years has made alcohol more accessible via 'pour your own pint' tables and dispensers and alcoholic vending machines. Given that the legislation is vague in relation to such technology in Northern Ireland, and it is not necessary to register the use of such technology, it is difficult to provide data on their current availability and use in Northern Ireland.

What are the provisions of the Bill?

Clause 15 of the Bill proposes to insert a new Article (Article 54A) to the Licensing (Northern Ireland) Order 1996 which will state that a licensee or member of staff must not sell alcohol for consumption in or off the licensed premises in a form **which enables the person (or a person accompanying them) to operate the dispenser of the alcohol.**

Additionally, a licensee or member of staff must not sell alcohol via a vending machine on the licensed premises. However, the new Article would provide the Department for Communities with the power to **make regulations** permitting, where certain conditions are satisfied, the sale of alcohol via vending machines to **residents in hotels, guest houses and pubs that provide accommodation.**

Clause 15 contains provision for a new offence (punishable by a fine of up to £1,000) and for penalty points (3-4 points) for selling alcohol in a form which enables a person to operate the dispenser, or selling it by means of a vending machine (unless permitted to do so).

¹⁴³ City of Glasgow Licensing Policy Statement. November 2018. www.glasgow.gov.uk/CHttpHandler.ashx?id=17578&p=0

Clause 30 of the Bill proposes to insert similar provisions into the **Registration of Clubs (Northern Ireland) Order 1996**. Under the new Article a registered club would be prohibited from supplying alcohol for consumption in the premises in a form which enables a member or guest (or a member or guest they are with) to operate the dispenser. Additionally, a registered club could not supply alcohol via a vending machine. Contravention of the legislation could also lead to a fine of up to £1,000 and 3-4 penalty points).

What was the outcome of the Department’s public consultation survey?

The Department for Communities [survey](#) (report published in July 2020) asked the question “**Do you think self-service of alcoholic drinks should be regulated?**”. There were 1,498 responses to the question. 54% of respondents felt that self-service should be regulated; 31% felt that it should not be regulated and 15% were undecided.

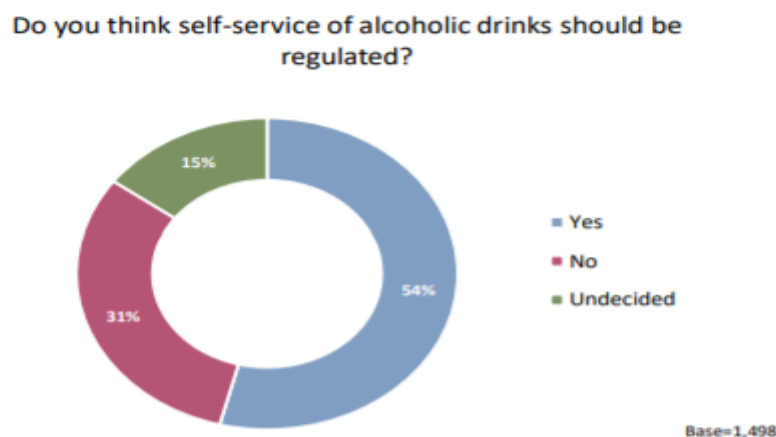


Chart extracted from DfC [“Consultation on liquor licensing laws in NI: Survey Report”](#)

Those who thought it should be regulated, were then asked ‘what types of self-service do you think should be regulated – vending machines was the most commonly cited answer, followed by pour your own pint tables (see Table below).

Type of self-service	Response count	Response %
Vending machines	623	77%
Pour your own pint tables	567	70%
Self-service tills	543	67%
Click and collect lockers	476	59%
Other	35	4%
All respondents	810	100%

Table extracted from DfC [“Consultation on liquor licensing laws in NI: Survey Report”](#)

What is the position in other jurisdictions?

'Pour your own pint' facilities are a growing trend in the licensing trade with one commentator arguing that¹⁴⁴:

“the thrill of pulling the perfect pint of Guinness, beer or larger creates a fun and engaging experience for patrons while it can also be an extremely efficient & highly profitable source of revenue for pub owners and managers as it would automatically reduce the amount of bar staff required”

A quick search of sites such as TripAdvisor brings up many photos and accounts of people enjoying such self-service facilities as part of a tourist experience. One bar in Belfast, for example, offered customers the opportunity to pour their own pint of Guinness under the instruction of staff with a t-shirt and certificate included in the price. Another example of something that would appeal to tourists and local customers could be a brewery tour that provides instruction and demonstration on pouring a pint.

However, at the other end of the spectrum is the possibility of a small minority of licensed premises, with the aim of maximising profits, offering vast quantities of alcohol via self-service facilities with inadequate control and supervision. Such irresponsible promotions are likely to clash with the ethos of the [‘Responsible Retailing Code NI’](#) which warns that *“irresponsible promotions and sales practices may encourage or incite an individual to drink to excess, and fuel drunkenness or anti-social behaviour”*. The Code further states that promotions should not¹⁴⁵:

- Allow person to consume a larger measure of alcohol than the person had otherwise intended to consume;
- Allow person to consume large quantities of alcohol in a single session;
- Encourage an excessive drinking session; or
- Involve the supply of limited amounts of alcohol for a fixed charge.

It may be important, therefore, to consider two issues in relation to self-service facilities such as 'Pour Your Own' Pint. That is, the amount of alcohol that is available to pour and consume (e.g. one pint as part of a brewery tour) and the motivation behind providing such a facility (e.g. maximising profits by providing copious amounts of cheap alcohol in a poorly controlled environment). Potentially the Bill (as introduced) may impact on responsible premises offering a limited pour your own experience in order to restrict those who may offer such facilities in an irresponsible manner.

Alcohol vending machines are technological developments that have outpaced liquor licensing law in Northern Ireland. They are popular features in countries with somewhat more relaxed alcohol licensing laws such as Japan and in certain states in the USA (although many other states have prohibited them). However, a common concern with

¹⁴⁴ Irish Pubs Blog. 'Pour your own beer a new trend in Irish Pubs.'

¹⁴⁵ Joint Industry Code for the Responsible Promotion of Retail Alcohol in Northern Ireland. Responsible Retailing Code NI. Third Edition. www.responsibleretailingcodeni.org/download/files/42430%20Retailing%20Booklet%20HiRes.pdf

alcohol dispensing machines is the ease with which young people can access the alcohol. A number of safeguards have been put in place in order to prevent this e.g. fitting machines with ID readers; ensuring that they are switched off during non-licensing hours; and making payment by pre-paid card only (e.g. no cash). Many of these features can, of course, be easily circumvented by children and young people.

Clause 18: Occasional licences and conditions

What is the current law?

A person who is the holder of a licence for a public house, hotel or restaurant may apply to a magistrates' court for an occasional licence authorising them to sell alcohol at a function at an unlicensed premises. The Department for Communities [guide](#) to the Licensing (Northern Ireland) Order 1996 states that the "function must be of a sociable, charitable or benevolent nature and the sale of alcohol must be ancillary to the function". The maximum period covered by an occasional licence is 6 days at any one time and the sale of alcohol is authorised from¹⁴⁶:

- 11.30am to 1:00am on weekdays; and
- 12.30pm to midnight on Sundays.

[Schedule 7](#) of the Licensing (Northern Ireland) Order 1996 sets out the current procedure in relation to applications for occasional licences. It states that a person who intends to make an application for the granting of an occasional licence shall, not less than two weeks before the time when they wish to application to be considered, serve notice of the application upon the clerk of petty sessions and at the same time serve a copy of the notice upon:

- The sub-divisional commander of the police sub-division in which the place or premises is situated; and
- The district council for the district in which the place or premises are situated.

The sub-divisional commander or council may appear at the hearing of the application and object to the granting of the licence on the two grounds, i.e. (a) that functions held at the premises have caused undue inconvenience to persons residing in the vicinity and (b) that certain terms and conditions in respect of a previous occasional licence for that premises were not complied with.

The Department for Communities maintains that current law does not allow conditions to be placed on an occasional licence unless a previous function at the same place has caused undue inconvenience. It has stated *that "practice, event organisers agree*

¹⁴⁶ Department for Communities. Guide to the Licensing (Northern Ireland) Order 1996. July 2019.

plans with the police...particularly in respect of the protection of children and young people, but fail to adhere to the plans”¹⁴⁷.

What are the provisions of the Bill?

Clause 14 proposes to add a new paragraph to Schedule 7 of the Licensing (Northern Ireland) Order 1996 to permit a court, when determining an application for an occasional licence, to impose terms and conditions on the licence. This clause also contains provision to make it an offence (punishable with a fine of up to £1,000) for a licence holder not to comply with those conditions. It also provides for penalty points to be added for “failure to observe term or condition of occasional licence (3-4 points).

