



Northern Ireland  
Assembly

## Research and Library Service Bill Paper

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# Licensing and Registration of Clubs (Amendment) Bill

NIAR 000-00

The Licensing and Registration of Clubs (Amendment) Bill was introduced to the Northern Ireland Assembly on 17 May 2010. The Bill constitutes the first stage of liquor licensing reform in Northern Ireland. This paper provides an overview of the main aspects of the Bill which include new closure powers for the PSNI in respect of licensed premises and registered clubs; the introduction of a penalty points system; a new statutory proof of age scheme; more flexible accounting requirements for registered clubs and an increase in the number of occasions on which registered clubs may apply for later opening.

## Executive Summary

The review of Northern Ireland's liquor licensing laws was [announced](#) on 4 March 2004 by John Spellar MP, the then Minister with responsibility for Social Development. The review sought to strike a balance between the need for a more flexible and balanced licensing framework and the need to regulate the sale of alcohol in a way that was effective, enforceable and equitable<sup>1</sup>.

A Liquor Review Team (LRT) was set up in May 2004 to carry out the review with the support of an Inter-Departmental Steering Group. The review team was tasked with exploring issues such as opening hours; enforcement; surrender of a subsisting licence; categories of licences; wider public health issues; licensing laws regarding children; social and environmental issues; and equality issues. The review culminated in the publication of the consultation paper 'Liquor Licensing – The Way Forward' (November 2005) which set out proposals for liquor licensing reform.

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

In 2007, the Minister for Social Development, Margaret Ritchie MLA, initiated her own review, drawing and building upon the work completed by her predecessor. The Minister held a series of meetings with key stakeholders before finalising her own proposals. The Minister announced plans for a two staged approach to reform in a Statement to the Assembly on 17 November 2008.

The reforms are said to represent the most significant changes to liquor licensing policy in over a decade. The Licensing and Registration of Clubs (Amendment) Bill constitutes the first stage of reform. In summary, the Bill contains provisions to<sup>2</sup>:

- **Empower a magistrates' court** to order licensed premises or registered clubs in an **area of actual or anticipated disorder to close** for up to 24 hours in the first instance;
- **Empower a senior police officer** (of the rank of inspector or above) to **close with immediate effect** for up to 24 hours specified licensed or club premises where disorder is occurring;
- Enable a court, following conviction, to **endorse penalty points on a licence or certificate of registration**. Premises that accumulate 10 penalty points within any three year period will have their licence or certificate suspended for a period of between one week and three months;

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<sup>1</sup> Department for Social Development. News Release. 'Spellar announces review of drinking laws'. 4 March 2004. <http://archive.nics.gov.uk/sd/040304a-sd.htm>

<sup>2</sup> Department for Social Development. News Release. 'Ritchie heralds a new era for clubs'. 17 May 2010.

- Introduce a **statutory proof of age scheme** specifying acceptable proof of age documents and require premises to display specific signage describing the new scheme;
- **Increase the number of occasions** on which registered clubs may apply to the PSNI for later opening to **1:00am from 52 to 120 each year**; and
- Create a **more flexible accounting system for registered clubs** which recognises the different auditing requirements for small, medium and large clubs. This provision results from the PSNI's acknowledgement that the financial mismanagement that had previously existed in some clubs was no longer in evidence and that more flexible arrangements for registered clubs was in order.

# Contents

**Introduction ..... 4**

**Background to Liquor Licensing Reform in Northern Ireland ..... 5**

**The Contents of the Bill ..... 7**

**The Introduction of New Closure Powers ..... 7**

**The Introduction of a Penalty Points System ..... 15**

**The Introduction of a Statutory Proof of Age Scheme ..... 19**

**More Flexible Accounting Requirements for Registered Clubs ..... 22**

**Increase in ‘Special Authorisation’ Occasions for Registered Clubs ..... 23**

***“It has rightly been said, many times – alcohol is no ordinary commodity. It is a powerful double-edged 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 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. It has been a focus for criminal activity, helping prolong conflict in our community and undermining economic stability. As a responsible society we have a duty to manage both the elements”***

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

## 1 Introduction

The Minister for Social Development outlined her plans for a programme of liquor licensing legislative reform and modernisation for Northern Ireland in a [Statement to the Assembly](#) on 17 November 2008<sup>3</sup>. The reforms, which were to be introduced in two stages, represent the most significant changes to liquor licensing policy in over 13 years. The [Licensing and Registration of Clubs \(Amendment\) Bill](#), which was introduced to the Northern Ireland Assembly on 17 May 2010, constitutes the first stage of reform.

The Bill amends the [Licensing \(Northern Ireland\) Order 1996](#) and the [Registration of Clubs \(Northern Ireland\) Order 1996](#). In summary, the Bill contains provisions to<sup>4</sup>:

- **Empower a magistrates’ court** to order licensed premises or registered clubs in an **area of actual or anticipated disorder to close** for up to 24 hours in the first instance;
- **Empower a senior police officer** (of the rank of inspector or above) to **close with immediate effect** for up to 24 hours specified licensed or club premises where disorder is occurring;
- Enable a court, following conviction, to **endorse penalty points on a licence or certificate of registration**. Premises which accumulate 10 penalty points within any three year period will have their licence or certificate suspending for a period of between one week and three months;

<sup>3</sup> See Northern Ireland Assembly Official Report, 17 November 2008. [www.niassembly.gov.uk/record/reports2008/081117.htm](http://www.niassembly.gov.uk/record/reports2008/081117.htm)

<sup>4</sup> Department for Social Development. News Release. ‘Ritchie heralds a new era for clubs’. 17 May 2010.

- Introduce a **statutory proof of age scheme** specifying acceptable proof of age documents and require premises to display specific signage describing the new scheme;
- **Increase the number of occasions** in which registered clubs may apply to the PSNI for later opening to **1:00am from 52 to 120 each year**; and
- Create a **more flexible accounting system for registered clubs** which recognises the different auditing requirements for small, medium and large clubs. This provision results from the PSNI's acknowledgement that the financial mismanagement that had previously existed in some clubs was no longer in evidence and that more flexible arrangements for registered clubs was in order.

In her statement to the Assembly on 17 November 2008, the Minister announced that the second stage of reform would be implemented in the longer term once the Review of Public Administration has been completed and a new system of local government was in place. These series of reforms would involve the transfer of responsibility for liquor licensing and clubs' registration from the courts to the newly formed councils; the introduction of six new statutory licensing objectives; and a streamlining of the current 12 licence categories into a dual system of personal and premises licences. The Minister also announced her intention to **retain the surrender provision** for liquor licences. This is a provision which requires a licence for a public house or off-sales to be surrendered to the court before a licence for a new business can be granted.<sup>5</sup>

The issues which may potentially constitute the basis of a second stage of reform are considered further in the Northern Ireland Assembly Research and Library Service Paper '[Liquor Licensing Reform in Northern Ireland](#)' (May 2009).<sup>6</sup> This paper also explores recent alcohol reform proposals in Scotland which include the introduction of minimum retail pricing, the control of 'irresponsible' alcohol promotions, raising the minimum age for purchasing alcohol to 21; and the introduction of a 'social responsibility' fee for some retailers to 'off set' the costs of dealing with the adverse consequences of alcohol. It is recommended that the research paper be read in conjunction with this Bill Paper in order to provide further contextual information on the future direction of liquor/alcohol reform both in Northern Ireland and other jurisdictions.

