



Department of Home Affairs

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Isle of Man
Government

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**SUMMARY OF RESPONSES
TO THE
CONSULTATION
ON THE
DRAFT LIQUOR LICENSING AND PUBLIC
ENTERTAINMENTS BILL**

May 2021

Executive Summary

1. The Consultation

The Department of Home Affairs conducted a consultation to invite comments on the draft Liquor Licensing and Public Entertainments Bill 2021 (the "Bill") during a two week period between the 16 April and the 29 April 2021.

The proposed Bill is designed to consolidate and update the legislation relating to alcohol licensing and music and dancing, with the aim of bringing about a standards driven, safety orientated, less bureaucratic and more flexible licensing regime.

The Bill has been developed following consultation with members of the public, industry representatives, and colleagues across the government and legislature, along with other key stakeholders, on the core policy principles behind the Bill. These are principles which the Department believes will bring about the much needed reform of the alcohol licensing regime on the Island while continuing to uphold high standards and maximise the flexibility and opportunity that the regime offers.

A summary of responses from the previous policy consultation was been published at the same time as the draft Bill consultation was released on the 16 April 2021, and can be found on the Consultation Hub in the *We asked, You said, We did* portion of that website here: <https://consult.gov.im/home-affairs/proposed-alcohol-licensing-legislation-changes/>

The Department welcomed the diversity of views which were expressed and the candour with which individuals gave their views at the time.

When the draft Bill consultation that this Executive Summary relates to was released onto the Consultation Hub, a detailed summary of some of the views received on the policy consultation along with specific information about how those views would shape the draft Bill was published at the same time. This provided a comparison that could be clearly seen between the policy objectives that were felt to be most suitable or practical, and any pragmatic changes that could be brought to incorporate a meaningful result to the *We asked You said We did* part of the consultation.

Now within this draft Bill consultation we can clearly see from the consultation responses the practical use of this exercise in achieving a largely positive response to the draft legislation, in particular from those with interested party status, and indeed from the wider public of the Island who the government serves.

From the responses to the Yes/No structure of this draft Bill consultation we can see that the majority of views were in agreement with the legislation as drafted. Where comments have been made and sampled for information, these can also be seen to be largely positive or relating to matters which the draft Bill will seek to address if it should be enacted into the statute book.

Several key issues caused the greatest groundswell of public opinion within this draft Bill consultation and this is reflected within the anonymised commentary sampled within this summary document.

2. The Main Issues

- Consultation – As the draft Bill has been consulted upon and its content finalised with a view to introduction into the legislative branches, the Department has been grateful to the hundreds of respondents who have made their views know. Within the legislation as drafted the Department committed to consultation in the future on

the many sets of Regulations which would structure and manage the new licensing regime and this is a firm commitment that will pass into law if the Bill is successfully progressed.

- The Licensing Authority versus Licensing Court model – this continues to be a key engagement point and the legislation has been carefully drafted to allow for either the Licensing Court structure to be maintained, or, for a hybrid model to emerge whereby on certain matters the Licensing Authority are given transferred responsibility for decision making as a “first point of contact”. Any changes will be gradual and with the full engagement of key stakeholders and (again as is committed to in the legislation) with full consultation.
- Restrictive Covenants – this was by far the most topical subject for particular commentary and many respondents had strong views that the practice of applying a covenant to a premises that was once licensed to prevent future licensing on sale of that premises was unacceptable. Initially in consultation it was considered whether it might in fact be possible to legislate for this matter both from enactment of the Bill and also retrospectively (to go back and undo what was done already in contracts of sale which have been made/deeded) but practically it is less straightforward to intervene into past matters. However, the finalised Bill will contain the provision preventing restrictive covenants being applied in the future and if passed will shift into Manx law.
- Flexibility and Adaptation of Licence Types – the ability to see aspects of the licensing regime be able to be flexible, adaptable and to embrace changes was another key theme to the responses – while it was the view of many respondents that this must be in balance with the regime being implemented and other businesses on the Island. The underpinning theme of a responsive regime that is capable of being changed and being need driven has given the Department pause to consider what is the best “fit” that we could seek to provide for. With this came the realisation that perhaps a more enabling Bill – where granular detail is provided within Regulations which are themselves consulted upon – and which can be modified to become more permissive or to offer more variation over time – was likely the best fit for the optimistic but uncertain times to come.

