



CONSULTATION ON PROPOSED ALCOHOL LICENSING LEGISLATION CHANGES

1. Overview

1.1. The Department of Home Affairs is conducting this consultation to seek your views on planned changes to the alcohol licensing regime in the Island.

1.2. The consultation asks questions about the policy principles which will underpin forthcoming licensing legislation. Please provide your comments on as many of the points as possible to ensure that we can fully understand and consider your views.

1.3. Any comments or questions about the consultation should be sent to:

Shelley Walker
Administration and Policy Manager
Department of Home Affairs
Headquarters Building
Tromode Road
Douglas
IM2 5PA

email: GeneralEnquiries.DHA@gov.im

1.4. If you cannot contact us in writing for any reason, please telephone us on 694306.

1.5. The consultation:

Starts: Monday 14 December 2020

Ends: Monday 18 January 2021

If you do respond to the consultation, please advise us if you are responding for yourself or on behalf of an organisation.

1.6. To ensure that the process is transparent and consistent with the Government's Code of Conduct on Consultation, responses can only be accepted if you provide your name with your response.

1.7. Please note that the responses we receive will be of immense value and carefully considered. However, submitting a response does not mean that changes will necessarily be made to the legislation we are proposing

1.8. A summary of the responses will be published online after the consultation has closed. You can request a hard copy by sending an email to GeneralEnquiries.DHA@gov.im or telephoning the Department on 694306.

- 1.9.** Unless you tell us otherwise, any answer that you give in the consultation may be published either in full or in part. We will not publish your name or the name of the organisation you represent. There will be the opportunity in the consultation for you to tell us if you do not want your comments to be published.
- 1.10.** If your response is kept confidential and is not published, we will include it in any statistical summary and numbers of comments received.

2. Why we are consulting

- 2.1.** The present alcohol licensing regime on the Island is now outdated, overly bureaucratic and inflexible.
- 2.2.** The Department, which has responsibility for the licensing regime, is conscious that any new system must balance several competing needs. Enabling economic growth through a more streamlined licensing procedure which is responsive to innovation, representing the needs of all those in the licensed trade and keeping the Island a healthy and safe place to live have all been considered. The Department has a long standing and positive relationship with the licensed trade and hopes to build on this in the future.
- 2.3.** Before bringing forward legislation that will fundamentally change the structure of licensing on the Island, the Department is looking to consult with all interested parties who might share their views on the policy and structure that will be put in place. This is a genuine opportunity for interested parties, key stakeholders, industry representatives, and colleagues across the government and legislature to come forward with their views that once received and considered will inform the changes brought forward in the draft licensing bill.
- 2.4.** This consultation covers the policy principles which inform the drafting of the legislation and will be open for the next 4 weeks. A Bill will follow that will also be subject to a briefer consultation early next year. We are reducing the usual timescales recommended for consultations because the progress of the Bill was delayed over the Covid pandemic and the Department is keen to ensure the Bill is given every chance to pass through the legislative process before the election in 2021.

3. The Consultation

- 3.1.** You can respond to the consultation either by completing the questionnaire found at Appendix A, or if you wish to make a more general response you can do so by writing or emailing to the address details found at 1.3, clearly indicating that your correspondence is in connection with the Licensing Consultation. Submissions must be made before the closing date of the consultation that can be found at 1.5.

4. Introduction

- 4.1.** The grant of licenses for both on-licensed premises (pubs, restaurants etc.), off-licensed premises (shops and supermarkets) and all other licensed venues (e.g. registered clubs) is presently managed by the Licensing Court.

- 4.2.** The Island's primary licensing law is the Licensing Act 1995¹ which is supplemented by a variety of secondary law relating to the management of licensed premises, grant of licences and other connected purposes.
- 4.3.** Further details of the current secondary legislation may be found on the Licensing Court website: <https://www.courts.im/court-procedures/licensing-courts/>
- 4.4.** Licensed premises also agree to abide by the Licensing Forum's Codes and Guidance Manual: <https://www.courts.im/media/2427/isle-of-man-licensing-forum-codes-manual-v-2-2019.pdf>
- 4.5.** The Licensing Forum is a consultation body established between the Department of Home Affairs, the Isle of Man Constabulary Central Alcohol Unit and delegates from various membership organisations that represent the licensed trade on the Island such as the Licensed Victuallers Association (LVA), Isle of Man Restaurateurs Association, Pubwatch and Offwatch. Other Members of the Forum are engaged in consultation work that supports the licensed trade or are also members of the Isle of Man Law Society.²
- 4.6.** Reform of the present licensing regime has been planned for some time and the recent Emergency has highlighted the importance of the Island's restaurants and public houses which are its beating heart in happier times. The Department, in bringing forward this legislation, intends both to foster an environment in which businesses and premises might flourish and innovate, while balancing this against our inherent responsibility to ensure that the Island is safe and the public are protected from dangers associated with excess or illegal consumption of alcohol.
- 4.7.** We are fortunate that presently on the Island we are not facing ongoing social distancing or any limitation of our ability to go about our daily lives by enjoying social gatherings, meals out and drinks with friends. However if the Emergency showed us anything it was that the ability to be flexible, utilise outside space and, put simply, to enjoy the freedoms that we have, are all very important.
- 4.8.** Rather than bring forward a consultation on a complete and fully formed Bill at this time, the Department is bringing, for the consideration of industry, government, Members of Tynwald, Local Authorities and the public, the core policy principles behind the planned Licensing Bill.
- 4.9.** It is intended the draft Licensing Bill will see significant change to the way that licences are granted and the range of licences available, and we would encourage open and honest input to this consultation. We would urge all those with an interest in the licensed trade to take this opportunity to provide their views and so help shape this important piece of legislation.
- 4.10.** We have already begun to make changes, outside of the current legislation. We have been working hard with industry to introduce changes to the training that takes place for licensees, designated officials and door security staff. These changes will