What is the position in other jurisdictions?

Licensed premises and local licensed clubs can apply for occasional licences in the **Republic of Ireland**. An occasional licence will not be granted for any time after 10.00pm unless the event is a dinner or a dance¹⁴⁸. A notice of application must be served on the local district Court Clerk and to the officer in charge of An Garda Síochána of the relevant district. Section 11 of the Intoxicating Liquor Act 1962 states that any person appearing to District Council to have a “bona fide” interest in the matter may appear and give evidence on the hearing of an application. The courts will not consider an application, unless it is satisfied that the applicant has served notice of the application on the officer in charge of the police for that locality (at least 48 hours before the date of the hearing)¹⁴⁹. The legislation (i.e. section 11 of 1962 Act) does not appear to make it explicitly clear what powers the courts and/or police have in regards to attaching additional conditions on the granting of an occasional licence.

Occasional licences in **Scotland** can be granted to the holder of a premises licence (both licensed premises and members’ clubs); the holder of a personal licence; or a representative of any voluntary organisation (if the voluntary organisation’s event is connected to the organisation’s activities, only four occasional licences per year in this case will be granted). The maximum duration of each occasional licence is 14 days. Applications for occasional licences are submitted to the local Licensing Board (in which the premises is located) who will forward the application to both the relevant chief constable for the area and the Licensing Standards Officer. Both postholders, may, within 21 days of receiving an application, submit their views to the Licensing Board. This is an opportunity for the Licensing Standards Officer to submit comments which may include **recommendations for additional conditions** to be attached by the Licensing Board.

¹⁴⁷ Department for Communities. Proposed changes to liquor licensing laws in Northern Ireland. www.communities-ni.gov.uk/articles/proposed-changes-liquor-licensing-laws-northern-ireland

¹⁴⁸ District Court Rules. Order 76 Occasional Licences. www.courts.ie/rules/occasional-licences

¹⁴⁹ District Court Rules. Order 76 Occasional Licences. www.courts.ie/rules/occasional-licences

What is a Licensing Standards Officer?

The post of Licensing Standards Officer(s) was created by the Licensing (Scotland) Act 2005.

The remit of the LSO is:

- To provide interested persons with information and guidance concerning the operation of the 2005 Act;
- To supervise compliance by the holders of the premises and occasional licences; and
- To provide mediation to avoid or resolve disputes and disagreements between premises and occasional licence holders and any other persons.

The LSO has a statutory right to enter and inspect licensed premises for the purpose of determining whether the activities on the premises are being carried out in accordance with the 2005 Act¹⁵⁰.

The police notification requirement outlined above provides the police with the opportunity to consider whether they should object to the event taking place e.g. due to concerns about the scale, location or timing of the event. The 2005 Act provides the police with the power to issue an “objection notice” because they believe that the event would undermine the **crime prevention objective** outlined in the 2005 Act. This objection must be issued within 21 days of being notified.

Where no objections or representations are received from the police and/or other statutory objectors there is no need for a hearing and the application can be delegated to the Clerk (to the Licensing Board). However, where objections and/or representations have been received, a hearing before the Licensing Board may take place. Consideration by the Licensing Board of an objection made by the police to an occasional licence application is confined to the crime prevention objective as set out in the 2005 Act. According to guidance issued by the Scottish Government, a Licensing Board may not, for example, uphold a police objection notice on the grounds of public nuisance. The guidance further states that the police may withdraw their objection notice at any stage if the proposed premises user agrees to modify their proposal to address the concerns of the police¹⁵¹.

Discussion points:

How many occasional licences are issued each year? Is it anticipated that this provision is likely to only impact on a minority of occasional licences?

¹⁵⁰ Information extracted from Stirling Council website. www.stirling.gov.uk/licensing-legal/licenses-permits-permissions/licenses-for-businesses/licensing-standards-officer/#:~:text=The%20Licensing%20Standards%20Officer%20%28LSO%29%20is%20a%20new,guidance%20concerning%20the%20operation%20of%20the%202005%20Act%3B

¹⁵¹ Scottish Executive. Licensing (Scotland) Act 2005: Section 142 – Guidance for Licensing Boards. www.gov.scot/publications/licensing-scotland-act-2005-section-142-guidance-licensing-boards-local-authorities/pages/6/

What prompted this provision e.g. have issues with some occasional licences been reported to the Department? If so, by whom?

Clauses 19 and 32: Code of Practice

What is the current law?

A code of practice can be defined as a set of written guidance, regulations and/or standards issued by a professional association or an official body that explains how people working in a particular profession or business sector should behave and conduct their business¹⁵². Violation of a code of practice can have a range of consequences both legal (e.g. prosecution) and/or other (e.g. expulsion from membership of a professional body). However, often the severity of the penalties associated with a violation are dependent upon whether the code of practice is statutory, approved by a statutory body or self-regulatory (i.e. regulated by an industry).

Liquor licensing law in Northern Ireland does not currently provide for a mandatory code of practice for the local licensing industry. The main code of practice for the licensing trade in Northern Ireland is the '[Responsible Retailing Code NI](#)' which is the 'Joint Industry Code for the Responsible Promotion of Alcohol in Northern Ireland'. It is a voluntary, self-regulatory code that applies to both on and off sales premises. A [Complaints Panel](#) is charged with investigating complaints that fall within the remit of this Code¹⁵³.

The Code (which is accompanied by [guidance](#)¹⁵⁴ on implementation) is¹⁵⁵¹⁵⁶

“produced on a voluntary basis and outlines the basic standards expected of those involved in the production, promotion, retail and service of alcohol in Northern Ireland. It looks to promote best practice, to prevent alcohol being irresponsibly promoted or sold, and offers clear measurable standards. It applies across the industry including the on and off trades. With complaints about producers referred to the Portman Group in the first instance, this Code will cover any other complaints that do not fall within the Portman Group’s remit.”

¹⁵² Definition extracted from www.reference.com/business-finance/meaning-code-practice-785df7315aefb2df

¹⁵³ Further details about the Complaints Panel and its membership is available from www.responsibleetailingcodeni.org/Complaints-Panel

¹⁵⁴ Guidance on the Implementation of the Responsible Retailing Code. January 2018.

www.responsibleetailingcodeni.org/download/files/Guidance%203rd%20edition%20Jan%202018.pdf

¹⁵⁵ Responsible Retailing Code NI. The Joint Industry Code for the Responsible Promotion of Retail Alcohol in Northern Ireland. April 2018. www.responsibleetailingcodeni.org/download/files/42430%20Retailing%20Booklet%20HiRes.pdf

¹⁵⁶ Further information on the Portman Group is available at www.portmangroup.org.uk/

The Chairman of the Complaints Panel of the Joint Industry Code, Duncan McCausland, has previously expressed his support for putting the Code on a statutory footing. A September 2016 press release from the Panel stated¹⁵⁷:

“The role of the Responsible Retailing Code NI, which regulates the responsible promotion of alcohol in Northern Ireland, is recognised by the [then] ...Minister Paul Givan and previous Ministers, since its inception in 2012. But it is still a voluntary Code. The opportunity for the Code to be placed on a statutory footing, will give the Code real teeth and further deter any rogue licensees/retailers from undertaking any irresponsible promotions of alcohol.

I think it is more apparent than ever, whether it is the ongoing issues in the Holylands in Belfast...or the below cost selling of alcohol which is fuelling problem drinking at home, that we need a Code with real teeth to tackle the root causes of the problem. Irresponsible drinks promotions are of significant concern for society and the industry, given the harm of increasing alcohol abuse and misuse in Northern Ireland.”

How did the Responsible Retailing Code come about?

In recognition of the problems associated with irresponsible alcohol promotions and cheap alcohol, Articles 4 and 10 of [the Licensing and Registration of Clubs \(Amendment\) Act \(NI\) 2011](#) provides the Department for Communities with a power to make regulations to prohibit or restrict irresponsible drinks promotions being held on or in connection with a licensed premises or a registered club. The Department may by regulations add, modify, or extend the list of alcohol promotions it deems to be irresponsible.

The [Licensing \(Irresponsible Drinks Promotions\) Regulations \(Northern Ireland\) 2012](#) and the [Registration of Clubs \(Irresponsible Drinks Promotions\) Regulations \(Northern Ireland\) 2012](#) explicitly set out for the first time the type of promotion that the Department deemed to be irresponsible. The Regulations prohibited a licence holder (or an agent or employee of the licence holder) from conducting a promotion that involved the supply of unlimited amounts of alcohol for a fixed charge (including any charge for the entry of the premises) on, or in connection with, the licensed premises. The prohibition applied only to a drinks promotion relating to alcohol sold for consumption on the premises.

The former Minister for Social Development, Nelson McCausland, agreed that rather than legislating to prohibit individual irresponsible promotional practices, the Responsible Retailing Code NI' should be the primary vehicle for tackling certain

¹⁵⁷ Independent Complaints Panel of the Joint Industry Code on the Responsible Promotion and Retail of Alcohol in Northern Ireland. “Statutory footing required for industry code on irresponsible drinking to make alcohol problem thing of the past says Panel Chair”. September 2016. www.responsibleetailingcodeni.org/News-and-Complaints-Upheld

irresponsible promotions¹⁵⁸. Pages 7 and 8 of the [Code](#) provides examples of “irresponsible promotions” such as promotions that involve drinking games or speed incentives that require the excessive consumption of alcohol or promotions that encourage a person to consume a larger measure of alcohol than the had otherwise intended to consume.

How does the Complaints Panel work?

An independent [Complaints Panel](#) is charged with investigating complaints that fall within the remit of the Code. If a person feels that an alcoholic drinks promotion or sales practice is in breach of the code they can submit a complaint to the Panel. Information on the complaints process is available [here](#)¹⁵⁹. If the Panel concludes that a complaint is to be upheld, the decision is provisional and the company is given the opportunity to make further representations. The Panel will then meet again to consider any further representations before a final decision is made.

If the company does not challenge the provisional decision, the decision becomes final. The complaint and the company are then informed of the Panel’s final decision. The decision will be notified to the media, the PSNI and the local council in which the business is situated. The decision is also published on the Responsible Retailing Code NI [website](#) and [Annual Report](#).

What are the provisions of the Bill?

Clause 19 proposes to insert a new Article (Article 76F) into the Licensing (Northern Ireland) Order 1996 which would permit the Department for Communities to approve a “relevant code of practice produced by a person or group of persons who have a relevant interest in matters surrounding intoxicating liquor”¹⁶⁰. Clause 19 states that a person or group has a “**relevant interest**” if the person or group¹⁶¹:

- Is representative of persons whose business involves the sale of intoxicating liquor under a licence; or
- Is representative of persons whose business involves the production of intoxicating liquor; or
- Is representative of a person whose business involves dealing wholesale in intoxicating liquor; or

¹⁵⁸ Department for Social Development (2012). Proposed changes to the law regulating the sale and supply of alcohol in Northern Ireland. Consultation document.

¹⁵⁹ Responsible Retailing Code NI – Making a complaint. <http://www.responsibleetailingcodeni.org/Making-a-Complaint>

¹⁶⁰ Licensing and Registration of Clubs (Amendment) Bill. Financial and Explanatory Memorandum. www.niassembly.gov.uk/assembly-business/legislation/2017-2022-mandate/primary-legislation--bills-2017---2022-mandate/licensing-and-registration-of-clubs-amendment-bill/efm---as-introduced/

¹⁶¹ Clause 19 of the Bill (as introduced) www.niassembly.gov.uk/assembly-business/legislation/2017-2022-mandate/primary-legislation--bills-2017---2022-mandate/licensing-and-registration-of-clubs-amendment-bill/bill---as-introduced/

- Is engaged in research into, or otherwise has an interest in, the effects of the consumption of intoxicating liquor on personal or public health or on public order.

Clause 19 further states that a “code of practice is relevant” if it relates to:

- The display or sale of intoxicating liquor in licensed premises; or
- Activities designed to promote the sale of intoxicating liquor in licensed premises for consumption in or off such premises.

Before deciding whether or not to approve a relevant code of practice, Clause 19 provides that the Department **must consult with the PSNI** and where a code is approved the Department must give notice of its approval in the Belfast Gazette.

Clause 19 states that were an amendment is made to a relevant code of practice, the Department may approve the amendments and will also have the power to withdraw its approval of a relevant code or an amendment to the code.

Clause 19 also provides that when transferring a licence, a court must be satisfied that an applicant is aware of their responsibilities under an approved code of practice. Where a renewal of a licence has been submitted to a clerk of petty sessions, they must be satisfied that an applicant for renewal of a licence has been complying with the code.

Code of Practice and Registered Clubs

Clause 32 of the Bill proposes to include similar provisions on codes of practice in the Registration of Clubs (Northern Ireland) Order 1996. In the case of registered clubs, a court can only grant registration if it is satisfied that each of the officials of the club are aware of their responsibilities under an approved code of practice. In terms of renewal of registration, a clerk can refer the issues to the court on the grounds that the clerk is not satisfied that the applicant has been complying with any approved code of practice. When considering the renewal of registration, courts must also be satisfied that (a) each of the officials of the club are aware of the responsibilities under an approved code and (b) has been complying with an approved code of practice.

What was the outcome of the Department’s public consultation survey?

The Department for Communities [survey](#) (report published in July 2020) asked the question “**Do you think industry codes of practice should be given statutory footing?**”. There were 1,498 responses to the question. 32% of respondents felt that industry codes of practice should be given statutory footing, 17% stated they should not be given statutory footing and 32% were undecided.

What is the position in other jurisdictions?

Republic of Ireland

The proposals in the Licensing and Registration of Clubs (Amendment) Bill for approval of codes of practice are in many respects quite similar to the current legislative arrangements in the Republic of Ireland. Section 17 of the [Civil Law \(Miscellaneous Provisions\) Act 2011](#) provides for statutory support for codes of practice in relation to licensing matters with a view to promoting and supporting compliance by licensees. Such a code may be prepared and published by the Minister (for Justice and Equality), or if the code has been drawn up by some other body (e.g. an industry body), it can be approved by the Minister. Before publishing or approving a code there must be a consultation on the draft code. Section 17 provides the Minister with the power to amend or revoke a code of practice that either has been published or approved by the Minister.

In publishing or approving a code the Minister should have regard to:

- Reducing the risk of a threat to public disorder arising from the excessive consumption of intoxicating liquor.
- The health-related risks arising from the consumption of alcohol to an excessive extent.
- In the case of advertising, the promotion or marketing of intoxicating liquor and to what extent such advertising, promotion or monitoring is intended or likely to encourage the consumption of alcohol.

A failure on the part of a licensee to observe any provision of a code of practice will not in itself render the licensee liable to any civil or criminal proceedings, but such failure *'shall be considered as relating to the good character of the licensee for the purposes of the renewal...of the licence in respect of the licensed premises concerned'*.

The main industry-led code currently in operation in the Republic of Ireland is the [Responsible Retailing of Alcohol in Ireland Code of Practice](#). This is a *voluntary code* that went live on the 1 December 2008 and applies to premises with off-licences that engaged in mixed trading such as supermarkets, convenience stores and petrol stations. In 2009 the Irish retailing industry set up a company called 'Responsible Retailing of Alcohol in Ireland' to implement the voluntary Code of Practice; to communicate the Code to all relevant stakeholders'; to measure compliance with the Code via an independent retail audit; and establish a customer complaints procedure regarding the Code. The Code of Practice covers issues such as the display of alcohol; advertising; permitted hours for the sale of alcohol; production of proof of age documents; and staff training.

The [Public Health \(Alcohol\) Act 2018](#) is a legislative framework designed to address the negative impacts of alcohol consumption. The act includes provisions for minimum unit pricing, structural separation of alcohol products from other goods; health labelling

on products that contain alcohol etc¹⁶². The Act provides that the Minister may make regulations in relation to various aspects of marketing and advertising of alcohol. During pre-legislative consideration of the Bill (in June 2015) the Oireachtas Joint Committee on Health and Children expressed support for a statutory code of practice on alcohol advertising, rather than voluntary codes¹⁶³.

England and Wales

A mandatory 'alcohol retailing code' was one of a number of options considered by the UK Department of Health in the 2008 consultation 'Safe, Sensible, Social – consultation on further action'. At that time the UK Government believed that the existing voluntary industry led Code of Practice '*Social Responsibility Standards for the Promotion and Sale of Alcoholic Drinks in the UK*' should become a mandatory code and should cover issues such as alcohol social responsibility principles, the marketing of alcoholic drinks and irresponsible promotions for both on-sale and off-sale premises.

The government outlined three options in respect of the existing code in order that it could be adopted 'more widely, effectively and visibly by those within the alcohol industry'¹⁶⁴:

Option	Anticipated Outcome
Option 1: Government works with the licensed trade and alcohol producers to draw up and publish a revised standards code. It makes no statutory changes but encourages enforcement agencies to take adoption of the code into account when assessing premises during inspection and review.	The UK Government believed that with this option it would expect to see a modest increase in compliance. It expected understanding and adherence to the Code to improve but there was no strong evidence to suggest a voluntary code would be likely to have a significant impact on alcohol related harm or crime and disorder. Furthermore, it stated that a large minority of those who sell or produce alcohol are signatories to the existing voluntary code? As such there was little incentive to comply even for those who do belong to a trade association.
Option 2: As option 1 but additionally, through statute, Government would allow local authorities to agree mandatory restrictions or requirements on certain types of promotions and other activities. These would apply to all licensed premises in local areas that are experiencing problems.	The Government stated that it would expect there to be a legal requirement that certain licensed premises (as determined by the licensing authority in conjunction with the police) do not engage in certain types of promotion or activity. It was believed that this option would target those areas experiencing higher levels of alcohol-related crime and disorder by allowing mandatory conditions to be set for a number of premises simultaneously. These could apply to a number (or all) licensed premises in a local area experiencing problems.
Option 3: Legislate to create a stand-alone mandatory code for all or some of those selling alcohol or create a set of mandatory licensing conditions for all or new existing licences.	Under this option the Government would legislate to create a set of mandatory licensing conditions or a mandatory code setting out a range of activities that are and are not permitted. Breach of the code would be an offence which could lead to prosecution and a licence review and would be dealt with by enforcement authorities (i.e. police, trading standards) or the licensing

¹⁶² Department of Health. Health Ireland Alcohol Policy. www.gov.ie/en/policy-information/89335d-healthy-ireland-alcohol-policy/

¹⁶³ Houses of the Oireachtas. Joint Committee on Health and Children. Report on the Pre-Legislative Scrutiny of the General Scheme of the Public Health (Alcohol) Bill 2015. June 2015. https://data.oireachtas.ie/ie/oireachtas/committee/dail/31/joint_committee_on_education_and_social_protection/reports/2015/2015-06-22_report-on-public-health-alcohol-bill-2015_en.pdf

¹⁶⁴ Department of Health (2008) Safe, Sensible, Social – Consultation on further action.

	authority. The Government believed that this option would create a set of minimum standards which the Government would expect alcohol retailers to adhere to and would ensure that best practice is shared and implemented consistently.
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The UK Government opted for a '[Mandatory Code for Alcohol Retailers in England and Wales](#)'¹⁶⁵ different aspects of which applied to both on-trade and off-trade premises. The Mandatory Code was published by the Home Office in 2010 and outlined the new mandatory licensing conditions placed on licensed premises and certified clubs. One of these conditions was a ban on irresponsible promotions¹⁶⁶. In 2014 the Home Office subsequently published its own [guidance](#) on mandatory licensing conditions. The guide was applicable to suppliers of alcohol and covered issues such as irresponsible promotions, the provision of free water, the adoption and application of age verification policies and the provision of smaller measures at licensed premises¹⁶⁷.

In addition to the mandatory code and mandatory licensing conditions, there are *industry-led codes* of practice that seek to ensure that alcohol is promoted in a socially responsible manner. For example, the Portman Group's '[Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks](#)' and '[Code of Practice on Alcohol Sponsorship](#)'¹⁶⁸. But these have not received statutory approval.

Scotland

Examples of irresponsible promotions and advertising are not outlined in a voluntary code. These are explicitly enshrined in Scottish legislation rather than in an approved code of practice. [Schedule 3](#) of the Licensing (Scotland) Act 2005 contains a list of illegal irresponsible drinks promotions. Scottish Ministers may, via regulations, modify or add to the list. Additionally, [Section 5](#) of the Alcohol etc. (Scotland) Act 2010 contains further restrictions on promotions in off-licence premises (e.g. buy one get one free).

There does not appear to be any statutory approved codes of practice in relation to alcohol licensing and sales in Scotland. Rather the Scottish Government has opted to issue its own detailed guidance for local Licensing Boards on the [Licensing \(Scotland\) Act 2005](#) and on the [Alcohol etc. \(Scotland\) Act 2010](#) (which deals with issues such as drinks promotions and age verification policies). It has also issued guidance for

¹⁶⁵ Home Office. Selling Alcohol Responsibility: The Mandatory Code for Alcohol Retailers in England and Wales. April 2010. www.haringey.gov.uk/sites/haringeygovuk/files/home_office_-_selling_alcohol_responsibly.pdf

¹⁶⁶ For further information on mandatory licensing conditions in England and Wales see Woodhouse, J. Alcohol: mandatory licensing conditions. House of Commons Library. July 2018. <https://commonslibrary.parliament.uk/research-briefings/sn05351/>

¹⁶⁷ Home Office. Guidance on Mandatory Licensing Conditions. For suppliers of alcohol and enforcement authorities in England and Wales. September 2014. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/350507/2014-08-29_MC_Guidance_v1_0.pdf

¹⁶⁸ Portman Group Codes of Practice. www.portmangroup.org.uk/codes-of-practice/#:~:text=The%20Portman%20Group%20operates%20the%20Code%20of%20Practice,not%20appeal%20particularly%20to%20those%20who%20are%20vulnerable.

retailers and businesses on [Minimum Unit Pricing](#)¹⁶⁹. Licensed premises in Scotland also guided by their local Licensing Board's statement of licensing policy.

Voluntary vs Mandatory Codes – which is the most effective?

A good regulatory regime should follow the five 'Principles of Good Regulation, i.e. regulation should be¹⁷⁰:

- *Proportional*: regulators should only intervene when necessary and enforcement regimes should be proportionate to the perceived problem or risk.
- *Accountable*: regulators must be able to justify decisions and be subject to public scrutiny; all those affected should be consulted before decisions are taken, clear standards should be set; there should be an accessible, fair and effective complaints and appeals procedure; and there should be clear lines of accountability to the relevant Ministers, to the Parliament/Assemblies and to the public.
- *Consistent*: regulators should be consistent and predictable in order to give stability and certainty to those being regulated and enforcement should be consistent.
- *Transparent*: regulators should be open, policy objectives should be clearly defined, effective consultation must take place before policy proposals are developed; regulations should be clear and simple; those being regulated should be made aware of their obligations; those being regulated should be given the time and support to comply; and the consequences of non-compliance should be made clear.
- *Targeted*: regulation should be focused on the problem and side effects should be minimised; enforcers should focus primarily on those whose activities give rise to the most serious risks; and regulation should be systematically reviewed to test whether they are still necessary and effective.

The current Responsible Retail Code NI is largely a self-regulatory code. A key question is *how well the current regulatory regime follows the principles of good regulation*. There are arguably a number of advantages to good self-regulation or a co-regulatory model (i.e. where public bodies and industry jointly regulate)¹⁷¹:

- The knowledge and expertise of the industry can be used more effectively;
- It can be flexible and adaptable;
- There is a lower regulatory burden on business and thus the market can operate more freely;

¹⁶⁹ All three guidance documents are available to download at www2.gov.scot/Topics/Justice/policies/drugs-alcohol/alcohol-licensing

¹⁷⁰ Better Regulation Taskforce. Principles of Good Regulation.

¹⁷¹ Bartle, I. & Vass, P. Self-regulation and the regulatory state – A survey of policy and practice. University of Bath.

- It can involve lower costs; and
- It encourages commitment, pride and loyalty within a profession or industry.

However, it is argued that it is necessary to ensure that self-regulatory schemes¹⁷²:

- Act in the public and not just private interests;
- Meet and be seen to meet statutory objectives; and,
- Have effective systems and processes of transparency and public accountability.

The strength of the current enforcement powers associated with the code may be less than ideal, given that it is voluntary and businesses are not compelled to comply with it (except those aspects that are enshrined in legislation). The Complaints Panel cannot, for example, impose direct financial penalties for non-compliance. However, upheld complaints are publicised in the media which may inflict a certain amount of injury to the reputation of the business involved. Additionally, upholding a complaint may raise awareness in the licensed premises involved, and amongst other licensed premises, that such promotions are not acceptable practices.

Discussion points:

What existing voluntary or potential codes of practice would the Department for Communities consider approving?

To what extent should codes be designed a multi-disciplinary group consisting of industry bodies, statutory agencies and other relevant parties?

By what process will the court assess that an applicant (or club officials in the case of registered clubs) is aware of their responsibilities under the code?

In relation to renewals, how will a court assess that an applicant has been complying with the code? To what degree will it take into consideration the seriousness of any breaches; repeat offences; and the time elapsed between breach and renewal application?

Will there be code complaint panels (or a similar investigatory body? If so, how or to what extent, will the views of such a panel or investigatory body be taken into account in relation to a courts decision to approve or renew a licence)?

Will the Department be conducting periodic reviews of the effectiveness of approved codes? If so, how long after the approval of the code will these be carried out? Will they continue to be reviewed on a regular basis?

¹⁷² Ibid.

If a serious breach of a code is identified is it possible to carry out an immediate review of the premises licence or a club's registration?

Should there be a statutory requirement for a formal annual report of an approved code to be presented to the Department?

By what means will the Department and/or industry bodies promote/raise awareness of an approved code and the consequences attached to non-compliance?

Clause 20: Body corporate – notification on change of directors

What is the current law?

[Article 4](#) of The Licensing (Northern Ireland) Order 1996 sets out rules in relation to “persons to whom licences may be granted”. Licences can be granted to an individual, to a body corporate or to two or more persons carrying on a business in partnership. In considering the fitness of a person to hold a licence, Article 34 states that courts “shall have due regard” to, for example:

- The character, reputation and financial standing of the applicant;
- The qualifications and experience of the applicant to manage the business; and
- The extent to which the applicant is entitled to possession and control of the premises.

In considering the fitness of a corporate body to hold a licence, a court shall “*also have due regard to the character, reputation and financial standing of the directors of the corporate body and any other persons who have executive control of it, as if the licence were, or were proposed to be, held by them jointly*”.

What are the provisions of the Bill?

Clause 20 of the Bill contains provisions to amend Article 4 of the Licensing (Northern Ireland) Order 1996 to require a body corporate (that is a holder of a licence) to notify the courts and the PSNI if a person becomes, or ceases to be, a director of a body corporate. This must be done within 28 days of that change taking effect. The notice must be served to the chief clerk and the district commander of the police district in which any premises to which the licence applies is situated.

Clause 20 adds an offence (punishable by a fine of up to £5,000) for a failure to make such a notification. Subsection 2 of Clause 20 proposes to amend [Article 72](#) of the Licensing (Northern Ireland) Order 1996 (this Article deals with the suspension of licences). The provisions in the Bill would allow the suspension of a licence on the

grounds that the body corporate is no longer fit to hold a licence, having not informed the courts or police of a change of directorship. Furthermore, Clause 20 contains provisions to include penalty points attributable to this offence (i.e. 5-6 points). The current list of offences and attributable penalty points is available [here](#)¹⁷³.

The Department for Communities website provides an insight into why it feels this amendment to the law is necessary¹⁷⁴:

“Under current law there is no requirement for a director of a corporate body holding a liquor licence to notify the court that they have been convicted of a criminal offence. In practice, this means that a body corporate could be granted a licence, with all the relevant checks carried out on the listed directors, and then immediately change the director(s) to person(s) who may not have been granted one due to their convictions...It is proposed that changes to the directorship of a body corporate must be notified to the courts as is the case for individual licensees.”

What was the outcome of the Department’s public consultation survey?

This particular issue does not appear to have been part of the public consultation.

Discussion points:

- **Given that this issue was not directly consulted on as part of the public consultation, the Committee may wish to explore the policy context of this provision further e.g. when did the Department become aware that this was an issue, and could it provide an indication of how often that this type of issue arises?**
- **In order to assist the Committee with its deliberation of this issue, could the Department provide further details on the nature of the notification process (i.e. does the notification have to be in writing, or is there a specific form or declaration that must be signed?). If the district commander received notification of new director, does the PSNI carry out checks on relevant convictions or does the new director have a duty to declare relevant convictions? What types of offences would make a person ineligible to become a director?**
- **Can a district commander or courts make a recommendation for refusal in regards to a new director? If they can make a recommendation for refusal, is there an appeals mechanism?**

¹⁷³ Schedule 10A of The Licencing (Northern Ireland) Order 1996. www.legislation.gov.uk/nisi/1996/3158/schedule/10A

¹⁷⁴ Department for Communities website – “Proposed changes to liquor licensing laws in Northern Ireland. [accessed 27 October 2020] www.communities-ni.gov.uk/articles/proposed-changes-liquor-licensing-laws-northern-ireland

What is the position in other jurisdictions?

In Scotland, the holder of a premises licence can apply for the transfer of the licence to another person. On receipt of such an application the Licensing Board must notify the application to the chief constable of that areas and the chief constable must respond within 21 days.

Clause 21: Removal of exemption for Angostura bitters

What is the current law?

Angostura bitters are a type of flavouring made in Trinidad and Tobago by Angostura Ltd. It is typically used as a low volume ingredient (i.e. applied as a 'dash'/or a few drops in the preparation of both food and drink, particularly cocktails. Angostura bitters is highly concentrated with an alcohol content of 44.7%. However, despite this it is currently not included in the definition of 'intoxicating liquor' under the Licensing (Northern Ireland) Order 1996¹⁷⁵. This is because Angostura bitters were previously exempt from excise duty and thus could be sold without a licence.

The UK Government announced in Budget 2011 its intention to repeal a number of excise duty exemptions including the excise duty on Angostura bitters. Its rationale for this was twofold¹⁷⁶:

- The excise exemption was granted in 1970 in order to support Trinidad's economy at that time and there was no evidence to suggest that continued support was required; and
- The exemption was distortive because it applied only to one brand of bitters rather than all similar products.

HMRC removed this duty exemption from April 2013. As a result Angostura bitters are no longer be exempt from the definition of 'intoxicating liquor' and should only be sold by licensed premises.

What are the provisions in the Bill?

Clause 21 of the Bill contains provisions to amend the Licensing (Northern Ireland) Order 1996 to omit Angostura bitters from the list of products which are not included in the definition of intoxicating liquor. Angostura bitters would therefore be categorised as "intoxicating liquor" and therefore could only be sold in licensed premises.

¹⁷⁵ The 1996 Order defines "intoxicating liquor" as "spirits, wine, beer, cider and any other fermented distilled or spirituous liquor.

¹⁷⁶ HM Revenue and Customs. Angostura Bitters: Repeal of Relief.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/192148/ots_angostura_bitters.pdf

6 Advertising and loyalty schemes

Clause 16: Restrictions on off-sales drinks promotions in supermarkets

What is the current law?

Alcohol advertising in the UK is regulated by the [Advertising Standards Authority](#) (ASA) via the [Committees of Advertising Practice](#) (CAP), [Ofcom](#) and through industry-led self-regulation. The Advertising Standards Authority has argued that the UK's advertising rules for alcohol 'are amongst the strictest in the world'¹⁷⁷. However, numerous campaign organisations have called for a much stricter regulation regime for alcohol advertising¹⁷⁸ as have professional bodies such as the British Medical Association (NI)¹⁷⁹. Most recently, the Commission on Alcohol Harm's report "[It's everywhere – alcohol's public face and private harm](#)" (September 2020) has called for "Comprehensive restrictions on alcohol advertising across multiple media, including restrictions on sponsorships and activities targeting young people"¹⁸⁰.

It is important to note that the ability of the devolved administrations to directly legislate to control the advertising of alcoholic products is somewhat restricted given that the regulatory framework for broadcasting is a reserved matter and therefore outside the legislative competence of the devolved administrations. However, devolved powers over liquor licensing can be used to control, for example, the location and types of alcoholic drinks promotions.

Northern Ireland liquor licensing law is currently silent on the advertising of alcohol by supermarkets and off-sales premises. The Licensing and Registration of Clubs (Amendment) Bill contains provisions to place a number of restrictions on the advertising of alcohol in supermarkets and off-sales premises. The Minister for Communities has stated that the policy intention behind these advertising restrictions is to "reduce instances of impulse buys of alcoholic drinks, particularly in supermarkets"¹⁸¹.

¹⁷⁷ Advertising Standards Authority www.asa.org.uk/topic/alcohol.html

¹⁷⁸ Institute of Alcohol Studies. Alcohol Concern renews call for stricter market regulations. February 2015. www.ias.org.uk/What-we-do/Alcohol-Alert/February-2015/Alcohol-Concern-renews-call-for-stricter-marketing-regulations.aspx

¹⁷⁹ BMA NI. BMA NI welcomes report recommending a minimum unit price for alcohol in Northern Ireland. 16 September 2020. www.bma.org.uk/bma-media-centre/bma-ni-welcomes-report-recommending-a-minimum-unit-price-for-alcohol-in-northern-ireland

¹⁸⁰ Commission on Alcohol Harm. 'It's everywhere' – alcohol's public face and private harm. <https://ahauk.org/wp-content/uploads/2020/09/Its-Everywhere-Commission-on-Alcohol-Harm-final-report.pdf> The Commission was established by MPs and alcohol health experts to examine the impact of alcohol harm in the UK.

¹⁸¹ Northern Ireland Assembly Official Report. Licensing and Registration of Clubs (Amendment) Bill: Second Stage. 3 November 2020. <http://data.niassembly.gov.uk/HansardXml/plenary-03-11-2020.pdf>

What are the provisions of the Bill?

Clause 16 of the Bill (as introduced) contains provisions restricting the advertising of drink promotions in supermarkets to the **designated area in which alcohol may be displayed**. A drink promotion is defined as ‘*an activity which promotes, or seeks to promote, in relation to those premises specifically the purchase on the premises of intoxicating liquor for consumption off the premises*’.

Supermarkets and other licensed premises which sell alcohol for consumption off the premises will also not be permitted to advertise drinks promotions available in the premises “within the vicinity of the premises” or any other premises licensed to sell alcohol for consumption off the premises¹⁸². The vicinity of the premises is defined in the Bill (as introduced) as “the area that extends 200 metres from the boundary of the premises”. The Bill provides that regulations may modify the definition of vicinity, such regulations cannot come into operation unless and until approved by the Assembly.

The Bill proposes to add an offence (punishable by a fine of up to £1,000) for “carrying on an alcohol promotion outside of the licensed area or anywhere in the vicinity of any premises licensed for the sale for consumption off the premises”¹⁸³. The Bill also provides for 3-4 penalty points for breaches of restrictions.

What was the outcome of the Department’s public consultation survey?

The Department for Communities [survey](#) (report published in July 2020) asked the question “**Do you think restrictions should be placed on the advertisement of alcoholic promotions from supermarkets and off-sales?**”. There were 1,598 responses to the question. Half of respondents (50%) felt that there should not be restrictions; 33% felt that there should be restrictions; and 17% were undecided. Again, it would have been interesting to observe what different sectors felt about the proposals e.g. the licensing trade, large and small supermarkets and off-sales businesses.

Respondents who responded ‘yes’ there should be restrictions were then asked “**What type of restrictions do you think are suitable?**”. There were 475 comments including having a complete ban on the advertising of alcohol; only advertising in the off-licence area of a supermarket; a ban on discounts and special offers; and “as per legislation in the rest of the UK”.

¹⁸² Licensing and Registration of Clubs (Amendment) Bill. Explanatory and Financial Memorandum.

¹⁸³ Ibid.

Do you think there should be restrictions placed on the advertisement of alcoholic promotions from supermarkets and off-sales?

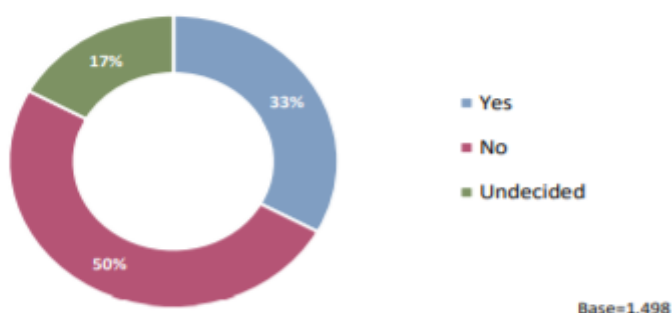


Chart extracted from DfC [“Consultation on liquor licensing laws in NI: Survey Report”](#)

What is the position in other jurisdictions?

Off-sale drinks promotions in Scotland – similarities and differences

Section 5 of the [Alcohol etc. \(Scotland\) Act 2010](#) introduced similar restrictions on the location and advertising of drinks promotions in off-licence premises in **Scotland**. The purpose of restricting the use of marketing material in off-licensed premises was to prevent the customer from being encouraged to impulse buy or to buy more alcohol than they had originally intended. Promotional material or any other activity relating to the promotion of alcohol in off-sales premises in Scotland is restricted to designated ‘alcohol display areas’. Secondly, an alcohol drinks promotion that is related to the premises cannot take place within the vicinity of the premises (vicinity meaning the area extending 200 metres from the boundary of the premises). However, a promotion unrelated to the premises, e.g. such an advert in a bus shelter, within 200 metres of the premises would not be caught by these restriction¹⁸⁴.

However, the Scottish legislation, in line with the Scottish Government’s public health agenda, includes other measures to restrict ‘**irresponsible promotions**’ in both on and off-sales premises. An ‘irresponsible promotion’ in Scottish legislation includes those promotions that ‘involve the supply of an alcoholic drink free of charge or at a reduced price on the purchase of one or more drinks (whether or not they are alcoholic drinks)’. The Alcohol etc. (Scotland) Act 2010 extends the application of this to off-sales premises thereby prohibiting offers such as¹⁸⁵:

- Buy one, get one free
- Three for the price of two
- Three bottles of wine for £10

¹⁸⁴ Scottish Government. Alcohol etc (Scotland) Act 2010 – Guidance for Licensing Boards.

¹⁸⁵ Scottish Government. Alcohol etc. (Scotland) Act. Guidance for Licensing Boards.

- Buy six, get 20% off.

The Scottish Government's [Alcohol Framework 2018: Preventing Harm](#) set out plans to consult and engage on the issue of children's exposure to alcohol-related marketing and stated that *"We will press the UK Government to protect children and young people from exposure to alcohol marketing on television before the 9pm watershed and in cinemas – or else devolve the powers so the Scottish Parliament can act"*¹⁸⁶.

Republic of Ireland – the Public Health (Alcohol) Act 2018

The [Public Health \(Alcohol\) Act 2018](#) is a legislative framework, signed into law on 17 October 2018, designed to address the negative impacts of alcohol consumption on public health grounds. The Act includes provisions for **minimum unit pricing**, **structural separation of alcohol**, **health labelling** on products that contain alcohol, **restrictions on the advertising and marketing of alcohol**, the **regulation of sports sponsorship** and **restrictions on certain promotional activities**. The primary policy objects of the Act are to¹⁸⁷:

- Reduce alcohol consumption to 9.1 litres of pure alcohol per person per annum by 2020;
- Delay the initiation of alcohol consumption by children and young people;
- Reduce the harms caused by the misuse of alcohol; and
- Ensure the supply and price of alcohol is regulated and controlled in order to minimise the possibility and incidence of alcohol related harm.

Detailed guidance on the Act has been published by the Department of Health and Health Service Executive and is available to download [here](#)¹⁸⁸. The provision of the Act extended significantly wider than the restriction of advertisements in off-sales/supermarket premises and is summarised in the table below (note that RalSe are still trying to verify if the implementation dates are still on schedule):

Table 4: Summary of the Public Health (Alcohol) Act 2018

	Provisions of the 2018 Act
<p>Prohibition of the advertisements of alcohol products in or at certain locations or modes of transport.</p> <p>Advertising includes posters, billboards, hoardings, placards, signage but does not</p>	<p>Advertising of alcohol products to be prohibited from a park or open space owned or maintained by a local authority or the Office of Public Works; in or on a public service vehicle (e.g. taxi, bus); in or on a train or luas; at a bus stop or luas stop. Advertising also to be prohibited from within 200 metres of the perimeter of a school (including its grounds);</p>

¹⁸⁶ Scottish Government. Alcohol Framework 2018. Preventing Harm: next steps on changing our relationship with alcohol. www.gov.scot/publications/alcohol-framework-2018-preventing-harm-next-steps-changing-relationship-alcohol/

¹⁸⁷ Gov.i.e. Healthy Ireland Alcohol Policy. 5 April 2019. www.gov.ie/en/policy-information/89335d-healthy-ireland-alcohol-policy/

¹⁸⁸ Gov.i.e. Healthy Ireland Alcohol Policy. 5 April 2019. www.gov.ie/en/policy-information/89335d-healthy-ireland-alcohol-policy/

<p>include, for example, advertisement on or attached to a licensed premises.</p> <p>Came into effect 12 November 2018 and being implemented on a phased basis.</p>	<p>early years service; or a playground owned or maintained by a local authority.</p>
<p>Children's clothing</p> <p>Came into effect 12 November 2018 and being implemented on a phased basis.</p>	<p>From 12 November 2019:</p> <ul style="list-style-type: none"> ▪ Clothing for children which promotes alcohol consumption or is branded with an alcohol product name, trademark, emblem, marketing image or logo to be prohibited – this includes the manufacturing or import of clothes for sale in the State and the sale of such clothing. <p>Provision does not apply to clothing offered for retail sale or supply before 12 November 2019. In cases of prosecution, onus will be on the defendant to prove this.</p>
<p>Prohibition of alcohol products in cinemas</p> <p>Came into effect 12 November 2019 and being phased in.</p>	<p>From 12 November 2019, the advertising of alcohol products in a cinema is prohibited subject to the following exemptions:</p> <ul style="list-style-type: none"> ▪ Immediately before or during films which have been classified as suitable for persons aged 18 years and over; and ▪ In a licensed cinema.
<p>Restrictions on mixed retail traders (e.g. supermarkets, convenience stores, petrol stations selling alcohol)</p> <p><i>These requirements do not apply to stand alone off-licences</i></p> <p>Comes into effect 12 November 2020.</p>	<p>Alcohol products and advertisements for alcohol products to be separated from other products in mixed trade premises by e.g. a single area reserved for alcohol and alcohol related products which is separated by a barrier. Other conditions to apply e.g.</p> <ul style="list-style-type: none"> ▪ Advertisements for alcohol products shall be located within the separated area only and must not be displayed outside the barrier; ▪ Alcohol advertisements for alcohol products shall not be visible through the barrier (except where visibility is caused by customers exiting and leaving that area); ▪ The only products for sale in the separated area are alcohol and alcohol-related products (e.g. mixers etc.)

	<ul style="list-style-type: none"> ▪ Branded merchandise (e.g. stationery, key rings) is permitted in all areas of mixed trade retail premises.
<p>Advertising and sponsorship at sports events – provisions relating to children</p> <p>Comes into effect 12 November 2021</p>	<p>Advertising of alcohol products to be prohibited in or on a sports area when a sports event is taking place, at an event aimed particularly at children, or at an event where the majority of individuals taking part are children.</p> <p>The sponsorship by alcohol companies of events where the majority of individuals taking part are children, aimed particularly at children, or that involving driving or racing cars or motorbikes will be prohibited.</p>
<p>Other provision of the Bill</p> <p>Not yet commenced</p>	<ul style="list-style-type: none"> ▪ To prohibit the advertising or sale of alcohol products below a set minimum price (10% per gram of alcohol in the product). ▪ Labelling of alcohol products e.g. a warning to inform the public of the danger of alcohol consumption to health; the quantity of grams of alcohol in the product, the calories in the product. ▪ The Act provides for the Minister for Health to introduce regulations to prohibit or restrict certain types of promotions e.g. buy one get one free, Students Nights. Also permits regulations to be made to prohibit loyalty card points for alcohol purchases.

Discussion points:

As demonstrated by the approach in Scotland and the Republic of Ireland, the issue of alcohol related harm is much wider than off-sale advertising. To enable the Committee for Communities to consider the issue in context, it may wish to consider seeking (a) update on the latest position in regards to the plans for a consultation on minimum unit pricing and (b) seeking information on any discussions or correspondence the Executive or relevant Departments have had with the UK Government regarding alcohol advertising, particularly in respect to children.

Clause 17: Prohibiting loyalty schemes

What is the current law?

The Department for Communities consultation on liquor licensing laws in Northern Ireland (published October 2019) provides the following overview of loyalty schemes¹⁸⁹:

“Loyalty schemes are a recognised way of rewarding regular customers. Many supermarkets in Northern Ireland run such schemes, often allowing customers to gather points on the purchase of products which are then accumulated and exchanged for discount vouchers or “free” goods at a later date for members. Points can be gained from the purchase of alcoholic drinks and points may be exchanged for the same

Some supermarkets however, within their own terms and conditions, will not allow the collection of points on spirits and liqueurs....Some public houses in England run loyalty schemes, openly advertising that you can save up your points (rewarded with each purchase) and use them on a round of drinks”

The consultation paper goes on to state that the Licensing (Northern Ireland) Order 1996 is “silent on the issue”.

What are the provisions in the Bill?

Clause 17 of the Bill proposes to introduce a new Article (Article 57ZB) into the Licensing (Northern Ireland) Order 1996 which will prohibit the award or redemption of loyalty or bonus points for the purchase of alcohol in *all* licensed premises. The Bill states that all licensees (as defined in [Article 5](#) of the 1996 Order) must not operate a scheme which:

- Provides awards to a member of the scheme in consequence of the purchase by the member of intoxicating liquor in the premises; and
- Entitles the member to redeem the awards, in the amount specified in the scheme, in exchange for the opportunity to purchase intoxicating liquor at a reduced price or receive it free of charge.

Clause 17 also contains provisions for a new offence (punishable by a fine of up to £5,000) for contravention of the law regarding such loyalty schemes and 5-6 penalty points associated with such offences.

¹⁸⁹ Department for Communities. Liquor Licensing Laws in Northern Ireland. Consultation Document. October 2019. www.communities-ni.gov.uk/sites/default/files/consultations/communities/dfc-liquor-licencing-consultation-1019.pdf

What was the outcome of the Department's public consultation survey?

The Department for Communities [survey](#) (report published in July 2020) asked the question “**Do you think the law should be changed to ensure that alcoholic drinks cannot be used in loyalty schemes?**”. There were 1,498 responses to the question. 68% of respondents felt that the law should not be changed; 17% states that it should be changed; and 15% were undecided.

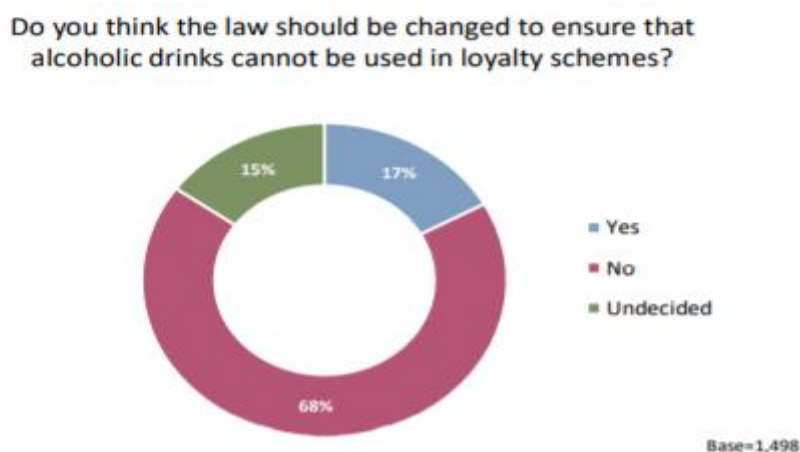


Chart extracted from DfC [“Consultation on liquor licensing laws in NI: Survey Report”](#)

What is the position in other jurisdictions?

There is no equivalent ban on loyalty schemes in **England, Wales or Scotland**. In **Scotland**, which has minimum unit pricing, the general rule is that any vouchers or discounts that are clearly linked to a reward scheme or refund (such as reward card points or gift vouchers) are classed as cash equivalents and can be used as payment for alcohol. Business can also still offer discount coupons for specific alcoholic drinks and can offer ‘threshold spend’ vouchers (e.g. save £2 when you spend £15). However, they must ensure that the final price (after the discounts are applied) do not fall below the minimum price¹⁹⁰.

The Welsh Government also introduced minimum unit pricing in **Wales** on 2 March 2020¹⁹¹. Loyalty schemes, rewards points and vouchers can continue to be used to purchase alcohol, but the price of the alcohol being purchased must not be below the minimum price. The Welsh Government [Guidance](#) on the Implementation of Minimum

¹⁹⁰ Scottish Government. Minimum unit pricing for alcohol in Scotland. March 2019. www.mygov.scot/minimum-unit-pricing/discounts-and-offers/

¹⁹¹ Welsh Government. Minimum pricing for alcohol: guidance for retailers. <https://gov.wales/minimum-pricing-alcohol-guidance-retailers>

Pricing provides illustrative examples of scenarios in respect of loyalty schemes and vouchers¹⁹²:

VOUCHERS AND DISCOUNTS

Generally, vouchers and discounts that are clearly linked to a reward scheme or a refund are classed as cash equivalents so may be used as part (or full) payment for the alcoholic product. Vouchers and discounts which are not clearly linked to a reward scheme or a refund may not be used where the voucher or discount would take the cost of the alcoholic product below the minimum price. In the following example, the purchase relates to one bottle of vodka and not a basket of goods:

Minimum unit price of a 700ml bottle of 37.5% vodka = £13.13

Price of vodka in store = £15

Scenario 1: Customer buys vodka and uses 400 loyalty points (equivalent to £2) to take the price down to £13. This is permitted because loyalty points are 'earned' by spending a prescribed amount.

Scenario 2: Customer buys vodka and uses a 'Brand Match' coupon to reduce the price. In principle a refund coupon being used against the purchase of alcohol which reduces the price is permitted. The minimum price of the vodka is £13.13, so no retailer can sell the vodka at less than this price. So, in this example where the selling price is £15, the maximum the 'Brand Match' coupon can be is £1.87 (£15 less £13.13) as the alcohol cannot be sold for less than £13.13.

Scenario 3: Customer buys vodka and uses '£2 off when you spend £15' coupon to take the price down to £13. This is not permitted as the coupon is not directly linked to points accrual, and consumers cannot be reasonably expected to predict when those coupons would be available.

In the **Republic of Ireland**, the [Public Health \(Alcohol\) Act 2018](#), provides the Minister for Health to introduce regulations to prohibit or restrict certain types of promotions involving alcohol. The intention of this provision is *"to prohibit promotions which encourage risky drinking i.e. that encourage individuals to purchase or drink more than they intended or to drink faster than they intended"*¹⁹³. The 2018 Act make provision for the introduction of minimum alcohol pricing in the Republic of Ireland (although this part of the Act has not yet commenced).

In September 2019, the Department of Health announced that the then Minister for Health, Simon Harris TD, had notified the European Commission of his plans to regulate promotions that incentivise alcohol consumption. This included the introduction of regulations that *"aim to prohibit...the awarding of loyalty card points or similar benefits on the purchase of an alcohol product and the use of loyalty cards or*

¹⁹² Welsh Government. Guidance on the Implementation of Minimum Pricing for Alcohol in Wales.

<https://gov.wales/sites/default/files/publications/2020-01/guidance-on-the-implementation-of--minimum-pricing-for-alcohol-in-wales.pdf>

¹⁹³ Department of Health & Health Service Executive. Public Health (Alcohol) Act 2018. Guidance for Industry. July 2019.

<https://assets.gov.ie/35498/05ce0af5d2084f7cb58daa89d5e7541a.pdf>

*similar benefits to purchase an alcohol product*¹⁹⁴. The Minister had intended to provide for a one-year lead in time *following* the signing of the regulations. *RaISe are trying to ascertain what the latest position is in respect of the proposed regulation.*

Discussion points:

- How widespread are the use of loyalty cards by licensed premises (other than supermarkets) in Northern Ireland?
- Given that loyalty schemes were not part of the 2016 Bill, could the Department provide some further information on the policy context/rationale behind this provision?
- The Irish government included provision for minimum alcohol pricing within its Public Health (Alcohol) Act 2018. The same Act contains provisions allowing the Minister for Health to make regulations banning the use of loyalty schemes. On the 29 July 2020, the Northern Ireland Executive Minister for Health [announced](#) his intention to conduct a full consultation on minimum unit pricing for alcohol¹⁹⁵. What is the rationale for introducing a prohibition on loyalty schemes in advance of a potential consultation on minimum unit pricing?

Clause 31: Registered clubs and restrictions relating to advertising

What is the current law?

Clubs that hold a certificate of registration may supply alcohol to members and guests. Under current legislation (i.e. the Registration of Clubs (NI) Order 1996), the advertising of club functions is restricted in that clubs cannot advertise functions in the media (unless the function involves a sport, game or recreational activity). The Guide to the Registration of Clubs (Northern Ireland) Order 1996 explains¹⁹⁶:

“...registered clubs are members’ clubs and as such, are not allowed to be run as commercial enterprises. A club cannot legally open club events to all and sundry and advertise the fact in a local newspaper. To do so would imply that the club is not operating as a bone fide members’ club, with admission strictly limited.

Advertising club facilities suggests that the facilities are for hire or for use by members of the public and this is not permitted. The Order provides that advertising a function on club premises is illegal unless it takes the form of

¹⁹⁴ Department of Health. Press Release. ‘Minister for Health seeks European Commission approval to regulate alcohol promotions’. 13 September 2019. www.gov.ie/en/press-release/04ec28-minister-for-health-seeks-european-commission-approval-to-regulate-a/

¹⁹⁵ Department of Health. News Release. Minister Swann committed to full consultation on alcohol pricing. 29 July 2020. www.health-ni.gov.uk/news/minister-swann-committed-full-consultation-alcohol-pricing

¹⁹⁶ Department for Communities. Guide to the Registration of Clubs (Northern Ireland) Order 1996. July 2019.

notices displayed inside the club premises or relates to a function involving any sport, game or physical recreation.”

What are the provisions in the Bill?

Clause 21 sets out provisions to amend [Article 38](#) of the Registration of Clubs (Northern Ireland) Order 1996 by removing certain advertising restrictions. Clubs will be permitted to advertise any function outside of club premises (e.g. local newspapers and other media services) providing the advertisement provides a “clear statement” that only members of the club and their guests may attend the function.

Members of the public are allowed to attend functions in registered clubs if the whole proceeds of the function are donated to charitable or benevolent causes. Clause 21 proposes that advertisements relating to functions where the whole proceeds (after deduction of the expenses of the function) are devoted to charitable or benevolent purposes, will not be subject to such advertisement restrictions (i.e. will not need to contain a statement that only members and guests may attend).

The same provisions are contained in the Licensing and Registration of Clubs (Amendment) Bill in 2016. The then Department for Social Development’s view at the time of the Bill’s introduction was that “the lifting of the advertising restriction in relation to functions may assist clubs in financing the sporting, recreational and social activities which they make available in their local communities and which otherwise may not be provided”¹⁹⁷.

What was the outcome of the Department’s public consultation survey?

The Department for Communities [survey](#) (report published in July 2020) asked the question “**Do you think the current restrictions on advertising for registered clubs is appropriate?**”. There were 1,498 responses to the question. Over a third of respondents (35%) felt that the current restrictions on advertising were appropriate, 35% believed that they were not appropriate and 31% of respondents were undecided.

¹⁹⁷ Department for Social Development. Proposed changes to the law regulating the sale and supply of alcohol in Northern Ireland. Consultation Paper. July 2012. www.communities-ni.gov.uk/sites/default/files/consultations/dsd/proposed-changes-to-the-law-regulating-sale-of-alcohol.pdf

Do you think the current restrictions on advertising for registered clubs is appropriate?

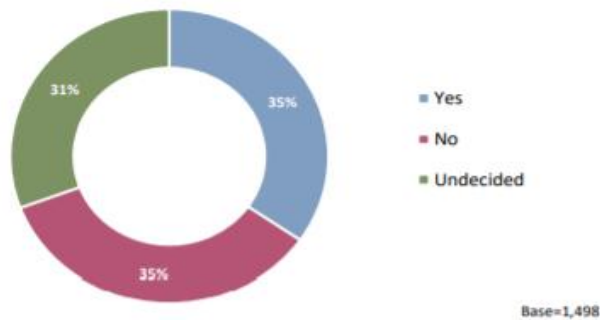


Chart extracted from DfC [“Consultation on liquor licensing laws in NI: Survey Report”](#)

The Department for Communities [survey](#) report stated that those who answered ‘no’ to the question “Do you think the current restrictions on advertising for registered clubs is appropriate?” were asked “Do you think registered clubs should be permitted to advertise publicly?”. The vast majority (96%) responded “yes” to this question.

7 Clauses of the Bill – registered clubs

Aside from clause 22, all other clauses relevant to registered clubs in Northern Ireland have already been explored in previous sections of this Bill Paper.

Clause 22: Sporting clubs – extension of premises

What is the current law?

At present, sporting clubs may apply for a special occasion authorisation under [Article 26](#) of The Registration of Clubs (Northern Ireland) Order 1996. The applicant is made to the police sub-divisional commander for the area in which the club premises are situated. A special occasional authorisation can include, for example, an extension of the hours during which it is permitted to supply alcohol from 11:00pm to 1:00am on weekdays or from 10.00pm to 12.00am on Sundays. Clubs can apply for up to 85 such extensions in a 12-month period¹⁹⁸. However, while under this Article clubs can apply for an extension in hours, they cannot apply for an extension to the area of the premises covered by their licence.

¹⁹⁸ Department for Communities. Guide to the Registration of Clubs (Northern Ireland) Order 1996. July 2019.

What are the provisions in the Bill?

Clause 22 of the Bill proposes to allow the PSNI to authorise a sporting club to extend the area of its premises which is registered to supply alcohol for the purposes of holding a function. The extended area would be treated as part of the registered premises and therefore subject to the conditions set out in [Article 30](#) of The Registration of Clubs (Northern Ireland) Order 1996 (Functions in registered clubs). For example, the function is organised by the club and only members and their guests are present at the function.

Clause 22 would enable a club to apply for PSNI authorisation up to six times in any one year. Only in exceptional circumstances (to be determined by the PSNI), should an authorisation last for more than one day. If the district commander is satisfied that there are exceptional circumstances, then the authorisation must not exceed five days. Clause 22 states that a district commander may refuse an application for the grant of authorisation only if they *“are satisfied that the function is likely to attract people in such numbers that it would not be practicable to accommodate them in the premises in respect of which the club is registered”*.

An application for an authorisation to extend the premises must be accompanied with a plan showing the area of the proposed extension. The clause proposes to provide to allow regulations to be made that could modify the number of authorisations permitted (a draft of the regulations must be laid before, and approved by a resolution of, the Assembly).

Discussion points:

- **It is proposed that authorisations could exceed more than one day if the PSNI is satisfied that there are “exceptional circumstances”. Could illustrative examples of such circumstances be provided?**