3. The final Bill

To coincide with the publication of this summary of responses on the draft Licensing Bill, the finalised Bill will, with the approval of the Council of Ministers, move into the legislative branches as soon as possible for the consideration of our directly elected lawmakers within the House of Keys.

The Bill consists primarily of enabling legislation. That is, it will give powers to the Department of Home Affairs to set out how the different parts of the licensing regime will work and therefore consultation and future engagement will be critical to any implementation of the Bill, if it should successfully be passed into Manx law.

1. A note on the respondents to the consultation

- 1.1 The future licensing regime, whatever form that it takes, will be supported by the work of the General Registry, the Isle of Man Constabulary and Isle of Man Government, and will provide the framework by which all licensed hospitality and entertainment will function.

Therefore, it has been important to ensure that these key stakeholders and interested parties and their experienced views are considered alongside those of the wider public of the Island. To ensure that this has happened the Department has, through officer engagement communicated with those key stakeholders sharing responsibilities for the regime or with policy areas that inter-connect with this legislation and sought their input. Additionally, the Department has, also via officer engagement, met with representatives from the licensed hospitality industry and the public entertainment industry, to listen to their thoughts on the legislation.

All of these individuals, organisations, interested parties and key stakeholders have been invited to make formal representation in response to this consultation, and any views shared informally have not formed part of the following summary, albeit that they will have been carefully considered by the Department in finalising the Bill and, in many cases, provided valuable insight and suggested improvement to that Bill.

Only those responses made formally, either via the Consultation Hub, or in writing as a response to the consultation, have been counted within the following statistics or sampled comments.

- 1.2. The Department received **321** responses, of which –
- **12** were on behalf of an organisation; and,
 - **309** were from individuals.

2. Summary of responses to the Consultation Hub

2.1 *Are you content with Part 1 of the Bill?*

Part 1 is the Introductory portion of the Bill and comprises:

- *the Long Title - what the final Act will relate to,*
- *the Short title – what the final Act will be referred to as (clause 1),*
- *a commencement clause that also provides for any associated consequential, incidental or transitional changes in making the Act effective (clause 2),*
- *a clause that provides interpretation of the terms used widely in the Act (clause 3) including the Licensing Objectives:*
 - ❖ *Securing public safety;*
 - ❖ *Prevention of crime and disorder*
 - ❖ *Preventing public nuisance;*
 - ❖ *Protecting and improving public health;*
 - ❖ *Protecting children from harm;*
 - ❖ *Providing an environment in which the hospitality industry can flourish; and,*
 - ❖ *Promoting high standards across the hospitality industry*

- *Clauses 4, 5 and 6 which provide the meaning of the terms "entertainment", "sale by retail" and "resident on licensed premises" respectively.*

What you said:

Of the **321** respondents to the consultation:

- **304** agreed with this Part of the Bill;
- **12** disagreed with this Part of the Bill; and,
- **5** made no response.

The clear majority of the respondents were supportive of the Part as drafted, with a very small minority indicating that they were not.

Of those respondents who made any comment on the Part of the Bill to clarify their position relative to the response that they had given, or to reference other matters which they wished to raise there were **18** comments.

The comments made in regard to this Part related to the respondents views on how the licensing objectives might shape the forthcoming regime and what should be taken into consideration when licences are considered, and how matters such as the pre-existing density of licences in an area, or the operating hours of a premises, should be part of that wider consideration model. This does sit in context with the intention that licence applications should be accompanied by materials that makes clear the basis of the application with the onus on the applicant to show both the social or economic impact and what any subsequent benefit to that balance will come from their application being approved.

What we did:

As the vast majority of feedback on this policy point was positive, this part of the Bill has been finalised largely as drafted with some small changes to allow that the Department might by Order adjust this Part of the Bill thus ensuring that any future need to add interpretation for clarity is provided for.

2.2 Are you content with Part 2 of the Bill?

Part 2 of the Bill provides for the formation of:

- *the Licensing Court; and,*
- *the Licensing Court of Appeal.*

Part 2 also gives supplemental information about these courts and provides that rules of court might be made to regulate their practice and procedure.

What you said:

Of the **321** respondents to the consultation:

- **303** agreed with this Part of the Bill;
- **9** disagreed with this Part of the Bill; and,
- **9** made no response.

Once again the clear majority of the respondents were supportive of the Part as drafted, with a very small minority indicating that they were not.

Of those respondents who made any comment on the Part of the Bill to clarify their position relative to the response that they had given, or to reference other matters which they wished to raise there were **12** comments.

Of the comments made in respect of this Part of the Bill, there were those who viewed the Licensing Court as a pivotal part of the licensing process, with some having reservations that the application and consideration have the potential to be both expensive or time consuming.

What we did:

The finalised Bill provides for the constitution of a Licensing Court and a Licensing Court of Appeal and provides that Rules of Court might be made to regulate the practice and procedure of these courts.

Retention of judicial appeal regardless of any change to the licensing regime was always a very important proposal and further provisions in relation appeals are contained later in the finalised Bill at Part 7.

The views expressed in response to the consultation on policy points made it clear that the vast majority of those who responded agreed with this approach, and this was confirmed to be the case by the hundreds of positive responses made during this consultation.

The innate fairness provide by such a route of appeal has therefore been retained within the draft Bill.

2.3 Are you content with Part 3 of the Bill?

Part 3 of the Bill provides for making of Regulations regarding:

- *the formation of an independent Licensing Authority and its constitution and functions;*
- *any transfer of function from the Licensing Court to the Licensing Authority;*
- *performance of functions on behalf of the Licensing Authority by officers.*

What you said:

Of the **321** respondents to the consultation:

- **296** agreed with this Part of the Bill;
- **15** disagreed with this Part of the Bill; and,
- **10** made no response.

Once again the clear majority of the respondents were supportive of the Part as drafted, with a very small minority indicating that they were not.

Of those respondents who made any comment on the Part of the Bill to clarify their position relative to the response that they had given, or to reference other matters which they wished to raise there were **17** comments.

Those few respondents who commented on this Part of the Bill were mainly of the view that any authority which was established would need to be both properly funded and properly constituted, and would need to be free from political or governmental interference or bias. Some respondents felt that the Licensing Court should remain as the sole body making licensing determinations but that perhaps a “lighter touch” could be applied to certain licensing decisions for those who are licensees of “good standing”.

What we did:

Given the strong views on the institution of a Licensing Authority from the initial policy consultation the Department understands the need to tread carefully in establishing such an Authority; to ensure that it would be both credible and wholly impartial in its deliberations. This is clearly a matter that will take time to bring about properly in a manner that is satisfactory to all concerned.

There cannot be an overnight change and it is only correct that such changes as are made will follow detailed public consultation via the Consultation Hub, and engagement by the Department with key stakeholders whose involvement would be desirable within the Authority. This level of engagement and consultation is committed to on the face of the Bill within clause 58.

The Department will therefore bring forward within the finalised Licensing Bill these enabling provisions allowing for the establishment of an Authority in the future and for the detail of its composition and terms of reference to be provided within regulations, we have also retained, as noted in Part 2, suitable provisions to allow for the Licensing Court and Licensing Court of Appeal to continue side by side with this new Authority allowing a hybrid model to be introduced should that prove to be the most desirable approach.

Given the commitment to the approach of public consultation via the Consultation Hub on these (and any other regulations to be initially brought forward relating to the change in licensing regime), we have also included provisions within the Bill that relate to the Triennials at clause 64.

The Department has been in close discussion with the Department for Enterprise regarding the Triennials. It was the case that last year the Isle of Man Government allowed the Triennials themselves to be deferred (fully funded) to 2022 by bringing forward legislation – the Licensing (Amendment) Act 2020¹. Given the ongoing global pandemic and the recent lockdown we are keen to ensure that further hardship is not caused by the planned Triennial therefore it is critical that this Bill be progressed into law whereby this provision would be enacted at receipt of Royal Assent and take immediate effect.

2.4 Are you content with Part 4 of the Bill?

Part 4 contains enabling provisions providing that regulations might be made related to licensing, these regulations will relate to staff of licenced premises (including licensees/designated officials and door security staff) and to the licences themselves including:

- *the types of licence that might be provided for;*
- *applications or notifications in respect of licences;*
- *determination of applications;*
- *suspension, revocation or surrender of licences;*

¹ https://legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2020/2020-0009/LicensingAmendmentAct2020_1.pdf

- *renewal of licences;*
- *any register that might be maintained;*
- *employment of staff on licensed premises;*
- *notification requirements;*
- *licensing conditions or undertakings;*
- *offences in relation to licences;*

[Further background information around the potential regime and licences themselves can be found in the "Talking Points" at the end of this consultation.]

