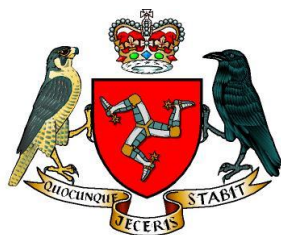




Isle of Man Office of Fair Trading

CONSULTATION ON PROPOSALS FOR CHANGES TO THE LEGAL QUANTITIES FOR SALES OF INTOXICATING LIQUOR



Isle of Man
Government

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INTRODUCTION BY THE CHAIRMAN



This public consultation is driven by repeated concerns about the continued availability of approved ('stamped') measuring equipment, which is used to determine measures of gin, rum, vodka, whisky and brandy sold by retail for consumption on the premises at which it is sold, in addition to the need to promote sensible drinking and facilitate events such as wine tastings and beer festivals.

The opportunity has also been taken to consider the issue of 'free pouring', i.e. pouring into capacity measures that have not been 'stamped', which, in the OFT's opinion, presents a risk of selling inaccurate measures.

With the above in mind, the OFT is proposing three changes to the legal quantities for sales of intoxicating liquor and exploring the possibility of effectively banning 'free pouring' of the above spirits in the outlined circumstances.

Martyn Perkins MHK
Chairman, Office of Fair Trading

INTRODUCTION

The previous consultation undertaken by the OFT regarding proposals for changes to the legal quantities for sales of intoxicating liquor was over four years ago and was driven by concerns about the continued availability of approved measuring equipment, namely 'stamped' 1/5 gill spirit measuring instruments (commonly referred to as 'optics') and 'stamped' 1/5 gill capacity measures (commonly referred to as 'thimble' measures), in addition to the need to promote sensible drinking and facilitate events such as wine tastings and beer festivals.

Below is an extract from a media release issued following the previous consultation:

"Following the consultation, the OFT has decided that all but one of the proposals will be shelved. It is anticipated that the proposal concerning fortified wines will be revisited within the next twelve months.

It is fair to say that there was considerable opposition to the proposed introduction of two new legal quantities for sales of draught beer and, to a lesser degree, opposition to the proposals for deregulation.

With regard to the proposed introduction of metric quantities for sales of gin, rum, vodka, whisky and brandy, there was no overwhelming support, however, the OFT will continue to monitor the availability of the imperial measuring equipment as it is obviously essential that there is continued availability. Any problems in terms of availability will inevitably expedite the introduction of metric quantities for sales of the specified spirits."

This latest consultation basically reiterates three of the previous proposals and considers the issue of 'free pouring'.

The purposes of this consultation document are:-

- to make the public and interested parties aware of three proposals put forward by the OFT for changes to the legal quantities for sales of intoxicating liquor;
- to consider the issue of 'free pouring';
- to make the public and interested parties aware of the current situations in the Island and in the UK; and
- to seek the views of the public and interested parties on the proposals.

The questions in bold within the 'Proposals and Questions' section are intended to prompt debate and are by no means exhaustive. The OFT will welcome both specific and wide-ranging responses. There is also no requirement for responses to be limited to the content of this document as long as they address the main subject matter, i.e. the legal quantities for sales of intoxicating liquor and 'free pouring'.

The OFT may undertake a further consultation once any secondary legislation necessary to make changes has been drafted.

BACKGROUND

Legal quantities for sales of intoxicating liquor in the Island are prescribed by the Weights and Measures (Intoxicating Liquor) Order 2001 ('the 2001 Order'), which came into operation on 1st July 2001.

The relevant requirements of the 2001 Order, i.e. those which are specifically addressed in this consultation, can be summarised:-

- The 2001 Order specifies that gin, rum, vodka, whisky and brandy sold by retail for consumption on the premises at which it is sold shall only be sold in quantities of one fluid ounce (equivalent to 1/5 gill) or multiples thereof.
- The 2001 Order specifies that when sold in the glass or other vessel from which it is intended to be drunk, wine for consumption on the premises at which it is sold shall be sold only in, or in a multiple of, the following quantities, that is to say, 125 ml and 175 ml.

In the UK, the equivalent prescribed legal quantities are:-

For sales of spirits: 25 ml or 35 ml or multiples of either of those quantities (Note that 1/5 gill is equivalent to 28.4 ml).

For sales of wine: 125 ml and 175 ml or multiples of either of those quantities with the exception of fortified wines (which must be sold in quantities of 50 ml or 70 ml or multiples of either of those quantities) and other wines in quantities of less than 75 ml (deregulated).

The Isle of Man Licensing Forum was established in February 2005. It has been very successful in bringing Government, the industry and the police together to address alcohol-related problems.

Having considered the views of the Isle of Man Licensing Forum and developments in the UK, the OFT is now putting forward three proposals for changes to the legal quantities for sales of intoxicating liquor:-

- the introduction of a new metric quantity, namely 25 ml, to supercede the current imperial quantity, namely 1/5 gill, for sales of gin, rum, vodka, whisky and brandy, with a lead in time of at least six months from the date on which the requisite secondary legislation comes into force;
- that fortified wines, e.g. sherry, port and madeira, should be sold in the glass in quantities of 50 ml or 70 ml or multiples of either of those quantities; and
- that sales of wines (other than fortified wines) in the glass in quantities of less than 75 ml should be deregulated.

As already indicated above, the 2001 Order requires traders to ensure that gin, rum, vodka, whisky and brandy is only sold in specified quantities where it is sold by retail for consumption on the premises at which it is sold.

Traders can choose to use approved measuring equipment, e.g. 'stamped' 1/5 gill spirit measuring instruments and/or 'stamped' 1/5 gill capacity measures, to ensure compliance with this requirement but can also choose not to do so, in which case measures are determined by 'free pouring', i.e. pouring into capacity measures that have not been 'stamped'. The OFT is aware of a number of traders in the Island who have chosen to determine measures by 'free pouring' rather than by using 'stamped' measuring equipment. This situation also prevails in the UK.

It is a criminal offence to sell inaccurate measures and, in the OFT's opinion, the risk of selling short measures or measures in excess through 'free pouring' would be significantly reduced by using approved measuring equipment. This would not only help to ensure that consumers get what they pay for but would also help to avoid instances of consumers having drunk more than they believed they had, for example, in the context of drink driving.

PROPOSALS AND QUESTIONS

The OFT proposes the introduction of a new metric quantity, namely 25 ml, to supercede the current imperial quantity, namely 1/5 gill, for sales of gin, rum, vodka, whisky and brandy, with a lead in time of at least six months from the date on which the requisite secondary legislation comes into force.

There are concerns about the continued availability of 1/5 gill spirit measuring instruments. If the status quo is retained, these will become expensive (as special production items) or may even become unavailable. Adopting the proposed new legal quantity would mean that spirit measuring instruments and capacity measures would be readily available as these are also the legal quantities in the UK.

Introducing two new metric quantities, i.e. 25 ml and 35 ml, to mirror the UK would potentially confuse matters. In addition, a double measure of 70 ml (2 x 35 ml) would not be seen as promoting sensible drinking.

If the new metric quantity is introduced, the OFT will make it clear to the industry that prices should be adjusted accordingly.

Question:

- 1. Given the concerns about the continued availability of 1/5 gill spirit measuring instruments, is there any valid reason for maintaining the status quo?**
- 2. Is the proposed lead in time of at least six months from the date on which the requisite legislation comes into force too long?**
- 3. What, if any, concerns do you have surrounding pricing issues that may arise from this proposal?**

The OFT proposes that fortified wines, e.g. sherry, port and madeira, should be sold in the glass in quantities of 50 ml or 70 ml or multiples of either of those quantities **and** that sales of wines (other than fortified wines) in the glass in quantities of less than 75 ml should be deregulated.

Both of these proposals are driven by the need to promote sensible drinking and facilitate events such as wine tastings.

Deregulating sales of wines (other than fortified wines) in quantities of less than 75 ml would facilitate wine tastings as wine could legally be sold in the glass in any quantity of less than 75 ml.