¹ http://www.legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/1995/1995-0008/LicensingAct1995_3.pdf

² <https://www.gov.im/categories/home-and-neighbourhood/licensing-forum/>

see an expansion to the breadth of available courses, the detail and quality of information covered by the courses themselves, along with the ability to take these qualifications using a mostly Internet based learning model that makes it flexible and quick and easy to access.

- 4.11.** We feel that this is important, as the world changes and that the Island has an opportunity with its new legislation to make a real difference to the way that the industry is resourced. This will also allow, for example, a person to enter the industry at the bottom and move towards the highest level through specific training, qualifications, and experience in the industry.

5. The Policy Principles

- 5.1.** The policy principles themselves are set out in the following sections and take the form of a key overarching principle that is then “fleshed out” with some additional detail about the kind of provisions we are intending to include within the final draft Bill. As noted the final draft Bill itself will be subject to a consultation exercise albeit that this will be considerably shorter as we would anticipate that the provisions within that Bill will have their origins in the policy set out and consulted upon in the following sections.

6. Principle 1 - That Manx Licensing law is objective driven

- 6.1.** The legislation should contain overarching objectives which will guide the Department in the consideration of all licensing applications. This will ensure that all applications are considered in a consistent way and must demonstrate how they meet the Government’s licensing objectives. The objectives, each of which should have equal weighting, are:

- Securing public safety;
- Prevention of crime and disorder
- Preventing public nuisance;
- Protecting and improving public health;
- Protecting children from harm; and,
- Providing an environment in which the industry can flourish

- 6.2.** So what does this mean? We want to ensure that the industry is well-regulated and that premises are managed by trained and competent staff. We want to ensure that the law is strict enough that the sale and consumption of alcohol is carefully controlled. We want to ensure that we do not see poor, dangerous or unsafe behaviour from intoxicated individuals. We do though want to allow those people who choose to drink moderately to be able to enjoy the experience. Lastly, we recognise the value our hospitality sector offers to the Island and its communities. We want the licensed trade, which has suffered hardship during the Emergency through necessary closure, to have the opportunity and chance to innovate and flourish in the future.

7. Principle 2 – A non-judicial Licensing Authority

- 7.1.** A major proposed change within the structure of alcohol licensing comes with the establishment of a Licensing Authority which will replace the present use of the Licensing Court when considering and granting licences for establishments, individuals and organisations.
- 7.2.** The Licensing Authority will be independent to the Department of Home Affairs with an independent chair; the Department will administer the proceedings of the Authority. Those parties presently involved in the grant of licences such as the Isle of Man Constabulary and the Isle of Man Fire and Rescue Service along with the Department and such other agencies or organisations with a view pertinent to the licence being considered will be considered in forming the Authority membership.

The Department would specifically welcome views on the establishment of the Authority and its membership.

- 7.3.** The procedure of the Authority will be set out in regulations approved by Tynwald. One of the key propositions of the change to the licensing regime is that the administrative process will be simplified and a considerable amount of the bureaucracy presently required by the legislation will be removed.
- 7.4.** A final key point in this area is that the manner in which licence applications that have been received and advertised will be adjusted. The present process requires the use of advertisements in local newspapers and it is the intention that in future a different approach modelled on that used in planning where the planning application detail is advertised physically at the location and also made available online This would also ensure that the where an individual has a right to object to an application they would easily be able to do so.

8. Principle 3 - The right to judicial appeal

- 8.1.** The Licensing Court, which has been such an important part of the Island's licensing regime, would become the appeal court for decisions taken by the Licensing Authority. This will ensure a noted separation in decision making for these appeals and will make appropriate use of both the Court's time and expertise.