What you said:

Of the **321** respondents to the consultation:

- **300** agreed with this Part of the Bill;
- **9** disagreed with this Part of the Bill; and,
- **12** made no response.

Once again the clear majority of the respondents were supportive of the Part as drafted, with a very small minority indicating that they were not.

Of those respondents who made any comment on the Part of the Bill to clarify their position relative to the response that they had given, or to reference other matters which they wished to raise there were **22** comments.

The respondents who made specific comment on this Part largely did so indicated (amongst other more diverse comments) that the licensing regime that they wished to see was balanced, with opportunity for a variety of licence types to be granted but with a focus on the minimum standards for premises and minimum qualifications for staff of those premises.

Several respondents made comments indicating a desire to see Party Buses and their activities standardised, and subject to the licensing regime.

A number of respondents to various Parts of the Bill noted concerns around delivery of alcohol from companies not based on Island and whether this might be addressed through licensing in the future.

What we did:

The existing Licensing Act² has been in place for almost 25 years and given the likelihood of the next Act being in place for a similar length of time it is vital that it should meet the current and future needs of the Island.

The global Coronavirus pandemic has shown us the importance of flexibility and the ability to change both the ways we as individuals or organisations work, and for businesses, sometimes their entire business model and the way that is accessed, when the need arises.

Providing within the Bill for enabling powers that will allow for regulations to be made concerning the types of licence that shall exist and the requirements associated with those

² https://legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/1995/1995-0008/LicensingAct1995_8.pdf

licenses will mean that regardless of what the future holds, the Department is able to (with appropriate consultation) bring forward a regime that is both safe, and offers suitable opportunity for industry to flourish.

Specific licensing types, roles and responsibilities for those licensed, and the associated conditions for those licences will be a matter which is discussed as the Bill moves into the legislative process, and additional information will be shared publicly during the consultation which takes place on any regulations which are made at the initial implementation of the Act.

2.5 **Are you content with Part 5 of the Bill?**

Part 5 sets out enabling provisions relation to designated areas and these are mainly provided in relation to restrictions that might be put in place in an area shows a notable increase in (for example) Anti-Social Behaviour.

This is not a provision designed purely to limit licence numbers and is similar to provision found in section 76 of the existing Act.

What you said:

Of the **321** respondents to the consultation:

- **302** agreed with this Part of the Bill;
- **8** disagreed with this Part of the Bill; and,
- **11** made no response.

Once again the clear majority of the respondents were supportive of the Part as drafted, with a very small minority indicating that they were not.

Of those respondents who made any comment on the Part of the Bill to clarify their position relative to the response that they had given, or to reference other matters which they wished to raise there were **13** comments.

Respondents who commented on this Part of the Bill were largely supportive of the proposals with the view that they represent appropriate planning for the future, and several comments indicated that the term "Restricted Area" was confusing and perhaps an alternative term could be used with the suggestion that "Designated Area" might be more suitable.

What we did:

The majority of responses you made to the consultation were positive with regard to this policy area.

On feedback from key stakeholders, Designated Areas was viewed to be a confusing term which perhaps did not clearly reflect the purpose of this part. Historically this type of provision related to areas in which a person might not consume alcohol after being warned by a police officer not to do so, whereas this is not the purpose of this particular part.

Therefore, the term "Restricted Areas" has been inserted into the finalised Bill and while the policy intent behind this is the same, it will be easier to understand what is meant as this will be an area where licence numbers might be restricted should the necessity arise in observance of the licensing objectives.

2.6 Are you content with Part 6 of the Bill?

Part 6 sets out provisions in relation to the conduct of licensed premises and the offences associated with failures related to expected conduct.

For the most part these are similar to provisions found within Part 3 of the Licensing Act 1995.

What you said:

Of the **321** respondents to the consultation:

- **304** agreed with this Part of the Bill;
- **5** disagreed with this Part of the Bill; and,
- **12** made no response.

Once again the clear majority of the respondents were supportive of the Part as drafted, with a very small minority indicating that they were not.

Of those respondents who made any comment on the Part of the Bill to clarify their position relative to the response that they had given, or to reference other matters which they wished to raise there were **10** comments.

There were some comments in respect of minimum pricing the need to apply this in a balanced manner to both on-licensed and off-licensed premises. Several comments in response to this Part (along with others made in response to other Parts of the Bill) noted the concerns some individual respondents have about balancing the potential health implications of consumption of alcohol against freedom to reasonably enjoy moderate consumption. Additional comments noted the importance in allowing for families to enjoy attending premises together and flagged areas that they would like to see considered more in the future such as forms of identification that might be acceptable.

What we did:

This part of the Bill largely followed the provisions previously found in the 1995 Act which in many cases have been slightly modernised or in some way re-drafted, so as to sit in context with the rest of the new Bill.

These are brought alongside new provisions providing for price controls (minimum pricing), modifications in relation to entertainments, a new offence of assault on staff of licensed premises and various points related to the aggravation of such offences and certain exclusions in relation bans from premises (for example allowing that a banned person to travel through a licensed area such as an airport lounge). One further adjustment has been made to the title of the provision in relation to "Minors on licensed premises" as this is wider and includes, for example, regulating the purchase of alcohol for consumption by a minor and various provisions in relation to employment of minors in licensed premises.

Provision in relation to gaming was considered during the draft Bill consultation and further discussion will be necessary with the Gambling Supervision Commission prior to any change being brought around temporary licences under the Casino Act 1986.

2.7 Are you content with Part 7 of the Bill?

Part 7 sets out enabling provisions in relation to the manner in which an appeal against a decision of either the Licensing Authority (as and when applicable) or the Licensing Court might be made.

What you said:

Of the **321** respondents to the consultation:

- **302** agreed with this Part of the Bill;
- **8** disagreed with this Part of the Bill; and,
- **11** made no response.

Once again the clear majority of the respondents were supportive of the Part as drafted, with a very small minority indicating that they were not.

Of those respondents who made any comment on the Part of the Bill to clarify their position relative to the response that they had given, or to reference other matters which they wished to raise there were **9** comments.

There were some comments around the fact that individual respondents felt that more clarity could be provided (perhaps in guidance) around the appeals process and any procedures to follow and deadlines that must be met to request an appeal, and that any appeal must be fair and independent.

What we did:

As noted at Part 2, the commitment to the right of judicial appeal has been retained and this Part sets out the matters which might be appealed and provides that this mirrors that found in the 1995 Act. Additionally, the Department might bring any further adjustments to this section in relation to appeals; this would be under Regulations which would themselves be subject to consultation.

2.8 Are you content with Part 8 of the Bill?

Part 8 sets out other offences committed which contravene the Act including those in relation to:

- *selling alcohol whilst being unlicensed;*
- *public drunkenness;*
- *drinking in public places;*
- *liquor confectionary sales;*

For the most part these are similar to provisions found within Part 5 of the Licensing Act 1995.

An additional provision is included in relation to regulations prohibiting the sale or use of powder or vapour liquor.

What you said:

Of the **321** respondents to the consultation:

- **298** agreed with this Part of the Bill;
- **12** disagreed with this Part of the Bill; and,
- **11** made no response.

Once again the clear majority of the respondents were supportive of the Part as drafted, with a very small minority indicating that they were not.

Of those respondents who made any comment on the Part of the Bill to clarify their position relative to the response that they had given, or to reference other matters which they wished to raise there were **13** comments.

The views expressed in relation to this Part were split between those who felt that drinking should be acceptable in public places while others noted real concerns around public drunkenness as this is seen to be a behaviour that can be “intimidating” for other members of society.

What we did:

In this Part, as in Part 6, the content of these provisions largely follows those previously found in the 1995 Act and once again these more recent provisions have been slightly modernised or in some way re-drafted, so as to sit in context with the rest of the new Bill.

The provisions in relation to powder liquor or vapour liquor are included as this ensures that this are may be regulated if a requirement should arise to do so.

2.9 Are you content with Part 9 of the Bill?

Part 9 provides additional provisions in relation to enforcement that include:

- *clarification around liability for offences including that of persons other than the licensee;*
- *disqualification of persons;*
- *suspension or cancellation of licences;*
- *entry of licensed premises (and search);*
- *production of licence;*
- *inspection of premises;*
- *closure of premises (riot or violence);*
- *Regulations or Orders related to fixed penalties and general;*
- *specific requirements related to consultations and fees;*
- *specific requirements related to guidance and codes of practice*

For the most part these are similar to provisions found within Part 5 of the Licensing Act 1995

What you said:

Of the **321** respondents to the consultation:

- **301** agreed with this Part of the Bill;
- **8** disagreed with this Part of the Bill; and,
- **12** made no response.