## 2 Background to Liquor Licensing Reform in Northern Ireland

The review of Northern Ireland's liquor licensing laws was [announced](#) on 4 March 2004 by John Spellar MP, the then Minister with responsibility for Social Development. The review sought to strike a balance between the need for a more flexible and

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<sup>5</sup> See Northern Ireland Assembly Official Report, 17 November 2008. [www.niassembly.gov.uk/record/reports2008/081117.htm](http://www.niassembly.gov.uk/record/reports2008/081117.htm)

<sup>6</sup> Northern Ireland Assembly Research and Library Services (2009) Liquor Licensing Reform in Northern Ireland. [www.niassembly.gov.uk/researchandlibrary/2009/6109.pdf](http://www.niassembly.gov.uk/researchandlibrary/2009/6109.pdf)

balanced licensing framework and the need to regulate the sale of alcohol in a way that was effective, enforceable and equitable.<sup>7</sup>

A Liquor Review Team (LRT) was set up in May 2004 to carry out the review with an Inter-Departmental Steering Group comprised of representations from the Department for Social Development; the Department of Health, Social Services and Public Safety; the Northern Ireland Court Service; the Northern Ireland Office; and the Police Service of Northern Ireland. The review team was tasked with exploring the following issues – opening hours; enforcement; surrender of a subsisting licence; categories of licences; wider public health issues; licensing laws regarding children; social and environmental issues; and equality and equity issues.<sup>8</sup>

In November 2005, David Hanson MP announced the publication of the consultation document '[Liquor Licensing – The Way Forward](#)'<sup>9</sup> which set out proposals for liquor licensing reform. Commenting at that time, the Minister highlighted the diversity of interest in the reforms,

*“In considering the way forward I have been keenly aware of the need to weigh up the rights, needs and demands of the various interests concerned. These are wide-ranging. They include urban regeneration interests, employers and employees in the tourism and hospitality industry, town managers, the PSNI, health and community interests, residents and the general public.”*<sup>10</sup>

There were 963 written responses to the consultation reflecting the scale of interest in the proposed reforms and the Department for Social Development published a [summary analysis](#) of the views of consultees on each of the policy proposals in July 2006<sup>11</sup>. The review process was also supported by research and analysis including:

- A literature review on the impact of licensing and other controls on alcohol consumption<sup>12</sup>;
- Northern Ireland Omnibus Survey questions to assess views on issues such as opening hours, off-licenses; alcohol and anti-social behaviour; and underage drinking<sup>13</sup>; and

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<sup>7</sup> Department for Social Development. News Release. 'Spellar announces review of drinking laws'. 4 March 2004. <http://archive.nics.gov.uk/sd/040304a-sd.htm>

<sup>8</sup> Department for Social Development. Liquor Licensing – The Way Forward. Government proposals to Reform Liquor Licensing Law in Northern Ireland. Consultation Document. October 2005, p7.

<sup>9</sup> For related consultation publications see <http://archive.nics.gov.uk/sd/040304a-sd.htm>, for online copy of the consultation document see [www.strabandc.com/filestore/documents/lrt-liquor-licensing-consultation-document.pdf](http://www.strabandc.com/filestore/documents/lrt-liquor-licensing-consultation-document.pdf)

<sup>10</sup> Department for Social Development. News Release. 'Liquor Licensing proposals offer balanced package for 21<sup>st</sup> century. 1 November 2005. <http://archive.nics.gov.uk/sd/051101c-sd.htm>

<sup>11</sup> Department for Social Development. 'Liquor Licensing – The Way Forward'. Analysis of Responses to Public Consultation. July 2006. [www.dsdni.gov.uk/lrt\\_consultation\\_analysis.doc](http://www.dsdni.gov.uk/lrt_consultation_analysis.doc)

<sup>12</sup> Department for Social Development. Liquor Licensing Review Northern Ireland: Review of the Literature on the Impact of Licensing and other Controls on the Consumption of Alcohol.

<sup>13</sup> Northern Ireland Statistics and Research Agency. Northern Ireland Omnibus Survey. October 2004.

- A survey of PSNI District Commanders in relation to their experiences, concerns and priorities in relation to the introduction of a new licensing regime<sup>14</sup>.

On 20 July 2006, Minister Hanson [announced](#) his final decision on the proposals in the form of a Written Statement to the House of Commons<sup>15</sup>. A [consultation](#) on the draft Licensing and Registration of Clubs Order was published in December 2006 with around 60 responses. However, neither the proposals nor the draft Order were implemented as liquor licensing passed to the Northern Ireland Executive upon restoration of devolved government.

In 2007 the Minister for Social Development, Margaret Ritchie MLA, initiated her own review, drawing and building upon the work completed by her predecessor. The Minister held a series of meetings with key stakeholders before finalising her own proposals. The Minister announced these plans in a [Statement](#) to the Assembly on 17 November 2008.<sup>16</sup>

### 3 The Contents of the Bill

The Bill contains 14 clauses and 4 schedules which either amend or replace the existing provisions of the [Licensing \(Northern Ireland\) Order 1996](#)<sup>17</sup> and the [Registration of Clubs \(Northern Ireland\) Order 1996](#)<sup>18</sup>. This section of the paper provides a broad overview of the main clauses of the Bill and for ease of reference is divided into the following sections:

- The introduction of new closure powers (Clauses 1 and 5).
- The introduction of a penalty points system (Clauses 2 and 6).
- The introduction of a statutory proof of age scheme (Clauses 3 and 7).
- New flexible accounting requirements for registered clubs (Clause 8).
- Increase in 'special authorisation' occasions for registered clubs (Clause 9).

### 4 The Introduction of New Closure Powers (Clauses 1 and 5)

Clause 1 of the Bill provides the PSNI with new closure powers in relation to licensed premises. Licensed premises are defined by the Licensing (Northern Ireland) Order

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<sup>14</sup> PSNI Operational Support Department. Report for Northern Ireland Licensing Review Team summarising the results of a survey of district commanders, regional headquarters and Criminal Justice Department's Community Safety Branch, October 2004.

<sup>15</sup> House of Commons Hansard. 20 July 2006.

[www.publications.parliament.uk/pa/cm200506/cmhansrd/vo060720/wmstext/60720m0003.htm#06072031000418](http://www.publications.parliament.uk/pa/cm200506/cmhansrd/vo060720/wmstext/60720m0003.htm#06072031000418)

<sup>16</sup> Northern Ireland Assembly Official Report. Ministerial Statement on Liquor Licensing and Registered Club Law. 17 November 2008. [www.niassembly.gov.uk/record/reports2008/081117.htm](http://www.niassembly.gov.uk/record/reports2008/081117.htm)

<sup>17</sup> See [www.opsi.gov.uk/si/si1996/uksi\\_19963158\\_en\\_1](http://www.opsi.gov.uk/si/si1996/uksi_19963158_en_1)

<sup>18</sup> See [www.opsi.gov.uk/si/si1996/Uksi\\_19963159\\_en\\_1.htm](http://www.opsi.gov.uk/si/si1996/Uksi_19963159_en_1.htm)



1996 as part (or parts) of a premises for which a liquor license is in force and in which intoxicating liquor is permitted to be sold by retail.

#### Temporary powers to close licensed premises in an area/district

The new powers introduced under Clause 1 will empower a magistrates' court within a "petty session" district that is experiencing, or likely to experience, disorder to make a closure order requiring licensed premises which are situated at or near the place of disorder or expected disorder, to be closed for a period of up to 24 hours. The application for a closure order must be made by a police officer who is of the rank of Superintendent or above. However, a court cannot make such an order unless it is satisfied that it is necessary to prevent disorder.

A new offence (carrying a maximum fine of £1,000) is introduced for knowingly keeping any licensed premises open during the period of a closure order. The Bill also includes the provision that "*a constable may use such force as may be necessary for the purpose of closing premises ordered to be closed*".

#### Immediate temporary closure powers relating to identified licensed premises

In addition to this, Clause 1 also contains provisions that would enable a senior police officer (which the Bill's Explanatory Memorandum identifies as a rank of inspector or above)<sup>19</sup> to make a closure order (of up to 24 hours) if that officer "*reasonably*" believes that there is disorder on, or in the vicinity of and related to, the premises and that the closure is necessary in the "*interests of public safety*". In determining whether to make a closure order in respect of any premises, the senior police officer must "*have regard, in particular, to the conduct of the holder of the license and the licence holder's servant or agent in relation to the disorder or nuisance*". The closure order must specify certain items of information including information on the premises to which it relates; the period for which the premises are to be closed; and the grounds on which an order is made. The closure order will come into effect at the time a constable gives notice of it to the holder of the licence or the licence holder's servant or agent. Failure to adhere to the order could result in a fine of up to £5,000 and/or imprisonment of up to 6 months.

Following the closure of a licensed premises, the responsible senior police officer must, (as soon as is reasonably practical), apply to the relevant magistrates' court for it to consider the order and an extension of it. The court must then hold a hearing as soon as is practical to consider the application. The court may:

- revoke a closure order and any extension of it;
- order the premises to be closed, or remain closed, for a period of up to 28 days;

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<sup>19</sup> The rank structure of the PSNI is as follows – Chief Constable; Deputy Chief Constable; Assistant Chief Constable; Chief Superintendent; Superintendent; Chief Inspector; Inspector; Sergeant; Constable. Information extracted from [www.joinpsni.co.uk/structure.aspx](http://www.joinpsni.co.uk/structure.aspx)

- revoke, modify or make the continuance of an order for additional permitted hours (later opening) subject to such terms as the court thinks fit; and
- revoke any occasional licences already granted or order that no further occasional licenses be granted to that premises.

Clause 1 also includes provisions which exempt the PSNI from liability for damages such as damages awarded in proceedings for judicial review, negligence or inappropriate performance in public office, unless the action by the police is shown to have been in bad faith or incompatible with section 6(1) of the Human Rights Act 1998 (which makes it unlawful for a public authority to act in a way which is incompatible with a Convention right).

The Bill states that a key issue in determining whether to make a closure order for identified individual premises is the conduct of the holder of the licence or their servant or agent. There is as yet no further details as to how this will be applied or assessed in Northern Ireland. However, guidance on police powers in relation to the temporary closure powers of licensed premises in England and Wales provide an insight into how this principle should operate in practice.

The Guidance strongly stipulates that in the first instance police should seek the voluntary co-operation of licensees in resolving incidents of disorder. This may involve a decision of the licensee to voluntarily close their premises for a period of time. It is beneficial for a licensee to co-operate with the police in this manner as the issue of a closure order by the police under Section 161 (of the Liquor Licensing Act 2003) will automatically lead, after an initial hearing by the courts, to a review of the licence by the licensing authority. The relevant extract of the Guidance states that:

*“Section 161 of the 2003 Act also provides that the senior police officer must consider the conduct of the premises licence holder, manager, designated premises supervisor or premises user who has given a temporary event notice, before making a closure order. If they have acted incompetently, inadequately or actually provoked or caused the problems or, alternatively, have called the police in promptly and acted sensibly to try to prevent disorder or noise nuisance, the officer may take these factors into account....”*

*In this context, it must be understood that the powers to close licensed premises are not a penalty to be imposed on the licence holder....*

*The powers in sections 161 - 170 of the 2003 Act are, first and foremost, designed to protect the public whether a licensee or manager or any other person is at fault or not. This means that even if the licence holder, managers or other persons have done all they can to prevent the disorder or noise nuisance, a senior police officer may on occasions, still believe that closure is necessary to safeguard the public or to prevent the public*

*nuisance. These will be fine judgements, appropriately pitched at a senior police rank. But the police's overriding consideration should always be the public interest....*

*The police should, whenever possible, seek the voluntary co-operation of licensees, managers and others in resolving incidents of disorder, potential disorder and noise nuisance rather than move directly to a decision to use a closure order. Police officers should be aware that any decision to deploy the powers available to them to make a closure order under section 161 of the 2003 Act will almost inevitably lead, after an initial hearing before the courts, to a review of the licence by the licensing authority. This will involve determining whether or not it is necessary for the promotion of the licensing objectives to take any steps in relation to the licence, including revocation. A decision by the licensing authority to proceed on that basis will therefore involve police attendance at the hearing and the preparation of material relating to the review. Senior police officers will only want to commit such resources if necessary and justified in the public interest.<sup>20</sup>*

## Temporary Closure Powers and Registered Clubs

A registered club is defined as a club which is registered under the Registration of Clubs (Northern Ireland) Order 1996. These are usually voluntary associations of people who wish to promote some common objective (such as social interaction, sports, hobbies or other pastimes). If a club wishes to supply intoxicating liquor to members or their guests for consumption within a club premises and to keep it for supply on those premises, then it must apply to a county court for a certificate of registration under the Registration of Clubs (Northern Ireland) Order.<sup>21</sup>

Clause 5 of the Bill contains provisions relating to closure powers and registered clubs which are largely similar to the provisions relating to licensed premises contained within Clause 1. The exception is that a magistrates' court may only, on considering an order or extension of an order, revoke the closure order or any extension of it or order the premises to remain, or to be closed, for a period of up to 28 days. Unlike the provisions relating to licensed premises, the courts will not consider issues such as occasional licences or permitted hours as part of a consideration of a closure order for registered clubs.

## The Response of Some Stakeholders to the Closure Powers

A [consultation](#) on the draft Licensing and Registration of Clubs Order was published in December 2006. Concerns relating to the temporary closure powers primarily centred

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<sup>20</sup> Department for Culture, Media and Sport (2007) Police Powers to Close Premises under the Licensing Act 2003, pp4-5. [www.cep.culture.gov.uk/images/publications/Policeclosurepowersguidance.pdf](http://www.cep.culture.gov.uk/images/publications/Policeclosurepowersguidance.pdf)

<sup>21</sup> Guide to the Registration of Clubs (Northern Ireland) Order 1996, p4. [www.dsdni.gov.uk/guide\\_to\\_registration\\_of\\_clubs.doc](http://www.dsdni.gov.uk/guide_to_registration_of_clubs.doc)

around the definition of the term “closure” and also upon the impact of the new temporary closure powers on licensed premises.

### Defining the term “closure”

Armagh District Policy Partnership, for example, felt that there was a need for “clarification of what is meant by closure in this provision as we were unclear as to whether this meant total clearance of the property or closure of the bars for the sale of alcohol or somewhere in between”.<sup>22</sup> This issue does not appear to have been clarified either by the legislation or in the Explanatory Memorandum to the Bill. However, it is likely that guidance for the PSNI on the new closure powers will be required to assist in the interpretation of the legislation.

Similar guidance has been produced in relation to ‘[Police Powers to Close Premises under the Licensing Act 2003](#)’ in England and Wales. Although the guidance produced has no binding effect on police officers, it aims to support and assist them in interpreting and implementing the legislation. To provide clarity on the definition of what is meant by “closure”, the guidance states:

*“The 2003 Act [i.e. the Licensing Act 2003] does not require the licence holder or the police to clear the premises of customers following the service of a closure order. It is assumed that normally premises would empty, there being no purpose to the presence of customers if relevant items, licensable activities or facilities may no longer be sold, supplied or provided. However, a customer commits no offence if they are not asked to leave and remain on the premises. The closure relates to the carrying on of the licensable activities. The licence holder, premises user, designated premises supervisor or manager of the premises similarly commit no offence arising from the mere presence of such an individual. However, if an individual who is drunk or disorderly is asked to leave by a constable, a licence holder or others and then refuses to leave, they become liable to prosecution. Where a police officer is asked for assistance to remove such a customer, the officer is under a statutory duty to afford that assistance.*

*The lack of any duty on customers to leave the premises automatically following the service of a closure order is important. However, it would be open to the police to propose a phased emptying of premises for the purpose of dispersing, for example, disorderly gangs separately or because it is in the interests of public safety to keep law-abiding customers inside for a temporary period while troublemakers outside are dispersed by the police....”<sup>23</sup>*

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<sup>22</sup> Armagh District Policing Partnership response to the draft Licensing and Registration of Clubs Order, February 2007. [www.dsdni.gov.uk/armagh\\_district\\_policing\\_partnership.pdf](http://www.dsdni.gov.uk/armagh_district_policing_partnership.pdf)

<sup>23</sup> Department for Culture, Media and Sport (2007) Police Powers to Close Premises under the Licensing Act 2003, p7. [www.cep.culture.gov.uk/images/publications/Policeclosurepowersguidance.pdf](http://www.cep.culture.gov.uk/images/publications/Policeclosurepowersguidance.pdf)

### The Potential Impact on Businesses

The Northern Ireland Independent Retail Trade Association expressed general support for the new powers but had concerns about the interpretation of the provisions “on the ground”. NIIRTA cited the example of grocery stores which also sold alcohol and sought clarification regarding whether a closure order would result in the closure of the whole premises or just the part of the premises which sold intoxicating liquor<sup>24</sup>.

The Federation of the Retail Licensed Trade NI, stated that the main fear of the licensed trade was assurances that the new temporary closure provisions could not be abused. The Federation felt that given the potential impact of closure on a person’s business before a court hearing takes place, the senior police officer making the order should be at least of the rank of Chief Inspector.

From the PSNI’s point of view, a 2004 report on a survey of PSNI District Commanders and Regional Headquarters maintained that there were inadequacies in the current sanctions regime and highlighted the potential for the closure powers to act as a deterrent for businesses that do not act responsibly. The report stated that there was wide support for the power of closure on the basis that it would have an immediate impact and an adverse affect on the profitability of premises:

*“Where licensees are found to be in breach of the licensing laws in Northern Ireland, it can take a lengthy period of time to pursue a prosecution through the courts. This clearly does not create the deterrent impact the sanctions within the current legislation ought to deliver. Even the worse cases currently taken to court seldom result in premises being closed. As articulated earlier, bringing licensees to court even within 7 days only starts the long process of adjournments and legal argument and a more effective mechanism within the current Criminal Justice system would need to be researched.*

*Power to close licensed premises may seem somewhat draconian in its approach but there may be occasions when it is absolutely necessary. Such sanctions are likely to be most effective if they are imposed at the weekend. Impacting upon a licensees’ profit margin would have a greater effect than the current fines imposed, which do not represent the profits made from breaking the law. The system of imposing a closure order must be practical in its implementation, and have a clearly defined structure of graduated response, i.e. from initial warning right up to an order of closure. It is also imperative that this power is available at the appropriate level of operational rank. We believe that this should only be available to officers of Inspector rank and above.*

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<sup>24</sup> Response by the Northern Ireland Independent Retail Trade Association to the draft Licensing and Registration of Clubs (Amendment) Order. [www.dsdni.gov.uk/ni\\_independent\\_retail\\_trade\\_association.doc](http://www.dsdni.gov.uk/ni_independent_retail_trade_association.doc)

*It is essential that that we have a sanctions regime that is applied consistently, that not only penalises those found guilty of offences but also acts as a real deterrent for others.”<sup>25</sup>*

## The Application of Closure Powers in Other Jurisdictions

The provisions in the Bill relating to closure powers will bring Northern Ireland into line with similar arrangements in Great Britain. In England and Wales, [Part 8 of the Licensing Act 2003](#) provides broadly similar powers to those proposed for Northern Ireland in relation to the temporary closure of individual licensed premises for actual disorder, or all licensed premises in a geographical area for actual or anticipated disorder. In Scotland there are similar provisions in [Part 7 of the Licensing \(Scotland\) Act 2005](#).

One comparable difference is that the fine for a breach of a closure order in Great Britain is much greater than that proposed for Northern Ireland (i.e. in GB a fine of up to £20,000 is applicable). Another variation in the application of closure orders is that in Scotland, a senior police officer must apply to a Licensing Board rather than a Magistrates' Court for a closure order. There is a Licensing Board in each council area in Scotland appointed by the local council which is responsible for all matters relating to the granting of licenses for the supply of alcohol and various gambling activities. The Licensing Boards are separate legal entities from the councils, and their membership comprises local councillors who are supported administratively by their council licensing section.

Statistics produced by the Department for Culture, Media and Sport highlight that 54 closure notices were issued in England and Wales during 2008/09 (issued under Section 161 of the Licensing Act 2003, i.e. police powers to immediately close premises). There were also 26 completed premises licence reviews carried out following closure orders. To place this in context, there were around 250,000 licences and certificates in force in England and Wales during that time<sup>26</sup>.

The statistics appear to suggest that immediate police closure powers in England and Wales (under Section 161 of the Licensing Act 2003) are used relatively infrequently, but this may not necessarily provide a full picture of the impact of the legislation. As previously stated, guidance for the police service strongly stipulates that in the first instance the police should seek the voluntary co-operation of licensees in resolving incidents of disorder. This may involve a decision of the licensee to voluntarily close their premises for a period of time. It should be borne in mind that it is beneficial for a licensee to co-operate with the police in this manner as the issue of a closure order by

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<sup>25</sup> PSNI Operational Support Department (2004) Report for the Northern Ireland Licensing Review Team summarising the results of the Survey of District Commanders, Regional Headquarters and Criminal Justice Department's Community Safety Branch. P20.

<sup>26</sup> Department for Culture, Media and Sport (2009) DCMS Statistical Bulletin: Alcohol, Entertainment and Late Night Refreshment Licensing. England and Wales., April 2008 – March 2009.

the police under Section 161 may lead, after an initial hearing by the courts, to a review of the licence by the licensing authority. Statistics relating to the number of voluntary closures do not appear to be collated centrally.

For illustrative purposes, provided below are some examples of the application of the temporary closure powers under Section 161 of the Licensing Act 2003 (i.e. immediate closure powers):

### **Examples of the use of immediate closure powers until Section 161 of the Licensing Act 2003 (England and Wales)**

**May 2010:** Surrey Police closed a pub in Camberley following an affray which led to an officer being assaulted. Officers were called to the pub around 9:20pm after a report that a fight had broken out between customers and bar staff. When the first policeman arrived there were a large number of intoxicated people outside the premises and the officer was assaulted whilst attempting to enter the premises. The premise was found to be in disarray and on investigation with the landlord it was decided that the appropriate action was to issue a closure order. The pub was initially closed for 24 hours. However, following negotiations between police and the brewery in charge, the pub was permanently closed for business.<sup>27</sup>

**January 2010:** Police used their temporary closure powers to close a bar in Swindon due to underage drinking. On responding to a complaint from a member of the public, police are reported to have found a large number of drunken youths both inside and outside the bar. A 15 year old boy was arrested for being drunk and disorderly and a 22 year old arrested for a public disorder offence. The bar was closed by police to prevent further disorder. The closure order was subsequently agreed by Swindon Magistrates Court which also ruled that the bar should remain closed until the licensing authority could review the bar's licence, taking into account the interests of public safety.<sup>28</sup>

**December 2008:** A 24 hour closure order was made in respect to a bar in Thornton Heath (South London). It was reported that hundreds of youths attempted to gatecrash a girl's 18<sup>th</sup> birthday party that had been advertised on Facebook. Fifty police officers were called to the scene and were reported to have been attacked by bottles and other sharp objects. The following day Croydon Police were reported to have applied to Croydon Magistrates' Court to apply for the closure order to be extended. The application was rejected by the Court.<sup>29</sup>

<sup>27</sup> Surrey Police. 'Police close Camberley pub following affray'. 19 May 2010.  
[www.surrey.police.uk/media/news\\_item.asp?area=6&itemID=12862](http://www.surrey.police.uk/media/news_item.asp?area=6&itemID=12862)

<sup>28</sup> Gazette and Herald. 'Swindon bar closed by police after underage drinking'. 25 January 2010.

<sup>29</sup> Croydon Advertiser. 'Hundreds gatecrash Thornton Heath Facebook party'. 31 December 2008.  
[www.thisiscroydontoday.co.uk/news/Hundreds-gatecrash-Thornton-Heath-Facebook-party/article-578474-detail/article.html](http://www.thisiscroydontoday.co.uk/news/Hundreds-gatecrash-Thornton-Heath-Facebook-party/article-578474-detail/article.html)

As previously highlighted, Section 160 of the Licensing Act 2003 also permits police in England and Wales to apply to a Magistrates Court for a closure order in an area likely to experience disorder. It is reported that this power was used for the first time in 2008 to prevent a live performance at the 'Moonfest' festival from taking place. Wiltshire Constabulary successfully applied to the North Wiltshire Magistrates Court for a closure order to ban an appearance by Pete Doherty and his band Babyshambles on the grounds that there could be public disorder.<sup>30</sup>

In the Republic of Ireland some offences under the Intoxicating Liquor Act, 2003 (e.g. the sale of alcohol to people under 18, allowing people under 18 in licensed premises during extended hours and allowing people under 18 to be in an off-licence unaccompanied) can result in a temporary closure order. This order is imposed by the District Court in addition to any fine that may be payable by the licence holder. The premises must be closed for a period not exceeding 7 days for a first offence or not less than 7 days and not more than 30 days for a second or any subsequent such offence. Any premises closed due to a temporary closure order must display a sign outside giving details of the length of the closure and stating that the closure is in compliance with a court order. In the event of persistent offenders, a court can ultimately demand the forfeiture of a licence.<sup>31</sup>

## 5 The Introduction of a Penalty Points System (Clauses 2 and 6)

In her statement to the Assembly in November 2008, the Minister for Social Development highlighted that, whilst a penalty points system will be a unique feature to Northern Ireland, there is already a precedent for penalty points here in that registered clubs may receive points for financial offences, e.g. an accumulation of ten points can lead to a club's registration being cancelled<sup>32</sup>.

Clauses 2 and 6 of the Bill introduces a penalty points system for licensed premises and registered clubs respectively. A summary of the penalty points attributable to certain offences in relation to licenses are set out in Table 1 and for registered clubs in Table 2.

Key points in relation to the penalty points system are as follows:

- On the accumulation of 10 or more penalty points within a 3 year period, a Magistrates' Court can suspend a licence or certificate for between one week and three months.

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<sup>30</sup> Telegraph. 'Pete Doherty's Babyshambles banned from headlining Moonfest festival'. 20 August 2010. [www.telegraph.co.uk/news/newstoppers/celebritynews/2588097/Pete-Dohertys-Babyshambles-banned-from-headlining-Moonfest-festival.html](http://www.telegraph.co.uk/news/newstoppers/celebritynews/2588097/Pete-Dohertys-Babyshambles-banned-from-headlining-Moonfest-festival.html)

<sup>31</sup> Barkeeper. 'Alcohol and the Law in Ireland'. [www.barkeeper.ie/page.asp?menu=0&page=274](http://www.barkeeper.ie/page.asp?menu=0&page=274)

<sup>32</sup> See Northern Ireland Assembly Official Report, 17 November 2008. [www.niassembly.gov.uk/record/reports2008/081117.htm](http://www.niassembly.gov.uk/record/reports2008/081117.htm)



- If a licensee is convicted of an offence liable for a fine not exceeding Level 3 (£1,000) a court has flexibility as to whether or not to endorse those points (3-4). However, upon conviction for the same offence within 3 years a court must order the points to be endorsed upon the licence or certificate or registration.
- If a licensee is convicted of an offence liable for a fine not exceeding Level 4 (£2,500) a court must order the endorsement of the penalty points on a licence for certificate of registration “unless for special reasons the court thinks fit not to do so”. However, upon conviction of a further offence at this level within three years a court must order the points to be endorsed on the licence or certificate.
- If a licensee is convicted of an offence liable for a fine not exceeding Level 5 (£5,000) a court must order the endorsement of penalty points on a licence or certificate.
- It will be an offence liable to a fine of £2,500 and/or up to 3 months imprisonment if a licensee fails to hand the licence into court for endorsement.
- Where a licensee is convicted of two or more offences committed on the same occasion, a court may restrict the points attributable to the highest number due in respect of one of the offences.
- The Bill also empowers the Department for Social Development to amend the penalty points via the affirmative resolution procedure.

**Table 1: Summary of Offences Punishable with Penalty Points (Licensed Premises)**

Level 3 Fine on the Standard Scale (£1,000) 3-4 Penalty Points	Level 4 Fine on the Standard Scale (£2,500) 4-5 Penalty Points	Level 5 Fine on the Standard Scale (£5,000) 5-6 Penalty Points
<ul style="list-style-type: none"> <li>▪ Selling of intoxicating liquor etc. otherwise than in accordance with an occasional licence.</li> <li>▪ Failure to admit to a constable where there is an occasional licence.</li> <li>▪ Selling of intoxicating liquor etc. otherwise than during hours or in premises specified in an extension licence.</li> <li>▪ Selling etc. of intoxicating liquor for consumption off the premises on Christmas Day or Easter Day.</li> <li>▪ Failure to comply with conditions as to sale etc. in guest houses and restaurants.</li> <li>▪ Failure to comply with conditions as to sale etc. in</li> </ul>	<ul style="list-style-type: none"> <li>▪ Failure to comply with a licence in respect of certain premises.</li> <li>▪ Allowing a person under 18 in a licensed premises in contravention of Article 58(2) or (8).</li> <li>▪ Permitting drunkenness, or selling intoxicating liquor to a drunken person.</li> <li>▪ Failure to admit a constable to enter and inspect the premises</li> </ul>	<ul style="list-style-type: none"> <li>▪ Selling etc. intoxicating liquor in premises not authorised by a licence.</li> <li>▪ Failure to comply on grant of licence with a court order to make alterations etc.</li> <li>▪ Failure to comply with a court order to restore premises as far as possible to original condition.</li> <li>▪ Selling intoxicating liquor etc. otherwise than during permitted hours;</li> <li>▪ Selling liquor etc. other than of a certain kind.</li> <li>▪ Selling of intoxicating liquor etc. to a person under 18 in contravention of Article 60(1).</li> <li>▪ Supplying etc. intoxicating</li> </ul>

places of public entertainment.		<ul style="list-style-type: none"> <li>▪ liquor at any entertainment. Supplying etc. intoxicating</li> </ul>
<ul style="list-style-type: none"> <li>▪ Failure to comply with conditions as to sale etc. in indoor arenas.</li> <li>▪ Failure to comply with conditions as to sale etc. in seamen's canteens.</li> <li>▪ Permitting consumption of intoxicating liquor in unlicensed part of premises.</li> <li>▪ Breach terms of off-licence.</li> <li>▪ Failure to display notice relating to age.</li> <li>▪ Allowing prostitutes to assemble on licensed premises.</li> <li>▪ Keeping premises open after closure made under Article 69A.</li> <li>▪ Failure to comply with licence for non-seagoing vessels.</li> </ul>		<ul style="list-style-type: none"> <li>▪ liquor in premises used by a club.</li> <li>▪ Permitting premises to be open in contravention of closure order under Article 69B.</li> <li>▪ Permitting premises to be open etc. in contravention of a court's decision about a closure order.</li> </ul>

**Table 2: Summary of Offences Punishable with Penalty Points (Registered Clubs)**

Level 3 Fine on the Standard Scale (£1,000) 3-4 Penalty Points	Level 4 Fine on the Standard Scale (£2,500) 4-5 Penalty Points	Level 5 Fine on the Standard Scale (£5,000) 5-6 Penalty Points
<ul style="list-style-type: none"> <li>▪ Misconduct of a club.</li> <li>▪ Failure to display a notice relating to age.</li> <li>▪ Contravention of regulations concerning accounts.</li> <li>▪ Keeping premises open after order made under Article 41A.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Permitting unauthorised persons to be on premises.</li> <li>▪ Holding unauthorised functions on the premises.</li> <li>▪ Contravention of provisions which are included in the club's rules.</li> <li>▪ Allowing persons under 18 to be in club premises, or bar of club premises etc.</li> <li>▪ Permitting drunkenness etc.</li> <li>▪ Failure to comply with restrictions on advertisements relating to functions in registered clubs.</li> <li>▪ Failure to admit a constable or produce</li> </ul>	<ul style="list-style-type: none"> <li>▪ Supply etc. of intoxicating liquor outside permitted hours.</li> <li>▪ Failure to keep bar closed outside permitted hours.</li> <li>▪ Supply of intoxicating liquor to persons other than permitted persons.</li> <li>▪ Supply etc. of intoxicating liquor to a person under 18.</li> <li>▪ Failure to comply with requirement to keep proper vouchers; establish and maintain a system of control; prepare annual accounts; have accounts audited or examined; produce records etc. to audit or independent examiner; provide summary of accounts to members; provide</li> </ul>

	<ul style="list-style-type: none"> <li>▪ books and records, etc.</li> <li>▪ Failure to comply with written notice to produce books, etc.</li> </ul>	<ul style="list-style-type: none"> <li>▪ summary of accounts to district commander; display accounts for 4 weeks; retain record for 6 years.</li> <li>▪ Permitting premises to be kept open after closure order.</li> <li>▪ Permitting premises to be kept open in contravention of a court's decision about closure order.</li> </ul>
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## Some Stakeholder Reactions to the Proposals for Stronger Enforcement

The 2005 consultation paper, 'Liquor Licensing – The Way Forward' highlighted the general concerns of key stakeholders in relation to enforcement. The PSNI survey report, for example, set out several areas where enforcement could be improved. The PSNI felt that there were difficulties in prosecuting licensees for breaches in the legislation due to:

- A plethora of licensing offences carrying varying degrees of penalty;
- Protracted court cases;
- Suspension of a licence being considered as a punishment of last resort, deployed after a licensee had appeared frequently before the courts; and
- Sanctions that fail to act as an effective deterrent.

The consultation paper further highlighted the perceived concerns of the licensed trade and magistrates in relation to the issue of enforcement:

*“The licensed trade believe that enforcement could be more effective. They believe that those who routinely flout the law are not being effectively punished e.g. a fine for selling after hours is not a deterrent if the guilty party can make more than that amount in the time they illegally stay open.*

*Magistrates currently have to choose between the two extremes of issuing fines, that are seen by some as ineffectual and lenient, and suspending or revoking licences, a major punishment that could deprive an individual of their income or business, and which could seem disproportionate for many offences. Issues around police resources and priorities have also been raised.”<sup>33</sup>*

<sup>33</sup> Department for Social Development (2005) Liquor Licensing – The Way Forward. Government Proposals to Reform Liquor Licensing Law in Northern Ireland, pp24-25.

A few organisations, whilst welcoming the introduction of a penalty points system, believe that the proposals do not go far enough. A submission by the Northern Ireland Independent Retail Association in response to the draft Licensing and Registration of Clubs (Amendment) (Northern Ireland) Order 2007 states:

*“We fully support the introduction of stronger enforcement measures and the introduction of a penalty points system culminating in the suspension of a licence.*

*We are however of the opinion that the enforcement of licensing legislation in Northern Ireland will continue to be weak until such time as Government introduces a system which results in the disqualification of premises for use as licensed premises and the disqualification of persons from holding a personal liquor licence [sic].*

*We are disappointed that Government have not taken the opportunities presented by this amending legislation to introduce such a system. The enforcement of the legislation will be ineffective while the maximum penalty which can be imposed against any licensee, no matter how badly behaved, is only temporary suspension for three months with no loss of licence [sic].”<sup>34</sup>*

## 6 The Introduction of a Statutory Proof of Age Scheme (Clauses 3 and 7)

Although it is an offence in Northern Ireland to sell alcohol to a person under 18, the consultation paper ‘The Way Forward’ highlighted that the law does not specify how a person’s age should be determined and that this can cause uncertainty for licensees, young people and the PSNI. ‘The Way Forward’ maintained that a proof of age scheme could assist police and licensees in identifying those who are underage attempting to purchase alcohol.<sup>35</sup>

Clauses 3 and 7 of the Bill make identical provision for the introduction of a statutory proof of age scheme for licensed premises and registered clubs. In court proceedings for certain underage offences, a licensee can demonstrate that they have shown “all due diligence” to avoid committing an offence if they have been shown any of the following documents:

- A passport;
- A photocard driving licence;

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<sup>34</sup> Northern Ireland Independent Retail Trade Association. Response to the Draft Licensing and Registration of Clubs (Amendment) (Northern Ireland) Order 2007.

<sup>35</sup> Department for Social Development (2005) Liquor Licensing – The Way Forward. Government Proposals to Reform Liquor Licensing Law in Northern Ireland, p20.

- An electoral identity card; and
- A Proof of Age Standards Scheme (PASS) card.

In addition to this, licensed premises and registered clubs will be required to display, in a visible position, a notice containing information on underage sales and listing the documents acceptable as proof of age. The Department will also be given the power to prescribe by regulations the format and content of the notice which will state that it is an offence to sell alcohol to a person under 18, for any person under 18 to purchase alcohol, or for a person to purchase alcohol for a person under 18. It will be an offence (with a fine of up to £1,000) for a licensee to fail to display such a notice.

The statutory proof of age scheme will operate alongside other schemes such as the [PSNI Test Purchase of Alcohol Scheme](#)<sup>36</sup>. Test purchasing of alcohol powers are designed to address underage drinking by preventing the illegal sale and supply of alcohol to young people. The test purchase scheme involves young people volunteering to assist the police in test purchase operations. The Federation of Retail Licensed Trade NI recently announced that the police were intending to pilot the use of the new test purchase of alcohol scheme to carry out test purchase operations in the West Belfast area during April 2010:

*“Community Safety Inspector Alan Swann said that test purchase of alcohol exercises are not intended to “entrap or catch out” staff or licensees in either ‘on’ or ‘off’ licensed premises, including supermarkets. Rather test purchase exercises are an opportunity for the licensees and their staff to embrace their responsibilities in ensuring under 18 year olds are not illegally supplied with alcohol.*

*The PSNI would therefore encourage and ask staff and licensees to actively challenge persons who look under 18 years old that are attempting to buy alcohol and to ensure they ask for proof of age or identity before making any such sale,” said Inspector Swann.*

*He also said that it was widely recognised that the illegal sale of alcohol to under-age persons can be linked to anti-social behaviour, alcohol fuelled disorder and crime”.*<sup>37</sup>

## Proof of Age Schemes in Other Jurisdictions

Some regions have developed their voluntary identity cards for young people. The Scottish Government, for example, supports the use of a [‘Young Scot National](#)

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<sup>36</sup> For further information on the scheme see [www.psni.police.uk/index/youth/test\\_purchasing\\_alcohol.htm](http://www.psni.police.uk/index/youth/test_purchasing_alcohol.htm)

<sup>37</sup> Federation of the Retail Licensed Trade NI. ‘Police to pilot test purchase of alcohol powers in West Belfast Area’. 8 April 2010. [www.ulsterpubs.com/news/default.asp?ID=48&itemId=154&topicId=2&va=0](http://www.ulsterpubs.com/news/default.asp?ID=48&itemId=154&topicId=2&va=0)

[Entitlement Card \(NEC\)](#)<sup>38</sup> as a proof of age card when purchasing alcohol, tobacco and other age-restricted products. This is a free electronic smart card available for young people aged 11 to 26. The card bears the [PASS](#) (National Proof of Age Standards Scheme)<sup>39</sup> hologram and is recognised as an official proof of age card across the UK. This is not a mandatory proof of age scheme and carrying the card is voluntary.

Many retailers throughout the UK have voluntarily adopted the '[Challenge 21](#)' initiative to raise awareness amongst staff of their responsibilities in preventing underage sales of alcohol and other age-restricted products. The initiative encourages retailers and licensees to seek proof of age from anyone who appears to be under the age of 21. Some licensed premises in Scotland voluntarily operate a 'Challenge 25' policy whereby those appearing to be under the age of 25 will be asked for proof of age.

A number of jurisdictions outside the UK have mandatory proof of age schemes in operation in various forms. One of the most stringent examples is in Tennessee (USA) which reportedly became (in 2007) the first US state to require a valid ID for off-premises beer purchases regardless of age (under the 'Tennessee Responsible Vendors Act 2006').<sup>40</sup>

In February 2010, the Scottish Government introduced the [Alcohol etc. \(Scotland\) Bill](#) which makes it mandatory for all licensed premises to operate an age verification policy. Many premises in Scotland already operate "Challenge 21" or "Think 25" policies. However, this section of the Bill enshrines these arrangements in law and requires that premises have an age verification policy (for person appearing to be under 21). However, with this provision the retailer would still be able to operate an age verification policy that operates at a higher level (such as the "Think 25" policy).<sup>41</sup>

In the Republic of Ireland, Section 15 of the [Intoxicating Liquor Act 2003](#) requires that persons under 21 carry an age document to enter the bar of a licensed premises. Age documents include a passport, Garda age card or driving licence. The legislation is designed to assist publicans in complying with their obligations in relation to underage sales. The Gardai operate a voluntary [National Age Card](#) scheme in the Republic of Ireland. A National Age Card is a "proof of age card" and not an "identify card" and can be obtained by individuals aged 18 and over to demonstrate that they have reached the legal age for purchasing alcohol (a €10 fee is applicable).<sup>42</sup>

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<sup>38</sup> For further information on the Young Scot National Entitlement Card see [www.youngscotinfo.org/nec/?a=d&s=370&sr=1711](http://www.youngscotinfo.org/nec/?a=d&s=370&sr=1711)

<sup>39</sup> For further information on PASS see [www.brc.org.uk/pass/default.asp](http://www.brc.org.uk/pass/default.asp)

<sup>40</sup> Times Online. 'Tennessee poised to become first state to require universal carding on beer sales'. 22 June 2007.

<sup>41</sup> Alcohol etc. (Scotland) Bill (as introduced). Explanatory Notes. [www.scottish.parliament.uk/s3/bills/34-AlcoholEtc/b34s3-introd-en.pdf](http://www.scottish.parliament.uk/s3/bills/34-AlcoholEtc/b34s3-introd-en.pdf)

<sup>42</sup> See [www.agecard.ie/](http://www.agecard.ie/)

## 7 More Flexible Accounting Requirements for Registered Clubs (Clause 8)

The Registration of Clubs (Northern Ireland) Order 1996 tightened the control under which registered clubs could operate by setting minimum criteria and standards. These applied to the management of clubs with particular emphasis on financial controls and accounts. This development was required by the police to assist in tackling financial mismanagement in clubs. The detailed accounting requirements are set out in the [Registration of Clubs \(Accounts\) Regulations 1997](#)<sup>43</sup>.

According to 'The Way Forward', in 2004 the PSNI, acknowledging the efforts of registered clubs to improve their accounting procedures, proposed that the Regulations should be reconsidered with a view to relaxing them:

*“The police felt that there was scope to simplify the auditing requirements and replace many of the other mandatory requirements of the Regulations with a system of guidance and best practice. The former Minister with responsibility for Social Development, John Spellar MP, agreed to review the Regulations in the context of the current liquor licensing review.”*<sup>44</sup>

Clause 8 of the Bill amends the Registration of Clubs (Accounts) Regulations 1997 by introducing a mechanism whereby regulations and guidance will make the accounting requirements for registered clubs more flexible. According to the Bill's Explanatory Memorandum this clause:

- Removes the requirement to prescribe by regulations the manner in which clubs maintain a system of accounts.
- Removes the requirement to send a copy of the accounts and auditor's report to the police (the police must instead ask for the papers);
- Removes the requirement to notify the police of the address at which accounts-related papers are held; and
- Gives small and medium sized clubs the option to have their accounts audited by an auditor or examined by an independent examiner.

The Northern Ireland Federation of Clubs has opposed the Regulations from the outset, describing them as *“unduly onerous, discriminatory and beset with practical difficulties”*.<sup>45</sup> The 'Way Forward' consultation document acknowledged that stringent regulations can compound the problems of clubs. It recognised that this was a particular problem for disadvantaged areas which are coming under increasing

<sup>43</sup> Registration of Clubs (Accounts) Regulations (Northern Ireland) 1997, [www.opsi.gov.uk/sr/sr1997/Nisr\\_19970333\\_en\\_1.htm](http://www.opsi.gov.uk/sr/sr1997/Nisr_19970333_en_1.htm)

<sup>44</sup> Department for Social Development (2005) Liquor Licensing – The Way Forward. Government Proposals to Reform Liquor Licensing Law in Northern Ireland, p32.

<sup>45</sup> Northern Ireland Federation of Clubs. Submission to the Department for Social Development consultation, "Liquor Licensing – The Way Forward". January 2006.

pressure for survival given that the development of licensed premises in towns and city centres has changed drinking patterns and is attracting more young people. The consultation paper goes on to state that the,

*“Government believes that registered clubs can act as a centre for the community in many areas and provide a resource which is useful in terms of taking forward neighbourhood renewal.”*

There appears to be little locally-based research on the social and economic impact of registered clubs on communities. However, a review of registered clubs in New South Wales (Australia) maintains that registered clubs *“provide considerable intangible social benefits that are impossible to quantify but should not be ignored. These include the sense of belonging that some club members feel and the greater social cohesion a community might experience as a result of having a club where people can meet and mix”*. The research also confirms that the financial viability of individual registered clubs varies greatly and that some are financially strong, whilst others struggle for a variety of reasons including a lack of understanding of their own financial position; demographic changes; the level of competition from other venues in their communities; and the financial and management skills of their boards and managers.<sup>46</sup>

The [‘Analysis of Responses to the Liquor Licensing Consultation’](#) highlighted that the proposals relating to the financial control of registered clubs was,

*“the most evenly split of the proposals; 41% of the responses were in favour of liberalisation of the Clubs’ Accounting procedures and 43% were against it. There were also a high proportion of neutral responses (16%). The trade were 71% in favour of this proposal, while District Councils and District Policing Partnerships were the most strongly against it. PSNI supported the relaxation. Those in favour regarded the regulations as overly prescriptive and burdensome and beset with practical difficulties. However, there were concerns that some clubs could become easy vehicles for the more unscrupulous members of our society to launder money.”<sup>47</sup>*

## 8 Increase in ‘Special Authorisation’ Occasions for Registered Clubs (Clause 9)

The current permitted hours for registered clubs (with the exception of nightworker’s clubs) are as follows:

<sup>46</sup> Independent Regulatory Pricing Tribunal (2008) Review of the Registered Clubs Industry in NSW, p2.

[www.clubsnsw.com.au/Content/NavigationMenu/PolicyIssues/IPARTReviewofRegisteredClubs/default.htm](http://www.clubsnsw.com.au/Content/NavigationMenu/PolicyIssues/IPARTReviewofRegisteredClubs/default.htm)

<sup>47</sup> Department for Social Development (2006) ‘Liquor Licensing – The Way Forward: Analysis of Responses to the Public Consultation’. [www.dsdni.gov.uk/lrt\\_consultation\\_analysis.doc](http://www.dsdni.gov.uk/lrt_consultation_analysis.doc)



- Monday to Saturday (other than Good Friday or Christmas Day) from 11:30am to 11:00pm.
- Sunday or Christmas Day from 12:30pm to 10:00pm; and
- Good Friday from 5:00pm to 11:00pm.<sup>48</sup>

However, under Article 26 of the Registration of Clubs (Northern Ireland) Act 2006, a registered club can apply to a police sub-divisional commander for the area in which the club premises are situated for authorisation to extend the permitted opening hours. An authorisation, which will be given in writing, may permit the supply of intoxicating liquor in registered clubs (other than nightworker's clubs) on any single occasion:

- from Monday to Saturday (except Good Friday or Christmas Day), from 11:00 pm to 1:00 am on the following day;
- on Sunday (except Christmas Day), not being 31 December, from 10:00 pm to 12 midnight; or
- on Sunday, being 31 December, from 10:00 pm to 1:00 am on the following day.

A total of 52 such authorisations may be granted in any period of 12 months. The application must be made at least 7 days before the date for which the additional hours are sought. A special occasion authorisation cannot authorise the supply of intoxicating liquor on Christmas Day, Easter Day or Good Friday.<sup>49</sup>

Clause 9 of the Licensing and Registration of Clubs (Amendment) Bill will increase the number of occasions on which a registered club may apply to the police for later opening to 1:00am (midnight on Sunday) from 52 to 120 occasions in any period of 12 months. A clubs must give police at least 7 days notice of the vent and may, at the discretion of the police, include a number of occasions on the one application.

Opening hours is one of the most contentious issues with respect to liquor licensing reform, as highlighted by the consultation paper 'Liquor Licensing – The Way Forward':

*“Opinions are sharply divided on the subject of opening hours for licensed premises. The Review Team found little consensus on the need for any changes to opening hours. Some of the licensed trade, the public and religious bodies oppose liberalisation while others in the trade, along with tourism and urban regeneration interests, are calling for more flexibility.*

*PSNI believe that the extension of licensing hours must be balanced by the introduction of new, broad-based compensating regulatory structures and stronger powers to enforce the law.*

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<sup>48</sup> Guide to the Registration of Clubs (Northern Ireland) Order 1996. [www.dsdni.gov.uk/guide\\_to\\_registration\\_of\\_clubs.doc](http://www.dsdni.gov.uk/guide_to_registration_of_clubs.doc)

<sup>49</sup> Guide to the Registration of Clubs (Northern Ireland) Order 1996. [www.dsdni.gov.uk/guide\\_to\\_registration\\_of\\_clubs.doc](http://www.dsdni.gov.uk/guide_to_registration_of_clubs.doc)

*One of the few areas of agreement is that future legislation and practice should respond to Northern Ireland's culture and needs, which are seen as different from those in Great Britain*<sup>50</sup>

The original proposals for opening hours contained within "The Way Forward" included:

- Permitting licensed premises and registered clubs to apply to the courts (and to district councils in due course) to open up to 2:00am on weekdays, and midnight on Sundays; and
- Permitting licensed premises and registered clubs to apply to the courts/district councils to open beyond 2:00am/midnight for special occasions such as major sporting or other events attracting significant national or international interest.

The provisions set out within the Licensing and Registration of Clubs (Amendment) Bill could be interpreted as a compromise to the original opening hour proposals contained within the consultation (i.e. 1:00am opening hours contained within the provisions of the Bill as opposed to the original 2:00am opening hour proposal, permitting 1:00am opening hours on 120 'special authorisation' occasions per year in comparison with 2:00am opening hours as standard).

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<sup>50</sup> Department for Social Development (2006) 'Liquor Licensing – The Way Forward', p16.