Question:

4. Is there a case for deregulating sales of wines (other than fortified wines) in the glass in quantities of less than 75 ml?

The 2001 Order could be amended to specify that approved measuring equipment must be used to determine measures of gin, rum, vodka, whisky and brandy sold by retail for consumption on the premises at which it is sold. This would make it an offence to determine measures of those spirits in those circumstances by 'free pouring'.

Question:

5. Should the 2001 Order be amended to specify that approved measuring equipment must be used to determine measures of gin, rum, vodka, whisky and brandy sold by retail for consumption on the premises at which it is sold?

CONSULTATION PROCESS

The OFT would welcome your views and any comments you wish to make on the content of this consultation. In addition, should you suggest any amendments, additions or deletions to the proposals, please give reasons for your suggestions.

Comments should be submitted in writing by post, fax or email no later than 5 pm on Friday 31st March 2017 to:

John Peet
Chief Inspector of Trading Standards
Isle of Man Office of Fair Trading
Thie Slieau Whallian
Foxdale Road
St. John's
IM4 3AS
Tel: (01624) 686520
Fax: (01624) 686504
Email: iomfairtrading@gov.im

or submitted via <https://www.surveymonkey.com/r/intoxicating-liquor>.

Additional copies of this document can be obtained from the OFT by telephoning (01624) 686520. Electronic copies of this document are also available at www.gov.im/oft.

When submitting your views please indicate if you are responding on behalf of an organisation. A list of direct consultees can be found at [Appendix 1](#) of this document. If there is anyone not on the list who you think should be consulted please contact the officer named above.

To ensure that the process is open and honest and in line with the Government's Code of Conduct on Consultation, as attached at [Appendix 2](#), responses can only be accepted if you provide your name with your response.

Confidentiality

The information you send may be published in full or in a summary of responses.

All information in responses, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the [Freedom of Information Act 2015](#) and the [Data Protection Act 2002](#)). If you would like your response to remain confidential, you should explain why confidentiality is necessary and your request will be

acceded to only if it is appropriate in the circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding.

Confidential responses will be included in any statistical summary and numbers of comments received.

A summary of responses will be published within three months of the closing date for this consultation and will be made available on the OFT website (www.gov.im/oft) or by contacting the above named officer.

The purpose of consultation is not to be a referendum but an information, views and evidence gathering exercise from which to make an informed decision on the proposals, as set out above. In any consultation exercise the responses received do not guarantee changes will be made to what has been proposed.

APPENDIX 1

LIST OF DIRECT CONSULTEES

- Tynwald Members
- Attorney General
- Local Authorities
- Chief Officers of Government Departments, Boards and Offices
- Isle of Man Chamber of Commerce
- Isle of Man Law Society
- Isle of Man TUC
- Isle of Man Licensing Forum
- Licensing Court
- Isle of Man Licensed Victuallers Association
- Bushy's Brewery Limited
- Heron and Brearley Limited
- Apple Orphanage Company Limited
- Isle of Man CAMRA
- Castletown Ale Drinkers Society
- WDS Limited
- D L Gelling Limited
- The Hooded Ram Brewing Company Limited
- Manx Entertainment and Nightclub Association
- Isle of Man Restaurateurs' Association
- Offwatch

APPENDIX 2

CODE OF PRACTICE ON CONSULTATION

This consultation follows the Code of Practice on Consultation the criteria for which are set out below.

The Six Consultation Criteria:

- 1.** Consult widely throughout the process, allowing a minimum of six weeks for a minimum of one written consultation at least once during the development of the legislation or policy.
- 2.** Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
- 3.** Ensure your consultation is clear, concise and widely accessible.
- 4.** Give feedback regarding the responses received and how the consultation process influenced the policy.
- 5.** Monitor your Department's effectiveness at consultation.
- 6.** Ensure your consultation follows best practice, including carrying out an Impact Assessment if appropriate.

The full Code of Practice is available at [Isle of Man Government Code of Practice](#).