Once again the clear majority of the respondents were supportive of the Part as drafted, with a very small minority indicating that they were not.

Of those respondents who made any comment on the Part of the Bill to clarify their position relative to the response that they had given, or to reference other matters which they wished to raise there were **8** comments.

One respondent welcomed the plan to implement fixed penalties for some matters under this legislation, another felt that those licensees who contact the Police to attend premises when there is an issue should not be penalised and one other respondent noted that if a licensee is found to be serving to an intoxicated person they should be disqualified. The remaining respondents either indicated they agreed or made comments on matters addressed elsewhere in this legislation.

What we did:

In this Part, once again the content of these provisions largely follows those previously found in the 1995 Act and once again these more recent provisions have been slightly modernised or in some way re-drafted, so as to sit in context with the rest of the new Bill.

The provision in relation to fixed penalties has been included as this will form an alternative approach to addressing certain of the offences where appropriate.

The more general provision in relation to Regulations and Orders has shifted into Part 10 where it sits alongside other provisions that apply to the entirety of the Bill.

2.10 Are you content with Part 10 of the Bill?

Part 10 sets out general provisions that will relate to the function of the Bill which include:

- *requirements related to consultations and fees;*
- *requirements related to guidance and codes of practice;*
- *requirements related to information sharing.*

What you said:

Of the **321** respondents to the consultation:

- **291** agreed with this Part of the Bill;
- **19** disagreed with this Part of the Bill; and,
- **11** made no response.

Once again the clear majority of the respondents were supportive of the Part as drafted, with a very small minority indicating that they were not.

Of those respondents who made any comment on the Part of the Bill to clarify their position relative to the response that they had given, or to reference other matters which they wished to raise there were **43** comments.

As has been noted elsewhere, the application of restrictive covenants to premises when they are offered for sale, where that premises recently or formerly operated as a licensed premises, is publicly regarded as a contentious practice. This attracted by far the most individual comments of any matter covered by this consultation, with 75 individual

comments made in connection with this³, the vast majority of which believe that this should be precluded from happening.

Other comments related to the notion that codifying minimum standards was to be welcomed, as was the approach to providing for information sharing in relation to those subject to either a court ban or those for whom a premises has requested that they be given a Pubwatch ban following refusal of service/request to leave the premises.

What we did:

The provision in relation to regulations and order has been included in this Part rather than the foregoing Part.

The provision setting out the Department's responsibility to consult prior to bringing about regulation under this Bill is also included, and has been adjusted to reflect that consultation with the Licensing Court and the Licensing Authority must take place. In reality this consultation with key stakeholders and interested parties would be fundamental to the success of implementation of the Bill, alongside the opportunity for the Island's residents to have their say on the regulations via the Consultation Hub.

One of the strongest views raised in response to the consultation on policy was the value of Pubwatch as a mechanism to reinforce standards of good behaviour on premises and the necessity to bring this scheme into an official managed process if at all possible. This has been brought within Part 10 where information sharing in relation to those who are not permitted to purchase liquor either for reason of a court order (banned) or because they have been refused service by the licensee (and subsequently banned by Pubwatch).

The Island's Pubwatch has been a means by which licensee worked together to ensure that their ability to exercise collective denial of service and to address poor conduct for nearly 20 years (Douglas and Onchan). This scheme has recently encountered particular issues with regard to data protection compliance and information sharing, and these need to be overcome to allow true partnership working and be part of the solution to tackle crime and disorder problems in the local community. The Department will work to carefully regulate for the approach needed to ensure that this scheme is compliant with GDPR and appropriately administered.

Within this information sharing provision there is also the ability to provide for a "self-exclusion" scheme whereby an individual who is struggling with their sobriety might ask to be excluded from licensed premises.