9. Principle 4 - A flexible and responsive licensing regime

- 9.1.** In order to provide for the widest possible variation of licensing and ensure that the regime is able to support both changes to the industry and be responsive to current demands, a number of possible types of licence are being considered. These include:
- On-licence – the standard licence type held by most public houses and restaurants where alcohol is sold to be consumed on the premises.
 - Off-licence – the standard licence type held by most premises where alcohol is sold for consumption at home i.e. shops and off-licences.
 - Registered Club Licence.
 - Occasional event licence – similar to the present occasional licence but with the potential that such a short-term licence might be "repeated" e.g. a TT

occasional licence could be issued for use over a span of years rather than annually.

- Other categories of licence – event/trade show licence for use with pop-up or managed events where another organiser has overall responsibility for the facilities where the event is taking place.
- Charitable Function Licence.
- Mobile licence.
- Bring Your Own Bottle – introduction of an infrequent, low cost and light touch notification requirement, much like Firework display notifications, rather than a licence – to ensure that the premises operating BYOB have, for example, training in place and the Police have the opportunity to review premises if necessary to manage public safety concerns. As currently envisaged, this would not affect not-for-profit or charity events.
- Transport licence – a licence for use in connection with passenger transport e.g. boats or trains.

10. Principle 5 - More flexibility for Designated Officials and Licensees

10.1. The present regime where either Licensees or Designated Officials are required to manage licenced premises will remain. However, the administrative requirements for this process will once again be simplified. This will include an additional level of approved official to allow for the ease of the management of licensed premises over the period of opening and although overall responsibility will remain with the Licensee or Designated Official, it is proposed that the day to day control would lie with approved officials for each premises.

10.2. The Department is committed to improving and extending the training available for those employed within licensed premises from initial entry (glass collectors, casual bar staff etc.), through to registered door security staff and Licensee and Designated Officials. The Island has seen changes to the industry in recent times and both the safety of the public and their satisfaction with the service they receive are underpinned by the capability of the staff in the individual licensed premises.

11. Principle 6 – Effective management and control on the sale of alcohol and controls

11.1. The general restrictions and controls currently in place will be largely mirrored by the forthcoming Licensing Bill. Several key changes are planned that would be introduced to supplement that regime and allow for gradual changes to the sale of alcohol including minimum unit pricing, below cost price sale restrictions, and promotions. There would also be potential to look at areas in which premises offering retail sales of alcohol could be limited in number, or restricted, if consumption of alcohol had become troublesome in that area. Furthermore the Department may include powers to regulate online sales and delivery of alcohol products.

12. Principle 7 - Proportionate and responsive enforcement and offences

12.1. In general, the current management of the sale of alcohol and the present controls and restrictions in place are, for the most part robust and fit for purpose.

- 12.2.** Under the current legislation, the ability to deal with both licensees and patrons when their behaviour falls below that which is expected already exists. Offences perpetrated by licensees are happily rare. Unfortunately, offences by patrons are more common. The existing powers found under section 35 of the Licensing Act 1995 to deal with those issues will be retained. Also as currently, for more serious matters an individual might receive a ban issued by the courts.
- 12.3.** Additional requirements planned for the forthcoming Licencing Bill include either a specific offence or an aggravation of an existing offence (such as assault) in relation to any attack against staff in licensed premises. Furthermore, the Department is keen to include powers to share information in connection with public safety or anti-social behaviour to support a formal 'Pubwatch' ban scheme administered by the Licensing Authority.
- 13. Other miscellaneous matters**
- 13.1.** A number of other miscellaneous matters will be covered by the forthcoming Licensing Bill such as delivery of alcohol, Music and Dancing licences, the formalising of the Licensing Forum Code of Practice into mandatory guidance, provisions related to gaming premises and the prohibition of use of Vaporised Alcohol in retail premises.

Appendix A Questionnaire on Licensing Policy Consultation

A.1. Your Information

What is your name?

What is your email address?

May we publish your response?

Please read the Cabinet Office Consultation Hub Privacy Policy

- Yes, you can publish my response in full
- No, please do not publish my response

If you are completing the survey on behalf of an Organisation or group, please provide the name of the organisation (or group):

A2. Principle 1 – That Manx Licensing Law is objective driven

Please provide your views on the Principle 1:

A3. 7. Principle 2 – A non-judicial Licensing Authority

Please provide your views on Principle 2:

A4. Principle 3 - The right to judicial appeal

Please provide your views on Principle 3:

A5. Principle 4 - A flexible and responsive licensing regime

Please provide your views on Principle 4:

A6. Principle 5 - More flexibility for Designated Officials and Licensees

Please provide your views Principle 5:

A7. Principle 6 – Effective management and control on the sale of alcohol and controls

Please provide your views on Principle 6:

A8. Principle 7 - Proportionate and responsive enforcement and offences

Please provide your views on Principle 7:

A9. Other miscellaneous matters

Please provide your views on other miscellaneous matters: