

**SUMMARY OF RESPONSES  
TO THE CONSULTATION  
ON SECONDARY LEGISLATION AND CODES  
OF PRACTICE UNDER THE LIQUOR  
LICENSING AND PUBLIC  
ENTERTAINMENTS ACT 2021**

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**October 2022**



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## Executive Summary

### 1. The Consultation

Before bringing forward new Regulations that are proposed to develop the licensing framework on the Island, the Department looked to consult with all interested parties who might wish to share views on the proposals for phased changes that seek to modernise, reduce bureaucracy and ensure consistency.

This provided an opportunity for interested parties, key stakeholders, industry representatives, and Tynwald Members to come forward with their views so these could be considered and contribute to the shape of the future Regulations.

The proposed changes that were set out within the consultation document, to form part of the regulations now, and in the future, aim to reduce the administration required by moving away from a three yearly (triennial) application process, to a rolling licence with an annual fee associated with this. What this will mean is that a licence once held will continue to remain valid year-on-year, providing that the licence holder continues to meet industry standards (training, site management plan, "fitness and properness"), and has not been subject to any enforcement action. There were also proposals to include changes to the types of licence available, and to give greater flexibility for events.

The Department had committed to retain exceptions to licensing requirements for events of a charitable, philanthropic or religious nature. This exception has carried through into the Regulations, and separate guidance will be brought forward to better assist organisations who wish to use this exception.

The proposed Regulations are the first phase in introducing the new licensing framework, with further matters for consideration to be addressed in future phases. The Department produced an implementation plan in connection with the Liquor Licensing and Public Entertainments Act 2021, which can be viewed online [here](#). This plan is a "living document" and future phased changes, and the timescales associated with these, will be set out in updates to the plan.

The immediate adjustments to the licensing framework brought by the proposed Regulations are designed to take effect gradually, with the accompanying Appointed Day Order including a transitional "grace period" for licence holders.

The Department welcomed both the views expressed via the consultation responses and those shared during the public face to face consultation sessions. We are particularly grateful to those who took the time to attend the public sessions providing their thoughts and engaging with the Department in a more informal manner.

The responses received to the consultation were largely positive, with respondents welcoming many of the proposed changes, particularly in connection with ongoing licensing and the "falling away" of the Triennial process.

A detailed summary of the views received and the way in which these have shaped the finalisation of the proposed Regulations is contained within the following pages. In summarising the responses received to the consultation, we took the "We Asked, You Said, We Did" approach and we have set out how the feedback provided has been considered.

We are grateful for all comments and correspondence received. In summarising responses it has not been possible to reproduce all commentary and what is produced is a faithful record of the content of any such comments, paraphrased as needed to maintain anonymity of the consultation respondent.

## 2. Outside of the consultation

As well as a written consultation, the Department also hosted four public consultation sessions in the North, South, East and West of the Island. These sessions were scheduled to take place at intervals throughout the consultation period, to allow people to attend at a location and time that best suited them. Among the attendees at those sessions were individuals, business owners and representatives of various organisations including the licensed hospitality industry, from across the Island.

The format of these sessions was a brief presentation given by the Department in which key changes and proposals set out in both the consultation document and the draft Regulations were explained. The Department wished to ensure accessibility by providing attendees the opportunity to speak directly to a representative of the Department on any matter connected with the Regulations. While the views discussed in the public sessions did not form part of the written record of responses to the consultation, we did capture a record of the questions asked at these sessions, and answers provided, which have been anonymised and subsequently included as an appendix to this Summary of Responses document.

The Department has a statutory obligation to consult<sup>1</sup> on any Regulations to be brought forward, and in order to meet this obligation, the Department sought to elicit feedback from those with whom we were required to consult, as well as all other key stakeholders or interested parties that we were aware of who may be impacted. As such, the Department contacted in writing those set out in section 59 *Consultation* along with representatives of other public bodies and organisations, such as charities, clubs and local authorities.

The Department also received feedback on the proposed new licensing framework that was submitted outside of the consultation<sup>2</sup>, specifically with reference to mobile licensing, event licensing and charitable and philanthropic events. That feedback does not form part of this Summary of Responses but has been considered separately.

## 3. The Main Issues

### Mobile licences

The majority of respondents noted concerns around the perceived detriment to established “bricks and mortar” licensed premises, particularly in relation to maintaining standards, revenue and operating costs. Certain respondents were of the view that mobile licences would erode the high standards of the existing licensed hospitality industry, as these licensees would have “less to lose” when making applications or when hosting events as they would not have an existing “brand” that would suffer, or indeed an established licensed premises which would be impacted by failure to comply or operate in a manner that was in keeping with the high standards of the licensed hospitality industry on the Island. It was the view of a small minority of respondents that this proposed licence type could be beneficial, however only if its introduction were to be in harmony with the rest of the licensing framework, and perhaps where limited in scope of operations.

### Transitional period


Respondents were keen to understand what the actual impact of the transition between frameworks would be for their businesses/organisations, and how the associated “grace period” would work in practice. The full detail of transitional arrangements will be set out in the Appointed Day Order to be made alongside the bringing forward of the proposed Regulations.

<sup>1</sup> Except as otherwise provided in this Act, before exercising any power to make regulations or an order under this Act, the Department must consult —

(a) the Licensing Forum;  
(b) the Deemsters and the High Bailiff;  
(c) the licensing authority (if established);  
(d) any person to whom the regulations or order relate, or person appearing to the Department to represent such person; and  
(e) any other person that the Department considers appropriate.

<sup>2</sup> Via both direct written letters and emails to the Department.


### **“Falling away” of Triennials/“Rolling” Licences**



The majority of respondents provided supportive feedback on the “falling away” of the current Triennials process (a 3 yearly requirement to renew licences) and a future “rolling” licence, seeing the specific detail that is currently set out within triennial applications shifting to the new Site Management Plan as a mechanism of managing risk in licensed premises. This is seen to be a positive change, offering that an annual review of the Site Management Plan and a confirmation as to the status of a licence holder’s operation will become the alternative to the 3 yearly process.

The proposed provisions in the Regulations around review of licences have also been positively received, as these have been seen to offer a pragmatic alternative to all licensees being required to reapply. The review provisions will mean that if there is a licence holder who fails to maintain standards, there will be an appropriate recourse that can be taken at any time.

### **Digitisation & modernisation**




We were pleased to note the positive comments and the fact that so many respondents supported a move towards a more electronic based application process. However, as has been set out both in the consultation itself and in the public face to face sessions, in practice, this could only be implemented as and when such capacity exists to do so. The Department will continue to work with the key stakeholders within the licensing framework to seek that, where possible, in future electronic and digital solutions can be put in place, and that the legislation will provide for this when available.

### **Event Licensing**

The Department is keen to enable greater flexibility within the new licensing framework, and was seeking to achieve this through introducing the ability for existing licensees with experience of the good running of such activities to be able to access “special events” and “occasional events” without additional applications.

It was hoped that immediate changes to the manner in which event licensing could be introduced now with, for example, reoccurrence of events forming part of an initial application, but more work is needed and therefore it is not possible to introduce this to the new framework immediately.




Therefore, the changes that will be made on implementation will see the event period for a single event rise to a maximum of 16 days that might be accessed in connection with either an event with liquor and entertainment which will require an “special event liquor licence” or with a music and dancing event which requires an “occasional public entertainment event licence”. This will at this stage still require a separate application. We are not introducing reoccurring events within phase one of the new licensing framework.

Whilst it is disappointing not to have been able to incorporate such flexibility immediately, it is still possible for applicants, when making their various applications to the Licensing Court, to request that these are heard within one session, and critically, to make the advertisement of the events as one notice on advertising (provided that all relevant date/time information is included within that one notice), reducing administrative and advertising costs.

The Department intends to consider further the inclusion of event re-occurrence, or alternatively the ability for licensees to automatically access a “balance” of event days, to use for separate one –off events, as part of future phased changes once the challenges are better understood and further discussions can take place with stakeholders to ensure the proposals are fit for purpose.

### **Future phased changes**



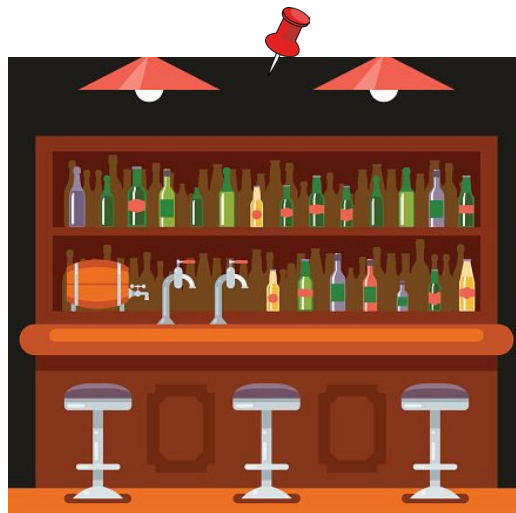
The proposed Regulations are the first phase in introducing the new licensing framework, with further matters for consideration to be addressed in future phases. Amongst other matters raised in the consultation and set out for consideration as part of future phased changes are:

- Mobile Licences;
- Host Licences;
- Public Entertainments – Adult Entertainment, etc.;
- General 'plus' Licences (variation inbuilt); and
- Off-Licence 'plus' Licences (variation inbuilt).

### **Liquor Licensing and Public Entertainments Act 2021 Implementation Plan 2022**

The Department produced an implementation plan in connection with the Liquor Licensing and Public Entertainments Act 2021, which can be viewed online [here](#).

Please note commentary received on any part of the draft Regulations, or on the wider licensing framework, where practical, will be set out within the Liquor Licensing and Public Entertainment Act 2021 Implementation Plan for further consideration. Matters which are out of scope for regulation are addressed within Appendix 3 of that plan, which is the placeholder for all other related matters.



## Summary of responses to the consultation

### 1. Submission of responses to the consultation

#### 1.1 Responses the Department received

The Department received **28** responses, of which:

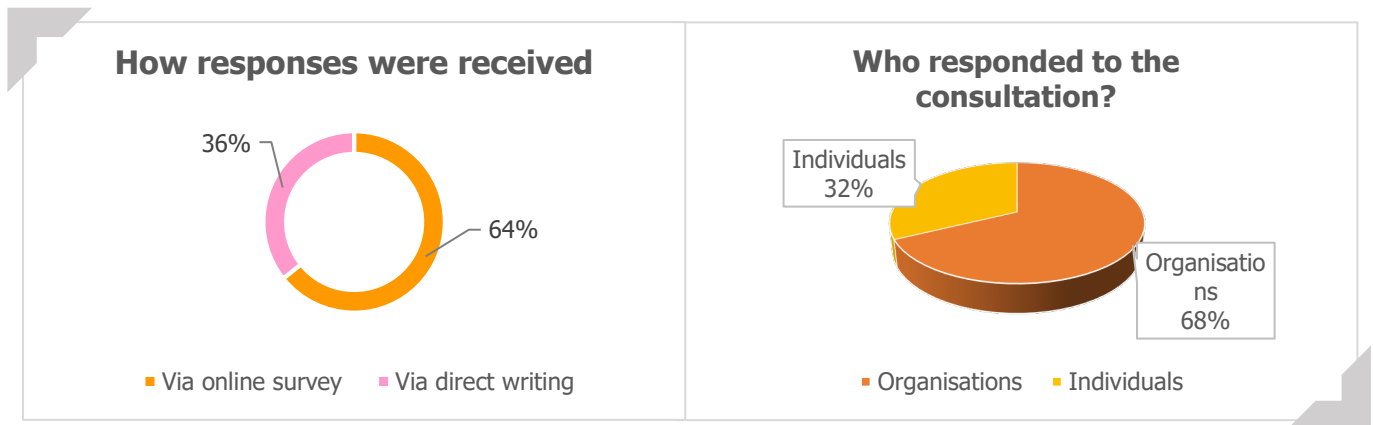


- **18** were received via the online consultation survey; and
- **10** were received in written form direct to the Department.

When looking at who responded to the consultation, of the **28** responses:



- **19** were on behalf of an organisation; and
- **9** were from individuals.



### 2. Summary of responses to the consultation questions

#### 2.1 Regulations Part 1 - Introduction

Part 1 sets out the title of the Regulations, when they will come into operation and gives an interpretation of terms used within the Regulations.

##### **We asked:**

We asked respondents whether they were content with Part 1 of the Regulations, and whether they had any other specific comments on this Part.

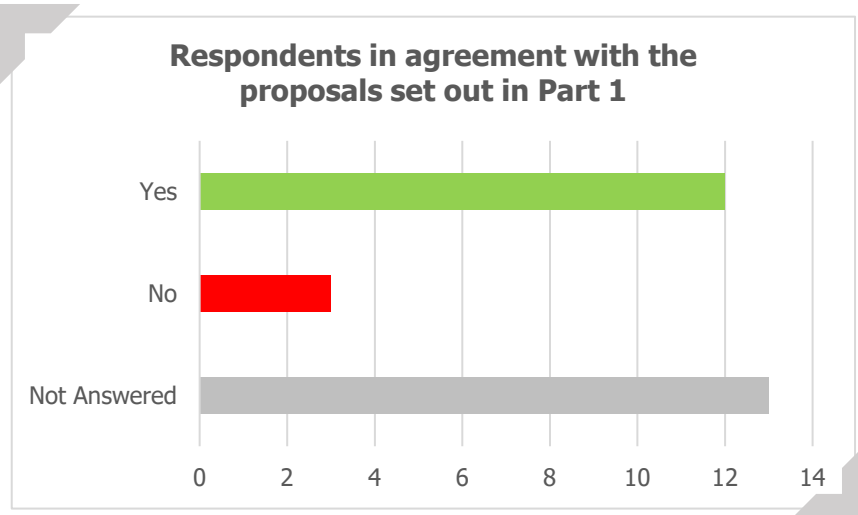
##### **You said:**

There were a total of **15** responses received to this question.

The majority of the respondents were supportive of Part 1, with **12** respondents in agreement with Part 1 as drafted, **3** not in agreement and **13** made no response.

A small number of respondents commented that there was no definition of liquor included in the draft Regulations, and to add this in would provide clarity for licence holders, licensees, etc.

There was also feedback about the definition of a “charitable organisation” specifically that this gives the perception that the definition may change depending on the Court’s opinion.



Suggestions instead for this definition included detail around the registration of the charity, and whether the VAT office could advise if a charitable organisation is so or not.

It was also noted that the definition for on-licence premises stated “*for consumption on the premises*” but should instead read “*for consumption on and off the premises*”.

One respondent commented in connection with the definition for relevant offence, whether this should include any offence where alcohol is an aggravating factor.

Feedback from a few respondents also indicated that, in connection with regulations 3(3) and 3(4), there was desire to consider allowing documents to also be sent electronically. Reasons for this included saving on printing costs for the applicant, the process being quicker and more environmentally friendly.

### **We did:**

As the majority of feedback received on this Part was positive, only minor changes were made in respect of specific feedback received. These included:

- Addition of the definition of liquor as a result of consultation feedback. In general it is not usual practice to include within Regulations any definition which is clearly made within an Act, however, given the sheer volume of comments in connection with this matter, the definition has been included here.
- An amendment to the definition of on-licensed premises, to detail for consumption both “on **or off** the premises” which was inadvertently excluded previously.
- Also within Regulation 3, in connection with the manner in which documents can be served on the Chief Constable and the Chief Fire Officer, this was updated to note that all documents will be received centrally into the office of the High Bailiff (within the General Registry) and that by doing so in duplicate, it is considered that the service on the Chief Constable and the Chief Fire Officer has been made.
- Small changes were made to incorporate a definition of “site management plan”, “special event liquor licence” and “public entertainment event licence” to ensure consistency throughout the Regulations. The special event liquor licence and occasional public event licence titles were determined to make clear distinction between the two types of event. The standard public entertainment licence relates to permanent licensing.



For ease, these definitions are set out below:

- **“special event liquor licence”** means a special event on-licence or a special event off-licence;
- **“public entertainment licence”** means a standard public entertainment licence or an occasional public entertainment licence referred to in regulation 6;
- **“standard public entertainments licence”** has the meaning given in regulation 6(1)(a).

Areas that have remained unchanged are the definition of charitable organisation, which is found in the existing framework and has been updated to reflect the legislation in place for charities, and the definition of relevant offence. Discussion was had in connection with the comments set out in relation to these definitions and the reasoning for keeping with the definitions as drafted is as follows:

- Charitable organisation – the Regulations already state that within the definition of a charitable organisation is included *“an institution which is a charity within the meaning of section 4 of the Charities Registration and Regulation Act 2019 (meaning of charity)”*; and
- Relevant offence – in general it is noted that while the comment on aggravation of offence was welcomed, in practice the potential offences captured within the “relevant offence” definition are quite broad and are considered to be sufficient, when taken in context with the fact that a licensee, responsible person, guard or doorkeeper is mandated to make notification if they are cautioned, charged or convicted in connection with any “relevant offence”, to encapsulate all such offences. It is further noted that section 30 *Misbehaviour of persons: preventing entry into licensed premises or sale of liquor to certain persons* of the Liquor Licensing and Public Entertainments Act 2021 includes detail about alcohol as an aggravating factor and where this is the case that leading to the issuance of a “ban” from licensed premises to any person, such an Order would be part of that person’s “criminal history” that was then required to be notified both on application for a role as a licensee, responsible person, guard or doorkeeper, as in future as a “relevant offence” where it accompanied any of the matters covered (violence, disorder etc.).

One further area that requires suitable development in order that an alternative and more modern approach might be supported is the serving of documents electronically. Challenges around capability and capacity to introduce this at the initial commencement of the new framework need to be overcome first, but it is likely that this mechanism will be introduced when there is capacity and capability to do so. The Department wishes for respondents to note that this is the direction the Department intends to move in and is working alongside other key stakeholders to facilitate this approach in the future.

Drafting changes were made throughout Part 1 of the Regulations that served to improve the overall consistency of the Regulations following a further review of their content alongside consultation comments.

## 2.2 Regulations Part 2 - Licences

Part 2 sets out in detail the processes around licence applications and how they are determined. Detail around the applicants who might apply for a licence and also specific processes impacting those licences i.e. licence variation, temporary licensing and provisional licensing, are also found in this Part.

Information that must be provided by applicants wishing to become licensees, in order to demonstrate their suitability as “fit and proper” persons, is also covered within Part 2 of the proposed Regulations. In addition, the information about applicants who represent individuals, corporate bodies etc. has been set out within this Part for ease of reference.

Part 2 also sets out the public entertainments which are proposed to be licensable activities at inception of the new licensing framework, namely:

- any music including singing; and
- any dancing.

**We asked:**

We asked respondents whether they were content with Part 2 of the Regulations, and whether they had any other specific comments on this Part.

We also asked whether respondents agreed with the addition of provisional event licensing in the future, with the types of public entertainment that are proposed to be licensed, and whether respondents had any comments on the types of public entertainment which will not require a licence.

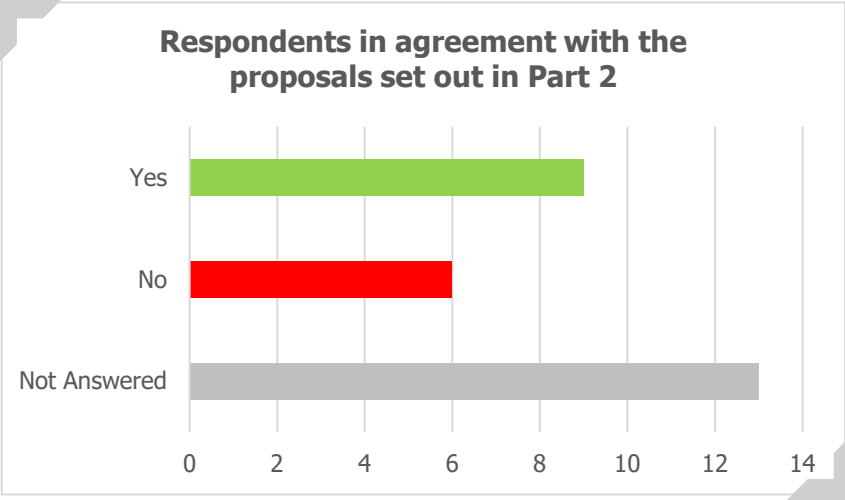
**You said:**

There were a total of **15** responses received to this question.

The majority of the responses received were supportive of the proposals set out within Part 2, with **9** respondents in agreement with Part 2 as drafted, **6** not in agreement and **13** made no response.

One respondent asked, in connection with 6(2)(a)(i) & 7(2)(a), whether in certain circumstances a licence may be granted for a period longer than 16 days.

A number of respondents gave positive feedback around provisional licensing, the main theme being that this will allow for better planning of events, and will assist event organisers, particularly of large events, at the preliminary planning stages.



Another area of feedback received was around the detail that any public events run “not for profit” by a local authority should not require a licence.

A suggestion from one respondent was the inclusion of management of litter as part of the outside area to a licensed premises (and surrounding streets) within the Site Management Plan template.

Other respondents gave feedback on the desire to conduct small scale tastings, suggesting that these could be accommodated for with a capped number of reoccurrences in any set period, similar to the proposals for Event Licences.

Other desires expressed included an addition of the ability to sell products online or via remote sales orders (such as at hosted events).

Positive feedback was received from multiple respondents on the proposals around club licences, with one respondent in particular commenting that this *"will enable clubs to ensure they have service standards commensurate to the risk of the supply of alcohol"*.

There was also feedback on Regulation 10(d) specifically that as it is currently worded, a provisional application would require a Responsible Person to be in place/known, even if the premises were not yet constructed.

One respondent gave feedback to suggest that consideration should be given as to the consequences of granting multiple licences, without there being a balance with the licensed hospitality industry's demand.

A comment received in respect of the proposed Site Management Plans expressed concern that the public would be able to object to this.

In a point that is expanded on later within the 'You said' section of Schedule 1 – Liquor Licence Types in this Summary of Responses, many respondents gave their views on charitable function licence holders being restricted to wine only events. Multiple respondents suggested that this should be widened to include beer, cider and wine (essentially no spirits).

One respondent suggested adoption of the United Kingdom's "purple guide" for event organisers.

A concern was expressed over the capacity for all new application forms and plan templates to be in place for the commencement of the new framework.

### **We did:**

As the majority of feedback received on this Part was positive, specific targeted changes were made to address particular points raised and to give clarity in certain areas:

- 16 days events - As noted at the outset, while it is disappointing not to be able to provide for a greater variation for special event liquor licences and for public entertainment event licences at this time, in practice licensees can take an approach which likely results in a similar outcome when making "joined up" individual applications. Changes which have been adopted are the adjustment of the terminology used for these licences to denote clearly which relate to liquor and which to public entertainment (without liquor) as this was a source of much anecdotal feedback. Additionally the period for these event licences has been firmly proposed as a maximum of 16 days, again the feedback received in connection with TT 2022 was positive, and therefore the 2 day extension for an event licence will now be proposed to form part of the permanent structure of the licensing framework. While some comments suggested that a longer period than 16 days might be provided, it is noted that a previous consultation on an [occasional licence period of 21 days was undertaken in 2019](#) and the outcome of that consultation suggested that 16 days was a more "even handed" time period for single events without unnecessarily impacting the day-to-day lives of residents impacted by such events.

- Provisional event licence – Following positive feedback to the proposal to incorporate provisional event licensing into the Regulations, this has been added as new regulation 31. The application timescales and advertising requirements for such applications will mirror those for an event licence application, and the timescale in connection with confirmation of such a provisional licence will be as per event licensing.
- Charitable and Philanthropic events – As was noted at the outset of the executive summary, the Department committed, when it brought forward the Liquor Licensing and Public Entertainment Act, that the exemptions for charitable, philanthropic and religious events in respect of music and dancing would be maintained. The provisions excepting a play performed in a place of public religious worship, music played or performed in a place of public religious worship; or as an incident of a religious meeting or service are found in section 4(3) of the Act itself. The provisions set out in the draft Regulations within Part 2 have been adjusted so that within the proposed Regulations the general provisions in connection with matters that require to be licensed are now found within regulations 6 and 13, and the exceptions for charitable, philanthropic and “not for profit” events are now found within Schedule 1 alongside all other exceptions to matters under these Regulations. Aside from the practical re-ordering of the sections themselves, and the retitling of the event licence to being an “occasional public event licence”, other small but significant changes have been made. A change has been made to clarify the plan required for a public event licence (under regulation 13) must show other premises nearby. And under regulation 38(3) in connection with Responsible Persons, the statement that neither the High Bailiff nor the court can approve a person to be a responsible person in respect of a public entertainment licence or a public entertainment event licence. Therefore such a person is not considered to be a responsible person in connection with registration requirements etc. under Part 7. Finally, additional licence conditions which might be applied to either a public entertainment licence or an occasional public entertainment event licence have been included within Schedule 3.
- Litter near licensed premises – In response to the comment in connection with litter near licensed premises, wording is contained in the Site Management Plan template at section 17 *Smoking & outside areas* in connection with those premises which have an outside area and how both any cigarette ends/drink “empties” etc. are managed in these areas. While specific amendment has not taken place at this time, this was discussed with the Licensing Forum to ensure that the information already captured is viewed as being robust enough to provide for management of any litter in proximity to a licensed area.
- Capped number of annual “tastings” sessions at premises other than licensed premises – It has been helpful to engage with those representing smaller scale local producers, both face-to-face and via their consultation responses. In connection with these specific comments on “capped tastings”, this is a matter that will be noted for inclusion in the wider consideration of events that will form part of future planning for additional changes under later phases of the licensing framework. The intent to provide for an event balance for off-licensed premises was one that was consulted upon as part of the wider consultation document, and these comments in respect of tastings work in harmony with this. In general, given comments raised in respect of tastings and the desire of the licensed hospitality industry to have greater flexibility in both the manner and location of “ad-hoc” tastings events, this is clearly an area in which there is an appetite to see increased flexibility in the future. Presently, the specific

requirements that must be complied with in respect of tastings sit within Isle of Man Licensing Forum Code of Practice and Guidance on Liquor Licensing – at Appendix C.

- Online sales of alcohol – This is a matter presently set out within the Isle of Man Licensing Forum Code of Practice and Guidance on Liquor Licensing - at Appendix F, which sets out in full both the information that must be retained in connection with such a sale, and the manner in which that sale is to take place, correctly observing key points such as the age of the person to whom the alcohol is delivered. In general, so long as a licensee holds a suitable licence to provide for such a sale to take place, and complies with the guidance found at Appendix F, then such a sale is lawfully undertaken.
- Club licences – it is noted that while the feedback in respect of club licences was generally positive from consultation respondents, and despite communicating information about the consultation to club premises directly during the consultation period, detailed feedback that was readily identifiable as being from registered clubs was not received. In general, as noted in other areas, the changes made in connection with club licences relate to consistency across the new licensing framework, and standardisation of matters such as training and supervision of premises.
- Responsible persons in connection with provisional applications – in connection with the point raised around provisional licences, the concern of the respondent was viewed as being unlikely to result in prevention of consideration of a provisional event licence. Regulation 30 has been adjusted to reflect that a Responsible Person does not need to be initially in place for a provisional licence to be applied for, but would require to be in place before confirmation of such a licence could happen.
- Number of licences granted – the granting of licences and the manner in which such a determination is made, will always require consideration of the application itself made by the Licensing Court, and is dependent on; the “fitness and properness” of the applicant, suitable compliance with the Regulations themselves in making such an application, and the application’s consistency with the licensing objectives that are set out within section 57 *Licensing objectives* of the Liquor Licensing and Public Entertainments Act 2021. These objectives relate to the securing of public safety, prevention of crime and disorder, prevention of public nuisance, protection and improvement of public health, protection of children from harm, provision of an environment in which the hospitality industry may flourish and the promotion of high standards across the hospitality industry. Specifically, it is not the case that there is an intention to artificially control the number of licences granted.
- Public review of a Site Management Plan – in relation to this comment it is noted that there is no intention that Site Management Plans, which are provided as part of a licensing application and are, of course, operational documents, would be routinely publicly shared.
- Charitable functions – numerous comments were received both as part of the consultation responses and also during the face-to-face consultation responses in connection with charitable functions. In essence these related to the restriction of the charitable function to wine and the perception that this is both anachronistic (particularly as a person may become intoxicated on wine in the same manner as any other liquor), and also that it does not best support local charities or, for example, suitably showcase locally produced beers, ciders or

spirits in a charitable setting. Generally, the provisions in connection with public entertainments, which charitable functions are perhaps more akin to, are to be reviewed for a range of matters as part of future phases of the licensing framework. Therefore, it is suggested that while what is provided for in the proposed Regulations is a slightly modified version of the present section 15 *Charitable function licences* of the Licensing Act 1995, following a “bedding in” of these changes, separate consideration will follow and will be guided by a review of the instances in which charitable organisations have both registered a responsible person, and applied for separate and specific event licensing to permit liquor other than wine to be sold and consumed. As noted elsewhere, despite the Department having communicated directly with registered charities about the consultation and having sought feedback from all interested parties through both the electronic consultation and also multiple face-to-face sessions, little direct feedback was received from those identifying as being connected with charities.

- Purple guide for events – while the respondent who commented on the use of a the [“Purple Guide”](#) (which is [written by The Events Industry Forum in the UK](#)) does make a sensible point that such guidance is routinely utilised and generally recognised as being a standardised mechanism through which events might be organised safely, it is not, however, something which is readily accessible to all parties or without a cost implication. In general, the intention at the inception of the new licensing framework is that providing site management plan templates, in connection with the range of different licensed activities that might be applied for, will provide a basis upon which the bespoke operational elements of each business/other activity can be easily described and suitably risk assessed. The templates themselves are part of the Isle of Man Licensing Forum Code of Practice and Guidance on Liquor Licensing and again, following the “bedding in” period it may be the case that further changes or modifications are made to these documents following their “real world” application to the licensed hospitality industry.
- Planning for the new framework – the Department is working closely with key stakeholders who have a role within the licensing framework to ensure that both the transitional period, and the future application of the proposed Regulations happens as seamlessly as possible. Specific information was set out as part of the draft Regulations within Part 9 in respect of the proposed transitional period and how this would be managed, particularly with reference to there being a suitable “grace period” for licensees to make their application for their replacement “rolling” licence and also to ensure that any additional requirements such as training certification and a new site management plan, were in place. This proposed “grace period” is still intended to take effect at the commencement of the proposed Regulations and last for at least 5 months.

Presently, subject to the bringing forward of the proposed Regulations and their approval by Tynwald, the timescales that are projected are:

Tynwald consideration	December Licensing Court	Regulations come into operation if approved	Grace period begins	Grace period ends	Grace period has ended*
16-18 November 2022	08 December 2022	12 December 2022	12 December 2022	30 June 2023	01 July 2023

*\*any licence issued under the Licensing Act 1995 where no application awaits consideration/has been made, falls away.*

Drafting changes were made throughout Part 2 of the Regulations that served to improve the overall consistency of the Regulations following a further review of their content alongside the consultation period comments. It is specifically noted that certain changes were also made to ensure clarity within the Regulations as to their application to bodies corporate rather than, for example, partnerships. These changes were made following careful consideration of the existing framework and engagement with key stakeholders.

### 2.3 Regulations Part 3 - Review

Part 3 sets out a key proposed change to the Licensing framework whereby at any time, an individual, the Chief Constable, or the Licensing Court may refer a licence to the Licensing Court for review on particular grounds. Given the falling away of the Triennial process, this provides a mechanism through which objections might be heard on an ongoing basis.

#### **We asked:**

We asked respondents whether they were content with Part 3 of the Regulations, and whether they had any other specific comments on this Part.

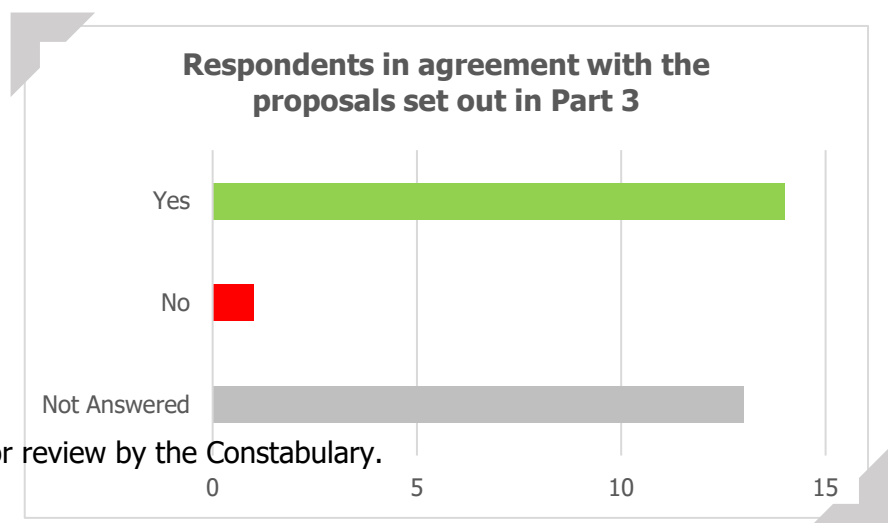
#### **You said:**

There were a total of **15** responses received to this question.

The majority of the respondents were supportive of the proposals set out within Part 3, with **14** respondents in agreement with Part 3 as drafted, **1** not in agreement and **13** made no response.

One respondent noted that the requirements for an individual being deemed a "fit and proper person" should also include for the individual to be compliant in other areas, i.e. VAT, tax, etc.

One other respondent commented that a licensee under review should have the right to challenge any referral for review by the Constabulary.





A suggestion was received to be able to seek a review of a licence application in such circumstance where a licensee is not operating in accordance with their Site Management Plan, in relation to poor management practices leading to litter (including broken glass and cigarettes) in the area surrounding their licensed premises.

It is noted that multiple respondents agreed with the proposals set out in connection with this Part, and that these were seen to be positive, with one respondent commenting "*it also allows the police (and fire) to provide an objective opinion in respects to the application*".

One respondent commented that if businesses have operated for "substantial time in the same place and circumstances without issue, they should not be able to be reviewed due to malicious complaint".

### **We did:**

As the majority of feedback received on this Part was positive, specific targeted changes were made to address particular points raised and to give clarity in certain areas:

- "Fit and proper person" – in general as noted elsewhere there has been a "firming up" of provisions in connection with the requirement placed on any licensee (or indeed a responsible person, guard or doorkeeper) when they are cautioned, charged or convicted for an offence falling under those defined within regulation 3 as "relevant offences". In any other instance in which a person's "fitness and properness" might be called into question, potentially such as in connection with tax matters as was raised by the consultation responses, while this falls outside of the specific "relevant offence" provision unless a caution, charge or conviction is made, it is likely to be the case that this would fall under Part 3 as a matter that could form the basis of a review application, being that it would directly impact on the licensee's status as a "fit and proper person".

Further to these comments around "fit and proper" person it is noted that, on consideration of a separate comment received and made in connection with how a person's capacity was defined, that on consideration a provision previously found at regulation 27 *Duration of a licence* within the draft Regulations has instead been incorporated into Part 3. This recognised that if a person's capacity to hold a licence was in question and that person (or their representative) had not surrendered the licence, this would also be a matter that might be referred for review and consideration in accordance with this part.

- Challenge of a Review referral made by the Isle of Man Constabulary – in connection with the comment from one respondent that they should be able to "challenge" any referral made under Part 3 by the Isle of Man Constabulary, it is noted that this is not necessary in order for a fair and impartial consideration of the matter referred to take place. If a licence is referred for review under any of the grounds set out under Part 3 then consideration of such a review would be made by the Licensing Court and any person who has applied for a review of a licence will have the opportunity to set out their views, and the licensee who will have been made aware of the alleged grounds for the review, will have suitable opportunity to explain themselves.
- Review where litter not managed – it is noted that in connection with each licensed hospitality premises Site Management Plan (as was set out within Part 1) – consideration has been given to the most appropriate manner of addressing such issues and, if necessary following "bedding



in” of the new approach, the Code and associated Site Management Plans will be kept under review via the Licensing Forum and feedback from that body.

- Businesses being exempt from review requirements – in response to this comment it is noted that no business can, or will, be considered to be exempt from the requirements of this Part. Subject to the requirements that are set out under Part 3, applications for a review must have a clearly set out basis upon which they are made, that is, in the view of the Licensing Court, neither frivolous nor vexatious. An application deemed to be frivolous or vexatious could result in recovery of expenses from the relevant applicant.

Drafting changes were made throughout Part 3 of the Regulations that served to improve the overall consistency of the Regulations following a further review of their content alongside the consultation period comments.

## 2.4 Regulations Part 4 – Miscellaneous duties of licensee of licensed premises

Part 4 sets out miscellaneous matters and offences in connection with licensing. These include:

- A key proposed enhancement that where a licensee becomes subject to court proceedings, or is cautioned or convicted of a relevant offence, they must make notification to the Licensing Court of this matter within one month, or be liable to a fine;
- The licensee’s duty to notify the Licensing Court where a connected person changes;
- A key proposal that a licensee who is not a company etc. might still nominate Responsible Persons, giving extra flexibility to the management of premises during opening hours;
- The timescales and circumstances during which a Responsible Person may be absent from the running of licensed premises during their being open without committing an offence, and the appointment by the Licensing Court of a temporary manager in connection with a licence; and
- The duty to keep, display and produce a licence.

### **We asked:**

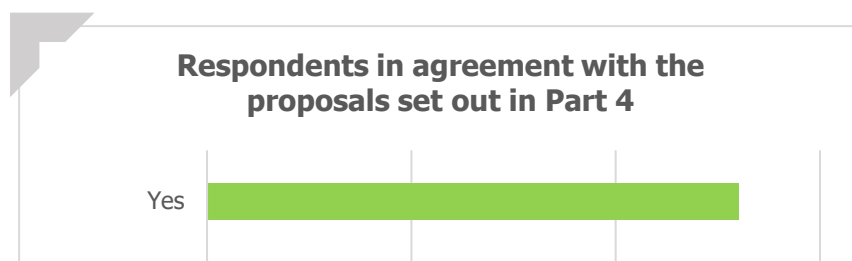
We asked respondents whether they were content with Part 4 of the Regulations, and whether they had any other specific comments on this Part. We also asked whether respondents agreed with the introduction of an ability to review licences, as well as the timescales set out for temporary unavoidable absence from the running of the premises by a licensee/responsible person.

### **You said:**

There were a total of **14** responses received to this question.

The majority of the respondents were supportive of the proposals set out within Part 4, with **13** respondents in agreement with Part 4 as drafted, **1** not in agreement and **14** made no response.

A number of respondents commented on the fact that



they could not see timescales set out within the consultation document in relation to temporary absence from premises of a Responsible Person. In practice this was as the information in question was set out in detail within the draft Regulations themselves at Regulation 39. Nevertheless in response to these comments there is summarised information below in the "We did" section of this Part.

Furthermore, one respondent commented that any variation to the detail of what constitutes a "temporary absence" (ref. regulation 39 of the proposed Regulations) should be limited, otherwise this is open to abuse. This respondent went on to suggest that a determination of what constitutes a "temporary absence" should be left to the discretion of the Constabulary, case by case.

Feedback received in connection with this Part included an insight from one respondent, that: "*Smaller businesses may not have the ability to have multiple "Responsible Persons" available and as such some shifts in quieter periods may be difficult to staff."*

In connection with timescales, one respondent suggested the inclusion of a provision to allow Responsible Persons/businesses up to 24 hours to respond to any query from the Constabulary or Courts, etc.

One respondent queried what the anticipated turn-around of High Bailiff enquiries is to be in an "emergency" situation.

### **We did:**

As the majority of feedback received on this Part was positive, specific targeted changes were made to address particular points raised and to give clarity in certain areas:

- Timescales for the temporary absence of a licensee/Responsible Person/definition of a temporary absence – these are set out in regulation 39 and follow detailed discussion with the Licensing Forum, and also with those who attended the face-to-face consultation sessions where this was a matter raised and discussed on a number of occasions.

Additionally, individuals responding to the consultation made comments in connection with this matter. In practice the timelines that have been given within this regulation represent a "firming up" of the present terminology found within section 25 *Absence of licensee* of the current Licensing Act 1995 which presently states that "Unless such absence is unavoidable...". It was viewed as being necessary to set out specific timelines in connection with the duration of any such absence, and once again to provide that where the absence is going to be of any duration and unavoidable (for example in relation to a sudden illness or a sudden change of employment status), then application might be made to the High Bailiff to put in place a temporary manager.

Finally, regarding the requirement that a Responsible Person must be in place at all times when the premises are open to the public, and the comment received in connection with this that it would therefore be difficult to staff a smaller premises, it is noted that this requirement is not new in that it is approximated in the current Licensing Act 1995. Also, greater flexibility has been given under the proposed licensing framework for the registration of additional Responsible Persons in connection with licences held by an individual licensee.

- 24 hours for a response to Isle of Man Constabulary or the Licensing Court – in connection with other duties under this Part, such as the duty to produce a copy of the licence on demand, it was noted that while no timescale has been incorporated here, in practice it is the case that timescales in connection with any matter where the Constabulary or the Licensing Court require information will be reasonable.
- Turnaround of temporary manager applications – in connection with the comment around turnaround timescales for a temporary manager applications, no specific timescale is being mandated in connection with such an application, however it will be the case, as it is now, that the High Bailiff will seek to consider any such matter in the most expedient manner possible, and permission for such an application will come directly from the High Bailiff. Therefore this does not necessitate the approval of the full Licensing Court.

Drafting changes were made throughout Part 4 of the Regulations that served to improve the overall consistency of the Regulations following a further review of their content alongside the consultation period comments.

## 2.5 Regulations Part 5 – Vehicles and vessels

Part 5 sets out regulations related to delivery of liquor from vehicles. It is also proposed that the current specific guidance around remote sales of liquor, contained in the Isle of Man Licensing Forum Codes and Guidance Manual, will continue to form part of that guidance within the updated Code.

Part 5 also sets out a new provision relating to those who are subject to a “ban” being nonetheless permitted to enter the licensed premises of the Airport Departure Lounge as part of an ongoing journey, or to enter a retail store or petrol station for the purpose of purchasing food or non-liquor beverages and fuel, providing that they do not attempt to buy or consume liquor during this time.

### **We asked:**

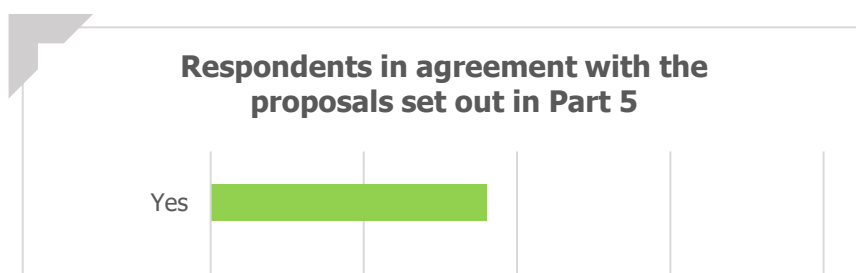
We asked respondents whether they were content with Part 5 of the Regulations, and whether they had any other specific comments on this Part.

### **You said:**

There were a total of **11** responses received to this question.

The majority of the respondents were supportive of the proposals set out within Part 5, with **9** respondents in agreement with Part 5 as drafted, **2** not in agreement and **17** made no response.

A comment was received from one respondent relating to the delivery of alcohol to



addresses on the island, whether a licence is needed for this, and the controls around transport of alcohol in respect of off-island "online" purchases.

A significant number of negative comments were received in connection with the intention to maintain an exemption for alcohol being served with substantial meal on board the dining train.

This is a matter which presently sits outside of the existing licensing legislation (within a *lacuna* or "gap" in the law under which no licensing requirement is in place). Further comments made suggested that by providing for the dining train in this manner Government was perpetuating a bias towards a "moving premises" owned by Government, or that to consider this to be an area sitting outside of licensing and worthy of exemption put, for example, premises operating under restaurant conditions (premises who may only serve alcohol alongside a substantial meal and via a "table service"), should be able to avail themselves of a similar exemption.

In connection with the proposed exemption within this Part and set out in comment associated with Schedule 3, other exemptions suggested by respondents included:

- The inclusion of an exemption to hold a liquor licence for dining trains being extended to cover vessels operating tours and trips around the Island, which include sale of liquor with a substantial meal;
- Potential to more easily register a Responsible Person or to obtain a "temporary visiting vessel licence"; and
- The inclusion of an exemption to hold a liquor licence for passenger vessels registered in the Isle of Man plying from place to place but not within Isle of Man harbours.

Several respondents offered feedback that it would, in their view, be practical to permit the bar area within passenger vessels to be able to open whilst in port before embarking on a journey.

### **We did:**

While the majority of the feedback received on Part 5 indicated that respondents were content, there were specific comments made by certain respondents in connection with particular matters found within this Part. Below we have set out comments as to the certain specific targeted changes that were made to address particular points raised or to give clarity in these areas:

- Alcohol being delivered from non-Island sellers – in connection with these comments it is noted that delivery from non-Island sellers is a matter that has been raised to the Licensing Forum in recent times, and it is understandable that it has also been raised as part of this consultation. It is a concern of those sellers licensed to make sales of alcohol on Island, who are bound to comply with age verification and responsible sales practices that other sellers based outside the jurisdiction do not. A general commitment has been made to review both

the delivery of alcohol, and also the current operation of Bring Your Own Bottle establishments within future considerations, as these are both areas which might perhaps benefit from notification of some type along with access to suitable training for those who are responsible for such activities.

- In particular in relation to the negative comments expressed in connection with the exemption for the dining train, it is noted that while maintenance of such a “gap” in the law is not desirable, it is the case that other transitional matters have carried across within the phased approach taken to the new licensing framework. Specifically in relation to the dining train, it is noted that this is a short-term exemption given the existing operation model of the train.

Within future phased changes of the new licensing framework, this exemption will be rescinded and the Department has engaged with the Department of Infrastructure to ensure a clear way forward is recognised, under which the train will fall under the Manx Transport licence and be expected to obtain a suitable licence accordingly.

- Other suggested exemptions - in connection with other comments made around the suggested exemptions for vessels and other potential adjustments suggested whereby the licensing framework might permit visiting vessels to more easily register a Responsible Person for a “temporary” visit to the Island, and thereby be licensed, or that perhaps other vessels no longer be subject to the Island’s licensing laws, these are all matters that will be noted for future consideration and it is likely that suitable engagement will be needed with interested parties in the future to understand whether any variation might then be supported. Presently the framework being put in place is largely as per the current framework, maintaining the status quo.
- Licensing within the harbour - at this time this change is not one which has been adopted but future consideration will be given to any change to conditions or the setting out of additional conditions in respect of vessels and vehicles.

Drafting changes were made throughout Part 5 of the Regulations that served to improve the overall consistency of the Regulations following a further review of their content alongside the consultation period comments. In particular it is noted that an additional exemption was included here in respect of those “banned persons” who might wish to attend an event that takes place in a premises which holds a public entertainment licence only (i.e. not licensed premises at which alcohol is sold or consumed or an event held under any manner of liquor licence), these persons would otherwise be banned from the premises if banned from licensed premises as per the definition within section 3 *Interpretation* of the Liquor Licensing and Public Entertainment Act 2021.

## 2.6 Regulations Part 6 – Licensing Court

Part 6 sets out provisions in connection with the Licensing Court. These relate to time limits, evidence and the adjournment/withdrawal of proceedings, etc.

Additionally, a provision is included in respect of appearance by a company, club or charity which is based on a provision previously found in the Licensing Court Rules 2014.

### **We asked:**

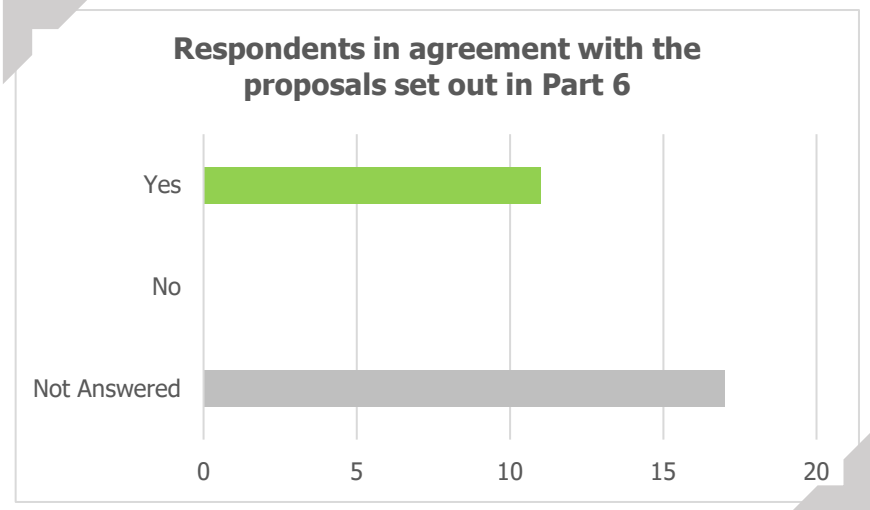
We asked respondents whether they were content with Part 6 of the Regulations, and whether they had any other specific comments on this Part.

**You said:**

There were a total of **11** responses received to this question.

All respondents were supportive of the proposals set out within Part 6, with all **11** respondents unanimously in agreement with Part 6 as drafted, **0** not in agreement and **17** made no response.

Many respondents in agreement with this Part expressed that they wished for the Licensing Court to remain the overall controlling entity of the Licensed Industry. The main reason given for this was due to the widely perceived impartiality of the Court.



**We did:**

As the feedback received on this Part was positive, and no specific comments were made in respect of this part in consultation that require commentary in response, equally no extensive or notable changes have sought to be made by the Department to this Part of the proposed Regulations.

- **Role of the Licensing Court** - In general it is noted that through the [consultation made on the then Liquor Licensing and Public Entertainment Bill](#), and into this consultation on the Regulations in respect of the new Liquor Licensing and Public Entertainments Act 2021, feedback has consistently indicated that stakeholders and interested parties are all of the view that the role of the Licensing Court is key within the licensing framework. While there is the possibility that in the future a Licensing Authority may be established, and indeed a hybrid model may emerge with key decision making sitting with the Licensing Court and administrative matters sitting with such an Authority, it is the case that no such change would be made without detailed consultation as to the scope and limitations of such an Authority. This is a matter set out in the [Liquor Licensing and Public Entertainments Act 2021 Implementation Plan 2022](#) which will act as a placeholder for any such consideration in future phases.

Drafting changes were made throughout Part 6 of the Regulations that served to improve the overall consistency of the Regulations following a further review of their content alongside the consultation period comments.

**2.7 Regulations Part 7 – Licensed Staff Register**

Part 7 sets out provision in connection with the establishment, and ongoing use, of a Licensed Staff Register for:

- Responsible Persons;
- Guards; or

- Doorkeepers.

This proposal sees all of the above categories of licensed staff become subject to a registration requirement and the establishment of a specific register that holds their details.

Another key proposal sees the current name “Designated Official” changing to the new term of a “Responsible Person”.

It is proposed within Part 7 that their registration will continue to be subject to a three year renewal cycle with the requirement that individuals re-apply prior to the expiry of their current certification (badge) to ensure ongoing registration, and that each individual once again demonstrates that they have fulfilled all training and suitability requirements.

Part 7 also sets out enhanced requirements in connection with the mandatory duty of an individual registered Responsible Person, or individual Door Security Staff registrant, to inform the Licensing Court, or the Department, respectively, if that individual should become subject to court proceedings or be cautioned or convicted of a relevant offence.

**We asked:**

We asked respondents whether they were content with Part 7 of the Regulations, and whether they had any other specific comments on this Part. We also asked respondents whether they had any comments in connection with the proposals for Responsible Persons and their registration.

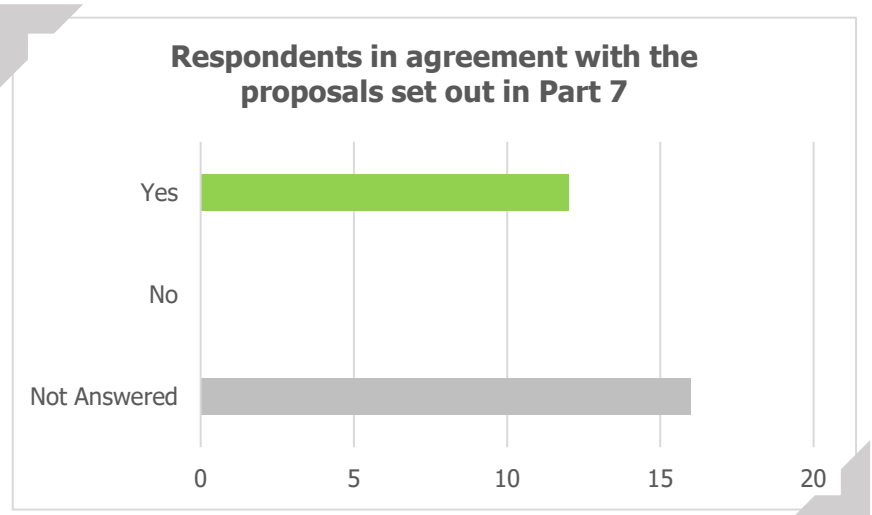
**You said:**

There were a total of **12** responses received to this question.

All respondents were supportive of the proposals set out within Part 7, with all **12** respondents unanimously in agreement with Part 7 as drafted, **0** not in agreement and **16** made no response.

Positive feedback from respondents in relation to the register saw comments such as *“the simplified process for registration is to be welcomed”*.

Suggestions in relation to the Register included the addition of listing the premises alongside a Responsible Person’s entry to the Register.



One theme that emerged from the feedback given on this Part was that of the ability for a Responsible Person to be registered at more than one premises of a multiple site business. In connection with this, one respondent suggested that *“Responsible Persons be appointed to a Licensee rather than specific premises, as this would allow multiple site operators the flexibility to cover staff absence across sites without compromise to the principle that any movement between Licensees requires alteration to the Register”*.

Positive commentary was also received from one respondent, specifically that *“the change in the regulations from Designated Officials in general attendance to Responsible Person in attendance at all times, is a positive change and meets the objectives of the new Act”*.

Finally on this point, one respondent expressed concern about the difficulty in upholding compliance with the legislation *“without the flexibility to move employees quickly and without the burden of costly and restrictive administrative/court process”*.

With regards to the registration of door security staff, one respondent queried as to why a reapplication needs to be made every three years, as this differs from the requirements for renewal for Responsible Persons. Furthermore, this respondent raised a point for consideration that there is some divergence between the date on which a training certificate is issued, and the date on which registration takes place, this can be complicated for registrants to manage.

**We did:**

As the majority of feedback received on this Part was positive, specific targeted changes were made to address particular points raised and to give clarity in certain areas:

- Premises name at which a Responsible Person is registered – it is proposed that when the electronic register of Responsible Persons comes into effect, the record for any individual will record the premises at which they are registered.
- Responsible Person’s registering in connection with multiple premises – in connection with this comment it is noted that while the possibility for individuals to register in connection with multiple premises will exist, the acceptability of any individual for registration against any premises will depend on that individual registrant having the appropriate training, status and the designation of the licensee of the premises, and their registration being to the satisfaction of the High Bailiff, or the Licensing Court or, in the case of a transfer for an existing registrant, the Department.

In practice the intention of moving the registration process to sit predominantly external to the Licensing Court mirrors wider changes being made that see the licensed hospitality industry play a greater role in directly managing the risk that they believe their business practices may represent, and making sensible and appropriate decisions in relation to this, therefore sensibly made applications are unlikely to lead to protracted associated decision making.

- Renewal for Guards or Doorkeepers – in light of the comments received in connection with guards and doorkeepers and the pragmatic suggestion that these individuals, while not affiliated with a premises in the same manner as a Responsible Person, would benefit from the same risk based approach to their ongoing registration i.e. one that takes account of continued supervision of their training, their ongoing “fitness” and the simple payment of a fee and making of an attestation associated with these on renewal of their badge and registration. Therefore, a policy decision has been taken that renewal for guards and doorkeepers will not require the full re-application at each 3 yearly interval, providing that other requirements (e.g. training) are met.



Drafting changes were made throughout Part 7 of the Regulations that served to improve the overall consistency of the Regulations following a further review of their content alongside the consultation comments.

## 2.8 Regulations Part 8 – Offences relating to minors

Part 8 sets out a range of offences in connection with sale, supply, delivery, proxy purchase etc. or consumption of alcohol by minors (those under the age of 18).

Additionally, provisions in connection with acceptable forms of identification deemed to be suitable evidence of age are also included within this Part.

There are also included provisions around the employment of minors setting out the circumstances in which a licensee would be guilty of an offence in relation to employment of a minor, as well as the penalty related to this.

Finally within this Part a provision is included setting out, for clarity, how the Court may, in the circumstances detailed under the Part, deem the age of the offender unless the contrary is shown.

### **We asked:**

We asked respondents whether they were content with Part 8 of the Regulations, and whether they had any other specific comments on this Part. We also asked respondents whether, in connection with suitable evidence of age, they had any comments on the intention to provide for electronic verification of evidence of age, e.g. via an app.

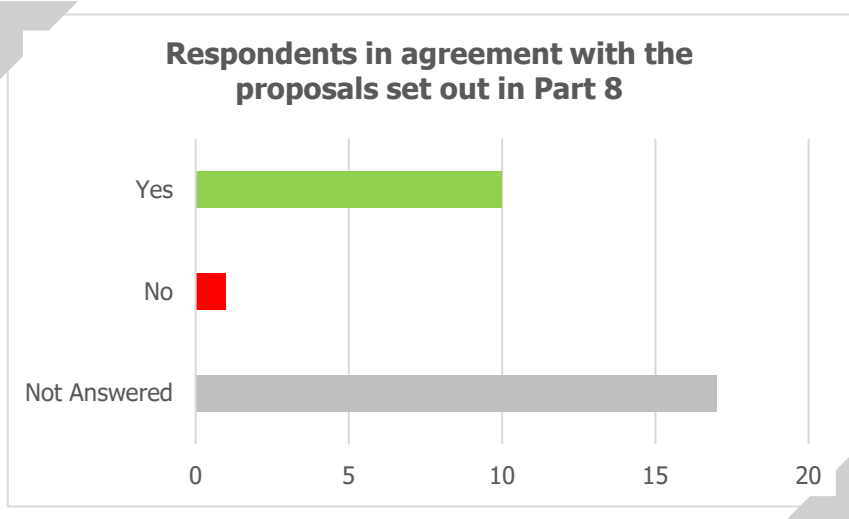
### **You said:**

There were a total of **11** responses received to this question.

The majority of the respondents were supportive of the proposals set out within Part 8, with **10** respondents in agreement with Part 8 as drafted, **1** not in agreement and **17** made no response.

One respondent was not in agreement with this Part, due to concerns about the security of any non-governmental age verification processes.

In contrast, one respondent gave positive feedback on this section, that with the current *“prevalence of phone-only payments and lack of carrying wallets, etc”*, the proposals as set out in this Part are likely to reduce conflict and lead to greater compliance.



A few respondents noted a typographical error in the Regulations (which was welcomed despite the draft nature of the Regulations), specifically about consuming “liquor”, where it should be wine only, and that the carve out provided for in regulation 65(3) was not mirrored in regulation 68.

One respondent gave positive feedback on this Part, where a minor “*will not be committing an offence when directed by a police officer to buy/attempt to buy alcohol*”, as “*this now protects the minor and the organisation from prosecution when conducting test purchasing exercises*”.

Finally, a practical suggestion from one respondent was made to replace, in regulation 66(1)(a) of the proposed Regulations, “*consumption in a highway or public place*” with “ANY place”, as is set out in the Act, in order to safeguard vulnerable children and remove the existing requirement that it must be proved that the person under 18 was to consume the liquor in a public place or on a highway.

### **We did:**

As the majority of feedback received on this Part was positive, specific targeted changes were made to address particular points raised and to give clarity in certain areas:

- Forms of identification – it is noted that while the possibility is provided for under the proposed Regulations it will be dependent upon the licensed hospitality industry engaging with the Department, via the Licensing Forum, to propose suitable providers of such age verification applications for consideration (and careful consideration prior to any such agreement) by the Department. Setting this out within the Regulations “future proofs” the potential use of such an application, and indeed it is the case that certain providers are utilised in neighbouring jurisdictions.
- Typographical error - the carve out in regulation 65(3) not being mirrored in regulation 68 was an oversight and has now been adjusted and will be included in the proposed Regulations.
- Test purchases – this is noted as being welcomed and will offer a firm basis for the future “stress testing” of the challenge 25 approach that is set out in Appendix B of the Isle of Man Licensing Forum Code of Practice and Guidance on Liquor Licensing and should be maintained for any sales to any person who it appears is below the legal age for such a purchase.
- Agent obtaining liquor for minors (the offence of) – in connection with regulation 66, this regulation was welcomed as being practical. The draft wording which was directly taken from the existing Licensing Act 1995 (and presently forms section 74A *Agents etc. obtaining liquor for minors*), was adjusted to provide that any place of consumption is considered to be unlawful, unless either the defence set out in the regulation at regulation 66(2) is met, or the exemption referred to within regulation 66(3) in relation to regulation 65, applies.

Drafting changes were made throughout Part 8 of the Regulations that served to improve the overall consistency of the Regulations following a further review of their content alongside the consultation comments.

## **2.9 Regulations Part 9 – Transitional arrangements, consequential amendments and revocations**

Part 9 sets out the proposals that are being made in connection with transitional arrangements which must be in place to allow licences to shift from the existing licensing framework into the new proposed framework.

In brief the proposals are that:

- Existing holders of a licence (“old licence”) must obtain a new licence certificate issued under the new Regulations by 01 May 2023;
- For licences that might be issued without variation – this will be done following submission of a replacement certificate request form to the Licensing Court; and
- For a licence requiring variation, a licence variation application should be separately submitted under the new Regulations.

### We asked:

We asked respondents whether they were content with Part 9 of the Regulations, and whether they had any other specific comments on this Part.

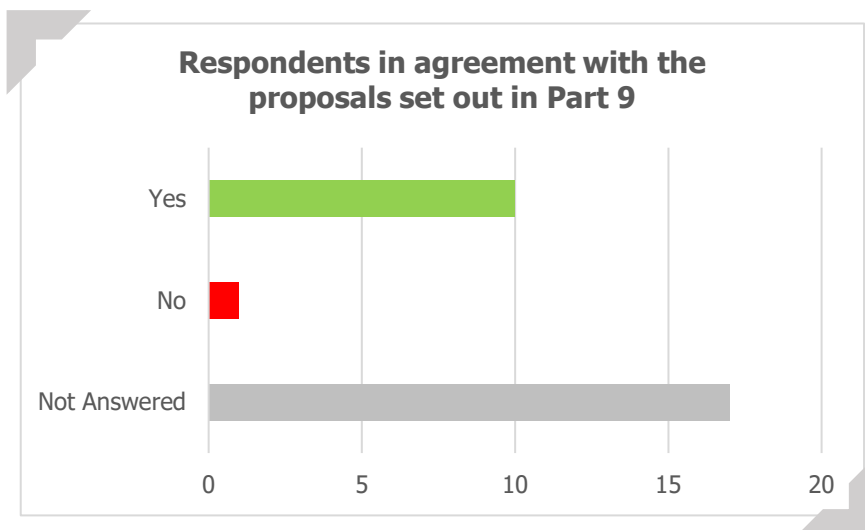
### You said:

There were a total of **11** responses received to this question.

The majority of the respondents were supportive of the proposals set out within Part 9, with **10** respondents in agreement with Part 9 as drafted, **1** not in agreement and **17** made no response.

One respondent suggested that current licence holders automatically receive a replacement licence without completion of proposed transitional paperwork.

Another respondent asked whether there is scope for a reduction in the cost of licences and in future, a review of how these are charged for, based on the perception that the proposed new application process appears to have been made less time consuming.



Feedback in relation to regulation 75 *Transitional arrangements – clubs* expressed concern that no club at present “has a person trained or approved by the Court as a designated official...therefore there will be no Responsible Person in place”. The suggestion received in relation to this concern was to include within this regulation that as part of the transition, any club premises must appoint a suitably trained and qualified person in line with the requirements of regulation 22(1) of the proposed Regulations.

One respondent asked for the following further information with regards to compulsory training:

- When will the on-line training programme be available?
- When will the workshop style training be available?
- When will the process to register new Responsible Persons be open?
- When will the forms be available for renewals and Site Management Plans?

- What is the timeline for submission, when can we submit?
- What is the process and what are the costs?
- As previously, will renewal applications be able to be submitted sighting plans already logged with the court?
- Do Responsible Persons need to attend on-line and face to face training every 3 years?
- Can accreditation to deliver training in-house be applied for?

**We did:**

The full detail in connection with the transitional provisions will sit within the (No. 2) Appointed Day Order being made in connection with the Liquor Licensing and Public Entertainments Act 2021 and therefore this Part will be removed from the Regulations and the full detail of any transitional matters being provided for will be found within that Appointed Day Order. It is however, noted that within the final Regulations two small provisions in connection with transitional matters have been included and these are set out within the application provisions for licences and Responsible Persons, at regulation 7 and regulation 50, respectively.

Alongside the need to ensure that the legislative basis is in place for this transition, the Department is also committed to putting in place a clear communication plan that will share information with existing licence holders as to how they might make a transitional application, during the “grace period”.

As was noted elsewhere within this summary (in connection with Part 2) the Department is working closely with key stakeholders who have a role within the licensing framework to ensure that both the transitional period, and the future application of the proposed Regulations, happens as seamlessly as possible.

Specific information was set out as part of the proposed Regulations within Part 9 in respect to the proposed transitional period and how this would be managed, particularly with reference to there being a suitable “grace period” for licensees to make suitable application for their replacement “rolling” licence and also to ensure that any additional requirements such as training certification and a new Site Management Plan, were in place.

This proposed “grace period” is still intended to take effect at the commencement of the proposed Regulations and last for at least 5 months.

Presently, subject to the bringing forward of the proposed Regulations and their consideration by Tynwald if this should lead to their approval, the timescales that are projected are:

Tynwald consideration	December Licensing Court	Regulations and Appointed Day Order take effect if approved	Grace period begins	Grace period ends	Grace period ends*
16-18 November 2022	08 December 2022	12 December 2022	12 December 2022	30 June 2023	01 July 2023

*\*any licence issued under the Licensing Act 1995 where no application awaits consideration/has been made, falls away.*

Detail will be shared as part of the communication plan as to how licence holders may apply, what form the application will need to take, what supplementary information will be needed and how licence holders, licensees, existing Designated Officials (who will need to transition on to the Responsible Persons register), guards and doorkeepers might ensure that any licence or registration remains valid.

Additionally the full information about training packages which is proposed will relate to the new Liquor Licensing and Public Entertainment Regulations 2022 (subject to their approval by Tynwald) will be shared.

## 2.10 Schedule 1 – Liquor Licence Types

Schedule 1 sets out the titles and description of the proposed new licence types.

We have created specific licence types in the Regulations to try and provide clarity for businesses, clubs and charities. The proposed licence types comprise of the following:

- On-licence;
- Off-licence;
- Charitable function licence;
- Mobile licence;
- Manx transport licence;
- Host licence;
- Liquor production and sales licence;
- Event licence; club licence;
- Public entertainment licence; and
- Public entertainment event licence.

### **We asked:**

We asked respondents whether they had any specific comments on each of the licence types proposed under this Part. We also asked whether respondents understood the proposals that are being made in connection with host licences, as this licence is not proposed to take effect at initial commencement of the new licensing framework.

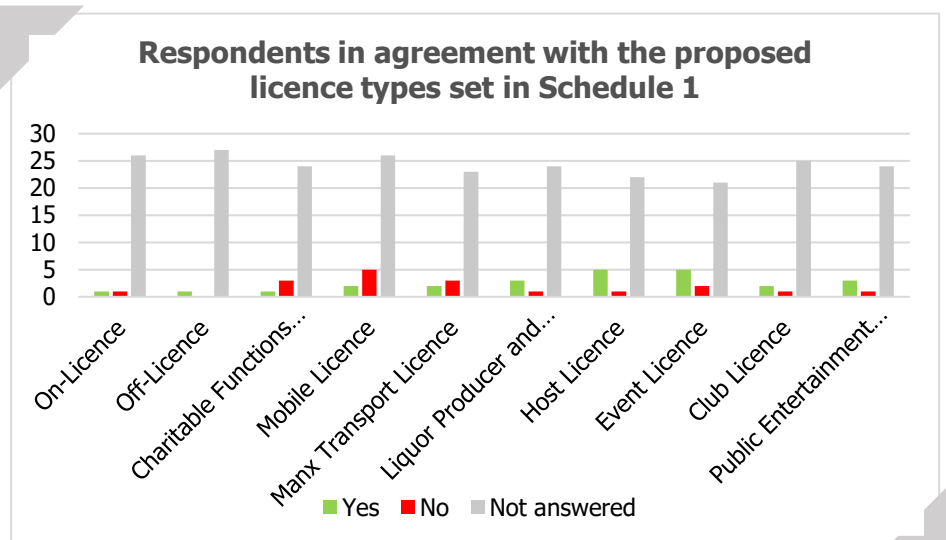
### **You said:**

There were varying numbers of responses to the questions asked in connection with the proposals set out under Schedule 1.

For all proposed licence types other than the Charitable Functions Licence, Mobile Licence and Manx Transport Licence, the majority of the respondents were supportive of the proposals set out within Schedule 1.

## On-Licence

- One respondent highlighted that restaurants should not have to go through the same procedures as pubs and clubs when applying for a licence, as restaurants could be considered as "low to no risk" in comparison.



## Off-Licence

- No commentary was received in respect of the proposals set out for Off-Licences.

## Charitable Function Licence

- One respondent expressed concern about the outdated social perception of "wine", and that a Charitable Function Licence should not be restricted to serving wine only, as "wine" is grape wine whilst most local producers make beer, cider, made-wine and spirits.

## Mobile Licence

- Many respondents felt that the title of "Mobile Licence" caused confusion.
- The majority of the feedback received on this proposed licence type was not positive. The majority of respondents who provided commentary were not in agreement with the licence type as proposed:
  - "This licence type will create an unfair playing field for operators";
  - "This will allow smaller operators to select preferential work conditions and situations to extract maximum profits for minimum outlays";
  - "This will cause damage to the licensing industry overall";
  - "Every licensee should be required to have a substantial investment within a bricks and mortar establishment";
  - "This will lead to a loss of potential revenue for "Bricks and Mortar" businesses who are operating year round for the Manx public";
  - "This will allow people with little or no "skin in the game" to compete, at far lower operating costs, with other licence holders for all of the lucrative event licensing opportunities on the Island";
- It is noted that a minority of respondents were in favour of this proposed licence type, providing positive feedback such as "I support finding ways of making this work. If mobile requirements were properly drafted and with the requirement to have permission if a landowner, and notification to Police and Fire at least 24 hours before setting up then it is a new a diverse offering many in the community support".
- One respondent suggested limiting either the size of an event a mobile licence could operate and/or the length of time an individual could operate solely under a mobile licence in balance with the concerns expressed by the majority of respondents.
- Finally, one respondent suggested that clarification on exactly who would be able to apply to hold a Mobile Licence may prove beneficial.

## Manx Transport Licence

- One respondent noted that *"the exemption for dining trains in Schedule 3 feels very biased against the private industry"* and this sentiment was noted by other respondents also.
- Another respondent gave feedback about passenger vessels, and that they could not perceive any harm for a passenger vessel that normally transports passengers from place to place, to serve alcohol while in harbour waiting to depart. In addition, this respondent also shared that such vessels should be permitted to hold special events while in harbour, as long as some form of notification is provided.

#### Liquor Producer Sales Licence

- Many respondents noted that in connection with this proposed licence type, the inclusion of the wording in the proposed Regulations of *"for consumption off the premises"* limits producers from offering tastings, small incidental sales and hosted event attendance for own product sales.
- One respondent questioned why there is a separation between the proposed Mobile Licence and Liquor Producer Sales Licence, and why both couldn't be combined to allow for producers to apply for an Event Licence also.

#### Event Licence

- One respondent asked how quickly an Event Licence could be procured, and by whom.
- A suggestion from another respondent was that there be restriction on the time elapsed between Event Licences, as it is believed that this would then prevent potential misuse by an event organiser running a temporary site for a large period of time.
- Another respondent suggested that where operators can demonstrate experience in the operation of similar licensed environments, an application for an Event Licence should be more straightforward and come at a cheaper cost.

#### Club Licence

- Positive feedback received on this proposed licence type included comments from respondents such as *"long overdue"*, *"the current set-up is archaic, anachronistic and being abused wittingly or unwittingly on a weekly basis"*, *"vastly outdated and no longer fit for purpose"* and *"currently very complex to manage"*.
- One respondent suggested that Club Licences be abolished completely and instead be an On-Licence, but still be permitted to operate as a club.

#### Public Entertainment Licence

- One respondent commented that this licence type should be as easy as possible for operators of bricks and mortar premises to obtain, and *"shouldn't be used to restrict operating hours of establishments"*.

#### Public Entertainment Event Licence

- No commentary was received in respect of the proposals set out for Public Entertainment Event Licences.

#### Host Licence

- While most respondents appeared cautious about the introduction of this proposed licence type as part of phase 2 of the implementation of the new licensing framework, with comments such as *"guidance about the hierarchy of responsibility and liability will be required"*, *"this style will need more discussion and careful consideration of the effects on the industry overall before being enacted"* and *"there will be little or no reasonable chance to ascertain who has served a banned person, a drunken person, or a minor"*; one respondent gave positive feedback, stating

that *"this will allow much better integration of small businesses into the food, agricultural and village shows"*.

### **We did:**

In light of the feedback received on types of licences, we have set out below which licence types have been included in this initial phase (including any changes to the proposed regulations in light of feedback), and those which require further consideration and engagement prior to any proposal to bring these into the licensing framework. In order to set out the comments in response to the above in a manner that is easy to follow the comments themselves have been reproduced below along with the "We did" responses:

- On Licence - One respondent highlighted that restaurants should not have to go through the same procedures as pubs and clubs when applying for a licence, as restaurants could be considered as "low to no risk" in comparison. As noted elsewhere in this summary, it is the case that the primary intention of the modifications being made to the licensing framework at this time are to improve consistency across the piece, and to remove some of the bureaucracy that otherwise exists. In particular reference to restaurants, it is noted that whilst it is the case that the initial application must be determined, after that, as they will be subject to the same "rolling" licences once a licence has been granted, subsequent operation is proposed to no longer be dependent on repeated re-application (in the Triennial cycle that is proposed to "fall away").
- Charitable Function - One respondent expressed concern about the outdated social perception of "wine", and that a Charitable Function Licence should not be restricted to serving wine only, as "wine" is grape wine whilst most local producers make beer, cider, made-wine and spirits. As was noted elsewhere, despite the Department having communicated directly with registered charities about the consultation and having sought to receive feedback from all interested parties through both the electronic consultation and also multiple face-to-face sessions, it is the case that little direct feedback was received from those identifying as being connected with charities. Nevertheless, it is the case that further consideration of Charitable Functions Licences will be included as part of a wider consideration of Public Entertainment matters, that will form part of consultation on future phases.
- Mobile licence - Many respondents felt that the title of "Mobile Licence" caused confusion. The majority of the feedback received on this proposed licence type was not positive. The majority of respondents who provided commentary were not in agreement with the licence type as proposed. One respondent suggested limiting either the size of an event a mobile licence could operate and/or the length of time an individual could operate solely under a mobile licence in balance with the concerns expressed by the majority of respondents. Finally, one respondent suggested that clarification on exactly who would be able to apply to hold a Mobile Licence may prove beneficial.

As was set out within the key issues at the beginning of this Summary of Responses, the Department has determined that, based on the volume of the negative commentary received in connection with this proposed licence type, as well as the point raised that require further consideration, it will not be progressed in this initial phase. Feedback had been given during the recent pandemic period that mobile licences were something that businesses would welcome, however in practice it appears that, for the majority of respondents and those



engaged with during the face-to-face sessions, a focus on flexibility for existing licence holders will be more critical and should come as a priority within this initial step of the phased approach.

- Manx Transport Licence – Commentary in respect of the dining trains may be found in the “We Did” section at Part 5 - Vehicles and Vessels - of this Summary of Responses.
- Liquor Producer Sales Licence - inclusion of the wording in the proposed Regulations of "for consumption off the premises" limits producers from offering tastings, small incidental sales and hosted event attendance for own product sales. One respondent questioned why there is a separation between the proposed Mobile Licence and Liquor Producer Sales Licence, and why both couldn't be combined to allow for producers to apply for an Event Licence also. In general it is clear that whilst there is an appetite from parts of the licensed hospitality industry for such a licence type, there is still future engagement and consideration to be undertaken as to how precisely to offer variation in connection with "tastings" in a manner in keeping with the general risk based approach being taken to the new licensing framework. In particular it is clear that the ability to provide more "ad-hoc" or "pop-up" tasting sessions at a premises which is unlicensed may be a pragmatic solution, but with suitable (and manageable) oversight in place.

Within future phases of the new licensing framework a focus will be taken on events of all types and tastings to be considered as part of the wider event type that there is perceived to be a desire are catered for.

- Event Licence - One respondent asked how quickly an Event Licence could be procured, and by whom. A suggestion from another respondent was that there be restriction on the time elapsed between Event Licences, as it is believed that this would then prevent potential misuse by an event organiser running a temporary site for a large period of time. Another respondent suggested that where operators can demonstrate experience in the operation of similar licensed environments, an application for an Event Licence should be more straightforward and come at a cheaper cost.

As was set out within the highlighted issues at the beginning of this Summary of Responses, the Department intends that event licensing of all types be considered more specifically as part of the next phase of the implementation of the new licensing framework. It is still intended that suitable inherent variation and flexibility that is tempered with a risk based approach to consideration will be the future goal. It is also clear that there is a strong desire to see modernisation of matters such as the application and advertising processes and thus the Department continues to work with key stakeholders to bring this forward as part of the future phases. This would also likely improve the costs and timescales for any applications.

- Club Licence - One respondent suggested that Club Licences be abolished completely and instead be an On-Licence, but still be permitted to operate as a club. By introducing the proposed requirement that all clubs register a Responsible Person, consistency has begun to be made to the manner in which clubs operate. With that said, it may still be the case that there is a place for clubs within the licensing framework without additional extensive modification. For clubs, as for other event matters, the consultation does focus on the event authorisations or so called "special permissions" and whether these should be capped or other variation made to these, and this will once again form part of wider consideration of events

of all types in the future phased approach. As was noted elsewhere within this consultation, it is a concern that limited feedback appears to have been received from those identifying as being connected to clubs, despite the Department communicating directly with all registered clubs to make them aware of the consultation. Clubs and societies are an important part of many social activities, so there is a keen desire to ensure that they continue and are of benefit to the social fabric of the Island.

- Public Entertainment Licence – feedback was that this licence type should be as easy as possible for operators of bricks and mortar premises to obtain, and “shouldn't be used to restrict operating hours of establishments”. As has been widely noted within this summary, the primary approach taken in the inception of a new licensing framework sees the proposed “falling away” of the triennial process and the introduction of new, industry led and risk based, paperwork relating to the operation of licensed premises. Whilst no restrictions are placed on the operating hours of premises, it remains the case that limitations exist to the times during which music, singing and dancing might take place. Given that being licensed puts a premises, in effect, outside of the provisions of the Noise Act 2006, it remains the view of the Department that licensed premises should, and will, remain restricted in the hours that music, singing and dancing might take place. Many premises are in proximity to residential areas and there does need to be a balance. As ever, it is the case that all applications are considered by the Licensing Court on their unique circumstances, and the music, singing and dancing part of any application is a part of this picture.
- Host Licence - While most respondents appeared cautious about the introduction of this proposed licence type as part of the future phasing of the implementation of the new licensing framework, with comments such as “guidance about the hierarchy of responsibility and liability will be required”, “this style will need more discussion and careful consideration of the effects on the industry overall before being enacted” and “there will be little or no reasonable chance to ascertain who has served a banned person, a drunken person, or a minor”; one respondent gave positive feedback, stating that “this will allow much better integration of small businesses into the food, agricultural and village shows”. Host licences were proposed for consideration as part of the future phases of the licensing framework and their inclusion in the consultation was to spark debate and engagement as to their practical “real world” application.

Drafting changes were made throughout Schedule 1 of the Regulations that served to improve the overall consistency of the Regulations following a further review of their content alongside the consultation period comments.

## 2.11 Schedule 2 – Licence Conditions

Schedule 2 sets out the proposed licence conditions for each of the proposed licence types.

Other potential licence conditions could be considered that might include those in relation to “late night licences” (after 11pm), and a potential corresponding requirement to have in place security staff appropriate to deal with premises capacity. Or other licence conditions that consultation responses might suggest.

One further point currently not set out within the Regulations that is provided for, but appears to be of limited usage under section 9 of the Music and Dancing Act 1961, is the “special permissions” provision. This currently allows for an application to be made for limited temporary variation to the

hours during which a premises open for music, singing and dancing might operate. It is suggested that this provision be retained and potentially become a licence condition, although a related and commensurate administration fee may accompany its usage.

**We asked:**

We asked respondents whether they had any specific comments or suggestions in connection with the proposed licence conditions.

**You said:**

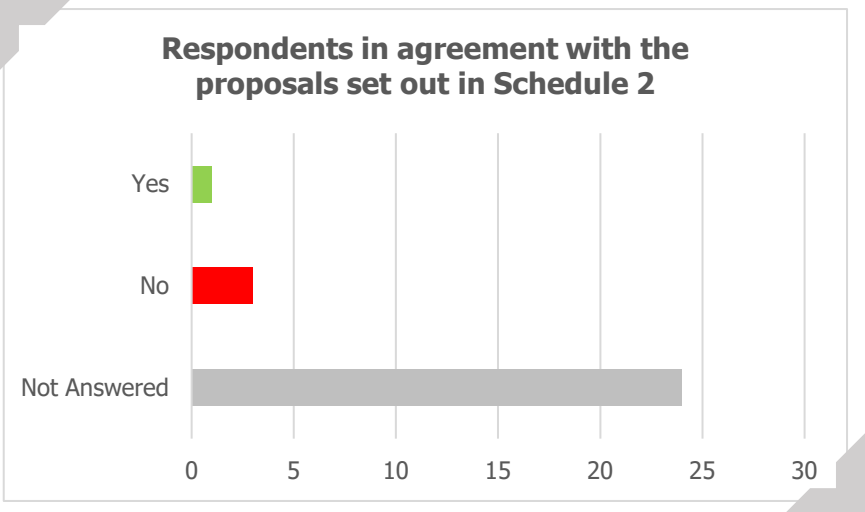
There were a total of **4** responses received to this question.

Only the minority of the respondents were supportive of the proposals set out within Schedule 2, with **1** respondent in agreement with Schedule 2 as drafted, **3** respondents not in agreement and **24** made no response.

However, the 3 respondents not in agreement were only marked as such because they gave suggestions of additional exemptions to be included as part of this Schedule, but didn't explicitly express disagreement with the Schedule as drafted.

One respondent suggested that short-term changes to music and dancing should be carried out at an administrative level and shouldn't require a large fee.

Another suggestion received was that regulation 2(1) should be reduced to simply state "fresh water should be available free of charge on request".



A query was received around why the Manx Transport Licence continues to restrict sales in Isle of Man harbours.

One respondent reaffirmed that in connection with regulation 9 under this Schedule, unless a club has a membership of 25 persons, no licence should be granted and no retail sale of liquor allowed.

A query received as part of the feedback to this Schedule asked whether there is there a reason that there is no mandatory requirement for CCTV inside and outside on and off-licensed premises.

A final query received in connection with this Schedule was specifically around regulation 5(3), and why there cannot be a licence for Good Friday or Christmas Day as stipulated here.

**We did:**

- One respondent suggested that short-term changes to music and dancing should be carried out at an administrative level and shouldn't require a large fee. Presently, variation in connection with music and dancing is limited (under section 9 *Special permission* of the Music

and Dancing Act 1961) to those premises ordinarily licensed for just music and dancing, rather than liquor. Other variation may occur for other premises under club authorisations or event licensing. In general, as was set out in connection with public entertainment above, while events will be considered as part of the future phased approach, it is unlikely that music, singing and dancing restrictions will be wholly dispensed with.

- Another suggestion received was that regulation 2(1) should be reduced to simply state “fresh water should be available free of charge on request”. Generally provision of free of charge drinking water exists as a condition of the licence granted to an on-licensed premises. This has been formally restated as part of the licensing framework.
- A query was received around why the Manx Transport Licence continues to restrict sales in Isle of Man harbours. For comments in connection with this query, see Part 5 Vehicles and Vessels of this Summary of Responses.
- A query received as part of the feedback to this Schedule asked whether there is there a reason that there is no mandatory requirement for CCTV inside and outside on and off-licensed premises. CCTV is recommended for use by the vast majority of licensed premises, and guidance issued by the Isle of Man Constabulary forms part of the Licensing Forum Code of Practice and Guidance on Liquor Licensing within Appendix A. In practice individual applications are considered on their own merits however it is likely that the Isle of Man Constabulary would not support an application which failed to provide the minimum requirement set out in guidance.
- A final query received in connection with this Schedule was specifically around regulation 5(3), and why there cannot be a licence for Good Friday or Christmas Day as stipulated here. This is carried across from the Liquor Licensing and Public Entertainments Act 2021 for consistency, with the exception of variation now for charities to be able to register Responsible Persons should they wish.

One respondent reaffirmed that in connection with regulation 9 under this Schedule, unless a club has a membership of 25 persons, no licence should be granted and no retail sale of liquor allowed.

Drafting changes were made throughout Schedule 2 of the Regulations that served to improve the overall consistency of the Regulations following a further review of their content alongside the consultation period comments.

## 2.12 Schedule 3 – Exemptions from requirement to hold liquor licence

Schedule 3 sets out the proposed exemptions from the requirement to hold a licence which are particular to the following areas:

- Brewing, distillation, storage, transportation, sale or supply of liquor;
- Trains operating in accordance with restaurant;
- International vessel;
- Clubs with less than 25 Members; and
- Service Canteens.

**We asked:**

We asked respondents whether they had any specific comments on the areas which have been included within the exemption, and whether there were any other areas which respondents felt should be included in the exemptions from the requirement to be licensed.

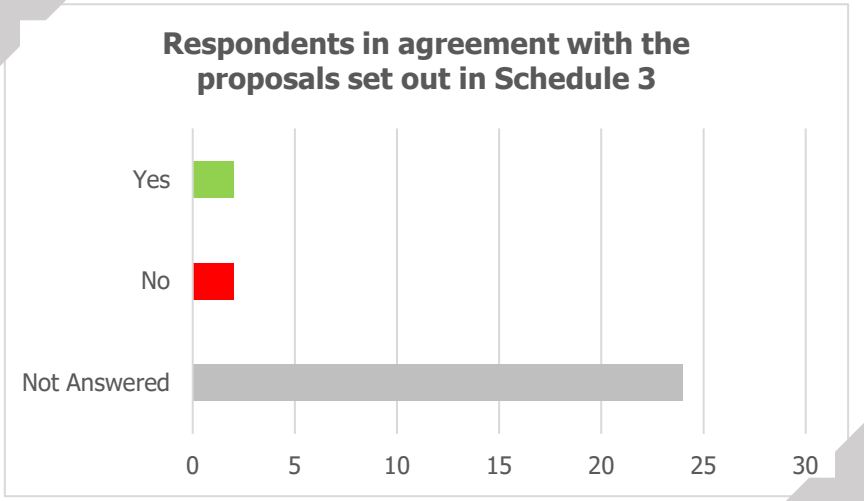
**You said:**

There were a total of **4** responses received to this question.

An equal amount of respondents were and were not supportive of the proposals set out within Schedule 3, with **2** respondents in agreement with Schedule 3 as drafted, **2** respondents not in agreement and **24** made no response.

One respondent noted that Schedule 3 does not include winemaking and cidermaking, which is believed to be exempt also, and in-keeping with the Excise laws.

A question was raised as to why Service Canteens for the military requires an exemption, this is discussed in the "We did" section to this Schedule below.



A point for consideration raised by a respondent was that the Act precludes the Licensing Court from issuing a registration to a club with less than 25 members, but importantly, does not allow for clubs with less than 25 members to be able to sell or supply alcohol by retail without the need for a licence. As such a concern was expressed as to what could stop a club from setting up with only 24 members and serve alcohol, legally.

Positive feedback was received around the provision for philanthropic enterprises which don't involve alcohol remaining unnecessary to be licensed for public entertainment.

**We did:**

As the feedback received on this Schedule was balanced, the Department looked to where changes could be made to the proposals as set out in Schedule 3, but also where it was appropriate to move forward with proposals.

- One respondent noted that Schedule 3 does not include winemaking and cidermaking, which is believed to be exempt also, and in-keeping with the Excise laws. A footnote to this effect has been requested for inclusion into the proposed Regulations, wording around this needs to be set before this can be included.
- Why Service Canteens for the military requires an exemption. In the unlikely event that a Service Canteen was required due to the stationing of His Majesty's Naval, Military or Air Forces in the Island, an exemption has been provided in a similar manner

to that found in the existing legislation (at section 78 *Service canteens* of the Licensing Act 1995).

As has been noted elsewhere, within the changes brought by these Regulations, the Department has largely sought to maintain consistency within the legislative framework.

- One concern expressed was that the Act precludes the Licensing Court from issuing a registration to a club with less than 25 members, but importantly, does not allow for clubs with less than 25 members to be able to sell or supply alcohol by retail without the need for a licence. As such a concern was expressed as to what could stop a club from setting up with only 24 members and serve alcohol, legally.

The present legislation is silent on clubs with less than 25 members, once again providing such an exemption maintains consistency with the present legislation, however it is noted that clubs fulfilling such an exemption (i.e. those with less than 25 members) are still required to comply with certain of the licensing conditions applicable to clubs (to the extent this is possible) in order for this exemption to apply to them.

Drafting changes were made throughout Schedule 1 of the Regulations that served to improve the overall consistency of the Regulations following a further review of their content alongside the consultation period comments.

## 2.13 Schedule 4 – Consequential amendments and repeals

A fourth Schedule setting out all consequential amendments and repeals will be devised following the results of this consultation and the drafting of the finalised Regulations. This is the “tidying up” which sees any necessary cross-referencing of the proposed new licensing framework be made elsewhere within Manx law, and also sees any statutory documents, that are superseded by others that will be found within the new licensing framework, themselves being repealed.

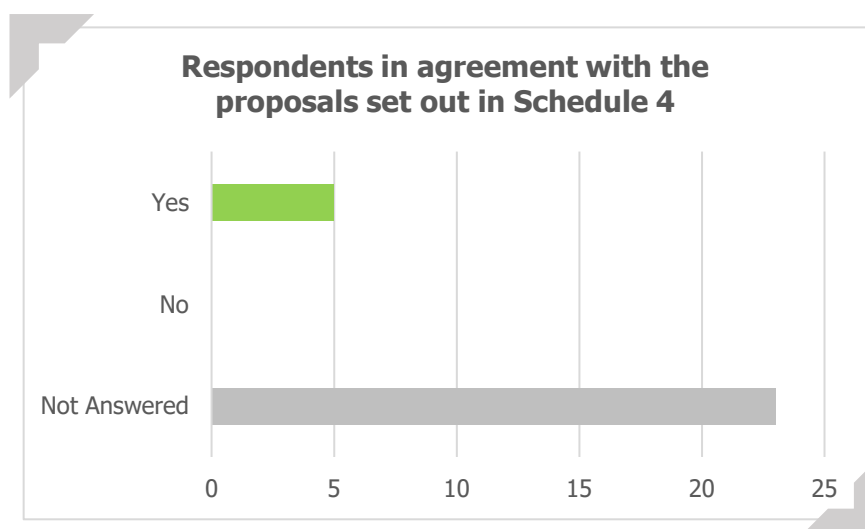
### **We asked:**

We asked respondents whether there were any particular consequential changes or matters that require repeal that they would wish to comment on at this time.

### **You said:**

There were a total of **5** responses received to this question.

All respondents were supportive of the proposals set out within Schedule 4, with all **5** respondents unanimously in agreement with Schedule 4 as drafted, 0 not in agreement and **23** made no response.



No commentary was received in connection with this Schedule.

**We did:**

As no commentary was received on this Schedule, no changes have been made. However, the Department wishes to note that it is intended for the information contained within this Schedule to be removed from the proposed Regulations and instead contained within the Liquor Licensing and Public Entertainments Act 2021 Appointed Day (No.2) Order.

2.14 Section 6 of the Consultation

Section 6 of the consultation document sets out other matters related to the other associated material the Department produced for consultation.

**We asked:**

We asked respondents questions on the following areas:

- Fees – whether there were any other comments respondents wished to provide on fees, specifically in relation to the future licensing framework;
- Training – whether respondents had any comments about the proposed training structure and associated costs set out in the consultation document;
- Advertising – whether respondents had any comments on the present process around advertising and whether they would support a change to either a digital solution or a hybrid by which notices were posted on premises for which an application to be licensed has been made (similar to planning);
- Triennial session of the Licensing Court – whether respondents had any comments in connection with the proposed transition away from the Triennial session of the Licensing Court;
- Fire certification – whether respondents had any comments on the existing designation of licensed premises and entertainment premises; and
- Processing of personal data and General Data Protection Regulation (GDPR) – whether respondents had any concerns around the information provided presently (for example, regarding designated officials and door security staff) and how this is treated.

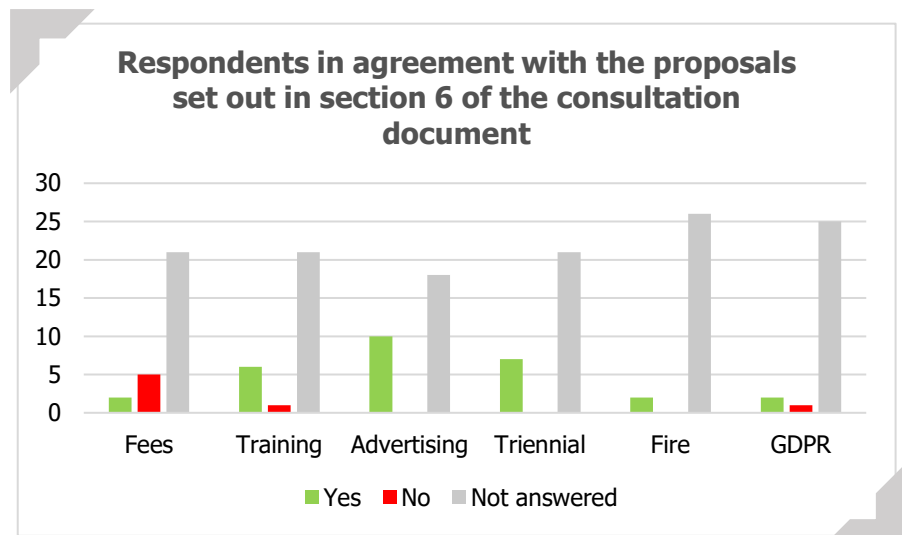
**You said:**

There were varying numbers of responses to the questions asked in connection with the proposals set out under section 6 of the consultation document.

For all proposals other than those in connection with Fees, the majority of the respondents were supportive of the proposals set out within section 6 of the consultation document.

## Fees

- A minority of respondents provided feedback to say that fees were higher than expected in connection with the amount of work involved.
- One suggestion received was for the ability to apply for multiple types of licence at once, under a single payment.
- Feedback from one respondent expressed that the current fee structure is *“very rigid and does not always reflect the profitability of the business”*.
- Furthermore, feedback and a suggestion from another respondent expressed that *“rateable value of buildings isn’t a fair way of setting licensing fees and must be addressed long term. If rateable values are to remain as the guide stick overall, a provision to calculate the percentage of the building that is actually licensed and a fee pro rata to this should be considered”*.



## Training

- Positive feedback was received on the proposals set out in connection with training under the new licensing framework, with respondents providing commentary such as *“the 3 years of requalifying brings the Responsible person and Doorstaff qualifications in line with national standards on accreditation, refresher training and continuous professional development which has been lacking on the Island for a number of years as we have fallen behind other similar jurisdictions”*, and *“the blended model using eLearning and workshop for initial attendees and eLearning for refresher training gives flexibility and reduces abstraction whilst maintaining continuous professional development”*;
- One respondent highlighted the need for an aspect of the training to accommodate micro producers only, as many sections do not apply and could be removed.
- In connection with transitional arrangements, one respondent felt that the “grace period” should also apply to training issues.

## Advertising

- All respondents who gave feedback in respect of the proposals for advertising expressed a general theme: the current advertising process is “outdated” and “redundant”. The proposals in relation to a digital system, similar to that of planning, as set out in the consultation document and the proposed Regulations have been viewed to be “much more appropriate” and “would more efficiently engage the interested parties”.
- In addition to this, one respondent felt that *“the requirement for some form of notification is necessary for residents and those with a localised interest around the site”*.

## Triennial Session of the Licensing Court

- All respondents that fed back to this point were in favour of the proposals set out, with positive comments being received from respondents, including *“excellent step forward”*, *“In support of a rolling system”*, *“this is a positive change”*, *“I favour the proposed model which relinquishes the triennial process”* and *“this approach will work, as many sites may rarely if ever change - they benefit from the reduction of business administration”*.

## Fire Certification



- One respondent suggested that this should only apply to premises over a certain size, and only where regular public access is facilitated. In contrast, this should be greatly reduced where sites are primarily for production only.

#### Processing of Personal Data and General Data Protection Regulation (GDPR) compliance

- One suggestion received from an applicant was that in connection with the proposed Responsible Persons application form, the only information requested and provided should be about the applicant (and not the partner).
- One respondent expressed concern around the allowance to share information in PubWatch schemes, and how these schemes working ineffectively may cause public order offences to increase on the Island.

#### **We did:**

As the majority of feedback received on the proposals set out against each policy point within this Schedule were positive, the Department will look to bring as part of the proposed Regulations most of the proposals as drafted.

- Fees – one respondent expressed that “rateable value of buildings isn’t a fair way of setting licensing fees and must be addressed long term. If rateable values are to remain as the guide stick overall, a provision to calculate the percentage of the building that is actually licensed and a fee pro rata to this should be considered”.

A few respondents noted that these were higher than expected in connection with the amount of work involved, and commented that the current fee structure is “very rigid and does not always reflect the profitability of the business”.

One suggestion received was for the ability to apply for multiple types of licence at once, under a single payment.

Generally it is the case that fees charged for licensing in other jurisdictions are largely based on a similar “rateable value” model as is the case for the Island. It is accepted that this may be viewed as unfair as it does not reflect the actual volume sales or customer base of any given business, however it is hard to envision a “quick fix” that would not result in a similar approach as is made to taxation. It is not the case that premises with a smaller footprint are necessarily those with the smallest customer numbers, and other factors do apply to a licence such as conditions (e.g. restaurant conditions) that may also have a bearing on the application licence fee.

Fees are a matter that the Department continues to discuss with General Registry. As was noted during face-to-face consultation sessions, the present fees paid are neither a cost recovery for consideration of a licence application by the Licensing Court, nor representative of the time dedicated to enforcement or administration of licensing. It is also recognised that for many licensees if fees were offset by a greater ease in making an application electronically (and advertising that application were part of that process), then this would be welcomed.

In terms of the ability to apply for multiple licence in one application, again it is noted that the Department continues to work with General Registry to facilitate any possible modernisation to the way in which applications are made and which fees are collected.

Although not in specific connection with section 6 of the consultation, a concern was expressed by one respondent around level of duty on alcohol, particularly that “*there is a lot of debate at*

*present in relation to fixing the level of duty, many parties would like to see an increase of duty on Alcohol sold in off licences and a reduction in public houses. A converse view would be to reduce the duty per unit on all alcohol and encourage tourism to the Isle of Man.”*

The Department is unable to comment on matters in relation to duty on alcohol, and would suggest that any comments of this nature perhaps be shared with colleagues in Customs & Excise or the Department for Enterprise.

- Training – One respondent expressed the need for an aspect of the training to accommodate micro producers only, as many sections do not apply and could be removed.

Consideration will be given to the training packages that are on offer to all licensees, responsible person, guards and doorkeepers to ensure that these are appropriate and bespoke to the needs of those groups. It is intended that online (web based) refresher training should become available towards the end of 2022, and that face-to-face training sessions should form part of the vicarious learning for new licensees. The Department has stated in the past its commitment to the fact that the licensed hospitality industry should not be viewed as “unskilled” and that it is intended that career progression should be possible where an individual builds a skill set based on training and experience.

Another respondent felt that the “grace period” should also apply to training issues.

In practice the grace period applies to training insofar as a licensee, designated official, guard or doorkeeper must ensure that they have a valid training certificate in place in order to make the transition from the present framework into the new. All licensed hospitality staff holding these key roles should be in possession of valid training as a matter of course, and in future this will be further mandated within the proposed Regulations and also recorded within the Site Management Plan at section 4: Training for a premises as is stipulated in the Isle of Man Licensing Forum Code of Practice and Guidance on Liquor Licensing.

- Advertising – respondents gave feedback that the current advertising process is “outdated” and “redundant”. The proposals in relation to a digital system, similar to that of planning, as set out in the consultation document and the proposed Regulations have been viewed to be “much more appropriate” and “would more efficiently engage the interested parties”.

Commentary about digitisation and modernisation can be found at the start of this Summary of Responses, under the header of the same name at page 5.

- Fire Certification - One respondent suggested that this should only apply to premises over a certain size, and only where regular public access is facilitated. In contrast, this should be greatly reduced where sites are primarily for production only.

[The Fire Precautions \(Licensed Premises\) Order 1997](#) and [Fire Precautions \(Entertainment Premises\) Order 1997](#) which currently designate certain uses of premises for the purposes of section 1 *Uses of premises for which fire certificate is compulsory* of the Fire Precautions Act 1975, and require a fire certificate for premises put to a designated use. Presently these Orders are separate issues however, given the fact that the licensing of both liquor and public entertainment premises will come together in the new Liquor Licensing and Public Entertainments Act 2021, it is practical to consider the combining of these orders. In general

the majority of licensed premises and entertainment premises are subject to fire certification requirements and exceptions relate solely to off-licensed premises and premises that are primarily used for public religious worship. For clarity, under the combination Order that will be proposed, marquees and other such temporary structures will also be clearly defined as required to be certificated where a licence has been granted in connection with an event in such a structure, as the structure will be “licensed premises”.

In general, fire certification requirements are intended to provide for safety and for the inspection of premises prior to such certification to ensure that all users of a premises can have confidence that the premises are compliant. Any premises to which the public is admitted is a premises in which safety must be a consideration, and while all comments were welcomed when received and considered as part of the consultation, this is not a comment which it is practical to take on board at this time. A draft proposed combined Order in connection with the Fire Precautions Act 1975 is intended to be brought forward alongside other instruments forming part of the licensing framework. However, it is the case that while this Order is proposed to maintain the “status quo” that presently exists, further consideration of fire safety as it applies to the licensing framework will be given alongside other phases of that framework.

It may also be the case that on future policy engagement the exemption in connection with places primarily used for religious worship may be further consulted upon, as many premises are now being repurposed for other social uses and this is a safety consideration that may benefit from additional scrutiny.

- GDPR - One suggestion received from an applicant was that in connection with the proposed Responsible Persons application form, the only information requested and provided should be about the applicant (and not the partner). Another respondent expressed concern around the allowance to share information in PubWatch schemes, and how these schemes working ineffectively may cause public order offences to increase on the Island.

In connection with the first comment made, the information contained within the Liquor Licensing forms in relation to the spouse or partner of the applicant was understood to have been of certain significance historically where it was commonplace for a licensee to live above the premises. Separate and careful discussion is already underway to ensure that all parts of the transition from the present licensing framework into the new will be as smooth as possible, and one area which is presently being revised is the forms associated with applications used to collect supporting information from an applicant, and the content of these forms.

Pubwatch has been an important community safety initiative that has been in place for many years and as is noted within the [Liquor Licensing and Public Entertainments Act 2021 Implementation Plan 2022](#) – it is intended that under section 63 *Information sharing* of the Act Regulations will be formulated and engagement will be undertaken with key stakeholders such as Pubwatch (representing licensees), the Isle of Man Constabulary and the Information Commissioner that should secure a proper legal basis found for such a scheme, that ensure that the information being shared is carefully managed.

Section 7 of the consultation document sets out several proposed items of Statutory Guidance, namely:

- Licensing Forum Code of Practice and Guidance on Liquor Licensing; and
- Guidance for Charitable and Philanthropic Events exempted from the requirements of the Liquor Licensing and Public Entertainments Act 2021.

**We asked:**

We asked respondents whether they had any comments in connection with the Licensing Forum Code of Practice and Guidance on Liquor Licensing, the Site Management Plan and risk assessment templates, the Guidance for Charitable and Philanthropic Events exempted from the requirements of the Liquor Licensing and Public Entertainments Act 2021, or whether there were any other areas of the licensing framework that respondents felt would benefit from specific statutory guidance.

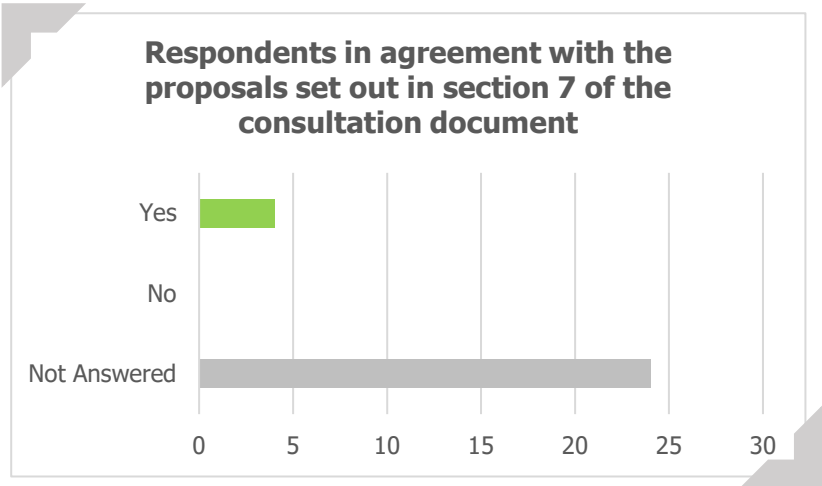
**You said:**

There were a total of **4** responses received to this question.

All of the respondents were supportive of the proposals set out in section 7 of the consultation document with **4** respondents in agreement with the proposals as drafted, 0 not in agreement and **24** made no response.

No comments were received on the Licensing Forum Code of Practice and Guidance on Liquor Licensing.

See comments at Part 3 of this Summary of Responses document in relation to feedback received around the proposed Site Management Plan template.



In respect of the Guidance for Charitable and Philanthropic Events exempted from the requirements of the Liquor Licensing and Public Entertainments Act 2021, positive feedback was received from one respondent, who "*very much welcomes the clarity on exemptions and supports the approach taken in the Regulations*".

Other feedback received asked for clarification of what changes an event from being philanthropic.

**We did:**

As all feedback received on this section of the consultation document was positive, and no suggestions for changes made, the Department will only seek to answer a question raised in connection with this section below:

- Philanthropic and Charitable events - for information on what determines an event as being either a philanthropic or a charitable event, please refer to Schedule 3 of the Regulations under which the exemptions to licensing are set out, and also make reference the guidance produced as part of the consultation, "Guidance for Charitable and Philanthropic Events

exempted from the requirements of the Liquor Licensing and Public Entertainments Act 2021”, which will be published following the release of this Summary of Responses document.

## 2.16 Section 8 of the Consultation

Section 8 of the consultation document sets out matters not included within the consultation. These include:

- Section 18 of the Act: Section 18 *Licences Register* of the Act is not intended to be commenced as part of the initial Regulations made under the Act; and
- Other matters that are not proposed to be the subject of secondary legislation under the Act at this time include:
  - Licensing Authority;
  - Price controls;
  - Liquor powder and vapour;
  - Information sharing (particularly in connection with Pubwatch);
  - Designated Areas;
  - Cinemas/Film Exhibitions; and
  - Circuses, Funfairs and Skating rinks.

### **We asked:**

We asked respondents whether they had any specific comments in relation to the proposed establishment of a licences register in the future, whether they had any comments in connection with the “other matters” set out within 8.2 of the consultation document and whether there were any additional matters which they felt had not been covered in the consultation document and which they felt the Department should consider when taking future action.

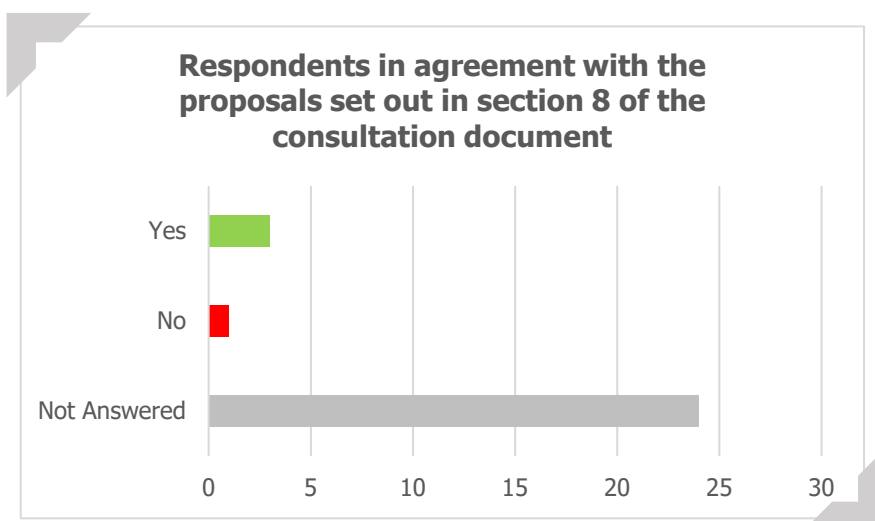
### **You said:**

There were a total of **4** responses received to this question.

The majority of the respondents were supportive of the proposals set out within section 8 of the consultation document, with **3** respondents in agreement with the proposals as drafted, 1 not in agreement and **24** made no response.

One respondent commented that while they were opposed to the establishment of a Licensing Authority, they would like more funds to be made available to the High Bailiff’s office to create a specific administrative section for dealing with the vast majority of licensing matters which don’t need to have “Court time”.

Not in specific connection with section 8 of the consultation, but a general concern raised by one respondent was that it is felt “The introduction of a specific



offence of assault against a licensee and/or staff is very important, and we hope that this will help reduce the rising problem of public disorder in the community.”

**We did:**

As all feedback received on this section of the consultation document was positive, and one suggestion for change made, the Department (as was noted in connection with Part 6) does not rule out the potential future establishment of a Licensing Authority, the functions of which might include the administrative consideration of certain matters connected to licensing. However, this is not a decision that would be taken without careful consideration and engagement with key stakeholders.

In connection with the concern raised by one respondent was that it is felt “The introduction of a specific offence of assault against a licensee and/or staff is very important, and we hope that this will help reduce the rising problem of public disorder in the community.”, the Department would like to provide reassurance that section 32 *Assault on staff of licensed premises* of the Liquor Licensing and Public Entertainments Act 2021 covers aggravated offences of such a nature.