

*This Explanatory Memorandum refers to the Draft Licensing and Registration of Clubs (Amendment) (Northern Ireland) Order 2007.*

## **DRAFT LICENSING AND REGISTRATION OF CLUBS (AMENDMENT) (NORTHERN IRELAND) ORDER 2007**

### **EXPLANATORY MEMORANDUM**

#### **INTRODUCTION**

1. The above Order is being made under the Northern Ireland Act 2000 and is subject to affirmative resolution.
2. This Explanatory Memorandum has been prepared by the Department for Social Development (“the Department”) in order to assist the reader in understanding the Order. It does not form part of the draft Order.

#### **BACKGROUND AND POLICY OBJECTIVES**

3. Since the last review of liquor licensing some 10 years ago there has been a significant change in the economic climate in Northern Ireland. The tourism and hospitality sectors have flourished and there has been a boom in the evening and night-time economy. These developments highlighted the need for a review of licensing and clubs law in Northern Ireland. The aim of the review was to consider the key elements of Northern Ireland’s liquor licensing law and practice, with particular reference to the implications for health and public order and bring forward proposals aimed at striking a balance between facilitating the sale of alcohol, public safety and the public interest. The proposals in this draft Order contain the first stage of reforms. A second stage which will see responsibility for the licensing system transfer from the courts to district councils is planned for 2009 following the Review of Public Administration.

#### **CONSULTATION**

4. David Hanson MP, Minister for the Department for Social Development, launched his proposals for a 2-stage reform of the law in November 2005. The responses to the consultation were analysed and the Minister made a statement to Parliament on 20 July 2006 detailing his plans for the way forward.

## **OPTIONS CONSIDERED**

5. With more fundamental changes to licensing law planned for 2009, the Department considered which of the proposals could be introduced earlier in order to boost the night-time economy and at the same time strengthen the existing enforcement provisions. Considerations were as follows:

**Do nothing.** Major reviews of licensing law completed in England and Wales and separately in Scotland will see a modernisation of the law including the availability of extended opening hours and enhanced enforcement powers. It was considered that to do nothing here would lead to a stagnation in the night-time economy in Northern Ireland and prevent more effective enforcement measures being introduced.

**Introduce a balanced package of changes immediately.** With more changes planned for the future, and with much public support for stronger enforcement measures to be introduced sooner rather than later, it was considered that a relatively modest package of changes would be of benefit to the licensed trade and give the police and courts more powers to tackle persistent offenders.

6. It was decided that the benefits of moving forward with a first stage of reforms would outweigh any perceived disadvantages and would allow some significant changes to be made in the short term.

## **FINANCIAL EFFECTS OF THE ORDER**

7. A modest increase in opening hours is expected to assist in the development of the evening and night-time economy in Northern Ireland.

## **HUMAN RIGHTS ISSUES**

8. The provisions of the Order are compatible with the Convention on Human Rights.

## **EQUALITY IMPACT ASSESSMENT**

9. There are no significant impacts associated with the draft Order.

## **SUMMARY OF THE REGULATORY APPRAISAL**

10. The risk of failing to implement the proposals would represent a failure to tackle alcohol related disorder and persistent breaches of the law. The benefits of the

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change will be new powers for the police and courts to close disorderly premises and impose penalty points for a range of offences. The costs of implementing the changes will be negligible as they will be limited to those premises wishing to apply to the courts for later opening.

## **MAIN ELEMENTS OF THE ORDER**

11. The draft Order contains 16 Articles and 6 Schedules which amend and in some cases replace the existing provisions of the Licensing (Northern Ireland) Order 1996 (“the Licensing Order”) and the Registration of Clubs (Northern Ireland) Order 1996 (“the Clubs Order”).

## **COMMENTARY ON ARTICLES**

12. Details of the purpose of each Article contained in the draft Order are set out below. Comments are not given where the wording is self explanatory.

### **Article 1 “Title and commencement”**

Article 1 gives a title to the Order and provides that Articles 1 and 2 come into operation 7 days after the Order is made. The Department is empowered to make a commencement order naming the day or days on which the remaining provisions will come into operation.

### **Article 2 “Interpretation”**

Article 2 provides for the Interpretation Act (Northern Ireland) 1954 to apply to the order.