With regard to this draft Bill consultation, by far the most comments by volume were in respect of the provision relating to restrictive agreements. It was clear that the many respondents who made comment on the Bill felt strongly that addressing the practice of applying these covenants to premises in order that they might not operate as licensed premises once sold (having been formerly licensed) was viewed to be wrong by the respondents. Initially the Department had sought to provide a retrospective application of this provision which would have "undone" those historical covenants that are presently in place on premises which were sold prior to the enactment of this provision. However, in practice this is a complex area of law in relation to contracts and while the Department has been able to provide that from enactment of this provision (as soon as the Bill might be enacted on Royal Assent) this law will apply from that moment, but will not cover those

³ This was 75 unique anonymised comments captured individually that relate to this topic and were made anywhere within a consultation response i.e. in relation to any Part of the Bill as not all comments addressing this topic were made to Part 10 of the Bill.

agreements made in the past. Due to potential legal ramifications in respect of historical covenants and the mitigations that might need to be made, for example, where a property owner suddenly found that they were now resident next to a premises which suddenly became eligible to be relicensed after many years of covenanted closure, this is simply too complex an issue to easily address without consideration of both Human Rights requirements and the ability to provide damages for those effected by such a change.

2.11 Are you content with Part 11 of the Bill?

Part 11 introduces the appeals, amendments and transitional arrangements contained within Schedules 1 and 2 and other matters related to Triennials.

Schedule 1 sets out the pieces of legislation which will be revoked when the Liquor Licensing and Public Entertainments Act 2021 is made effective.

For the most part this relates to the Licensing Act 1995 along with the Licensing (Amendment) Act 2011, and the Music and Dancing Acts from 1961 and 1971 all of which will be replaced in their entirety by the new Act.

Schedule 2 sets out the amendments being brought to other pieces of legislation by the Liquor Licensing and Public Entertainments Act 2021 and includes:

- *amendment of the Casino Act 1986 in relation to licensed public bars;*
- *an amendment to the Cinematograph Act 1977 to replace reference to a specific part of the new Act that takes the place of the 1995 Act;*
- *an amendment to the Highways Act 1986 to replace reference to a specific part of the new Act that takes the place of the 1995 Act;*
- *repeal of Section 3(2) of the Hypnotism Act 1988;*
- *an amendment to the Noise Act 2006 to replace reference to a specific part of the new Act that takes the place of the 1995 Act;*
- *an amendment the Equality Act 2017 to replace reference to a specific part of the new Act that takes the place of the 1995 Act;*
- *the amendment in relation to title of legislation referred to (to replace Licensing Act 1995) in various other Acts of Tynwald;*

What you said:

Of the **321** respondents to the consultation:

- **290** agreed with this Part of the Bill;
- **18** disagreed with this Part of the Bill; and,
- **13** made no response.

Once again the clear majority of the respondents were supportive of the Part as drafted, with a very small minority indicating that they were not.

Of those respondents who made any comment on the Part of the Bill to clarify their position relative to the response that they had given, or to reference other matters which they wished to raise there were **27** comments.

Once again the majority of these views were made in connection with restrictive covenants which has been covered elsewhere. Other comments included the note that this Bill looked to be a good framework from which the regime could operate and some positive comments regarding the proposed changes to allow for temporary licensing under the Casino Act 1986.

What we did:

The provisions in relation to repeals and amendments etc. remain as they were included in the draft version of the Bill with the exception of the provision in relation to licensing of the casino bar. The Department will engage further with the Gambling Supervision Commission to ensure that a harmonised approach might be taken to licensing.

Certain charitable events might already be provided for where these are captured within the existing legislation (section 32 of the Gaming, Betting and Lotteries Act 1988⁴) and are undertaken in accordance with that legislation, and in connection with an already authorised charity.

As noted above, alongside the comments with regard to Part 3 of the Bill in relation to the Triennial session of the Licensing Court. The Department has been in close discussion with the Department for Enterprise regarding the Triennials. It was the case that last year the Isle of Man Government allowed the Triennials themselves to be deferred (fully funded) to 2022 by bringing forward legislation – the Licensing (Amendment) Act 2020⁵. Given the ongoing global pandemic and the recent lockdown we are keen to ensure that further hardship is not caused by the planned Triennial therefore it is critical that this Bill be progressed into law whereby this provision would be enacted at receipt of Royal Assent and take immediate effect.

⁴ <https://www.gov.im/media/1349395/gaming-betting-and-lotteries-act-1988.pdf>

⁵ https://legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2020/2020-0009/LicensingAmendmentAct2020_1.pdf