### **Articles 3 and 9 “Permitted hours”**

Article 3 of the draft Order replaces and amends the existing Article 44 of the Licensing Order in relation to additional permitted hours. The most significant differences are that the requirement to provide refreshment and/or entertainment as a condition for later opening has been abolished and the latest time to which premises may sell alcohol has been extended to 2.00am subject to the approval of a court. Article 9 of the draft Order introduces a new Article 24A and Schedule 4A into the Clubs Order in relation to additional permitted hours. It also repeals the existing Article 26 under which the police authorised later opening for special occasions. It should be noted that a premises wishing to apply for additional permitted hours after 1.00am must, in addition to applying to a court, publish a notice of the application in 2 newspapers circulating in the vicinity of the premises (see Schedules 1 and 3 of the draft Order). Article 3 of the draft Order also removes the existing Article 45 in the Licensing Order which is no longer

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necessary in view of the removal of the refreshment and entertainment conditions in the new Article 44.

**Article 4 “Occasional licences and extension licences”**

Article 4 amends Article 30 of the Licensing Order by extending the permitted hours for the sale of alcohol by means of an occasional licence from 1.00am to 2.00am. It also amends Article 47 of the Licensing Order (extension licences) by extending the time alcohol may be sold to 2.00am and specifies that no person may be admitted to a licensed premises less than 30 minutes before the end of the function for which the extension licence is granted.

**Articles 5 and 10 “Exceptional permitted hours”**

Article 5 introduces a new Article 44A to the Licensing Order and Article 10 introduces a new Article 24B into the Clubs Order in relation to exceptional permitted hours, under which eligible premises may apply to a court for extended opening any time between 11.00pm and 11.30am the following day for the purpose of screening a sporting event of national or international interest. It should be noted that a premises wishing to apply for exceptional permitted hours beyond 1am must, in addition to applying to a court, publish a notice of the application in 2 newspapers circulating in the vicinity of the premises (see Schedules 1 and 3 to the draft Order).

**Articles 6 and 11 “Children’s Certificates”**

Article 6 of the draft Order amends Article 59 of the Licensing Order and Article 11 amends Article 33 of the Clubs Order in relation to Children’s Certificates. The amendment permits a young person under 18 to attend a private function up to 10.00pm in certified licensed premises or registered clubs and defines the term “private function”.

**Articles 7 and 12 “Closure of licensed premises etc.”/ “Closure of registered clubs”**

Article 7 of the draft Order introduces a new Part IVA to the Licensing Order containing Articles 69A to 69J and Article 12 introduces a new Part IVA to the Clubs Order containing Articles 41A to 41J. These enable the police to close premises for a temporary period in the interests of public safety or to combat noise nuisance and give magistrates’ courts the power to close premises in a district experiencing disorder and to order specific premises for which a closure order has been made by the police to remain closed for up to 28 days. It also repeals Article 49 of the Licensing Order under which the Secretary of State may restrict or remove the permitted hours of licensed premises for the preservation of public order.

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### **Articles 8 and 13 “Penalty Points”**

Article 8 of the draft Order introduces a penalty points system for licensed premises in new Articles 71A, 71B, 71C and Schedule 4A of the Licensing Order whereby penalty points are to be endorsed on a licence following conviction of an offence, culminating in the suspension of the licence. Article 13 of the draft Order amends Articles 43 and 44 and replaces Article 45 and Schedule 6 of the Clubs Order regarding the endorsement of penalty points on certificates of registration, culminating in the suspension of the registration.

### **Article 14 “Accounts of Registered Clubs”**

Article 14 introduces amendments to Article 40 of the Clubs Order in relation to accounting procedures. A registered club will no longer be required to send a copy of its accounts and an auditors report to the police, or to notify the police of the address at which the accounts documents are kept. However, a club must send a summary of these accounts and an auditors report to the police upon the demand of the district commander. The Department is empowered to amend the existing accounting regulations to introduce more flexible systems of control and it will also publish guidance. The penalty for contravening the amended regulations will be a fine not exceeding £1,000.

**Article 15 “Ancillary provision” and Article 16 “Minor and consequential amendments and repeals”** provide a power for the Department to make any orders necessary to give full effect to the draft Order and set out provisions which will be amended or repealed as a consequence of the draft Order.

### **SCHEDULES**

The draft Order contains 6 Schedules which contain the application procedures for additional and exceptional permitted hours for licensed premises and registered clubs, tables of penalty point offences, miscellaneous amendments to the Licensing and Clubs Orders and Articles to be repealed.

### **COMMENCEMENT**

It is anticipated that the draft Order will commence in October 2007.