

**THE LICENSING AND REGISTRATION OF
CLUBS (AMENDMENT) ACT (NORTHERN
IRELAND) 2021**

GUIDE

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coming into effect from 1 October 2021

INTRODUCTION

This guide outlines the provisions of the *Licensing and Registration of Clubs (Amendment) Act (Northern Ireland) 2021* (the Act) which received Royal Assent on 26 August 2021. **The changes will come into effect in phases over the next few years with Phase 1 on 1 October 2021.**

It will be of particular interest to the licensed trade, registered clubs, courts and police but should be a useful source of information for district councils, the legal profession and the general public.

The information contained in this guide should not be treated as a complete and authoritative statement of the law which is contained only in the Act and regulations made under it. This guide will be updated as and when outstanding provisions are due to come into effect.

As licensing law is a complex piece of legislation, licence holders may wish to engage the services of a solicitor in terms of bringing any applications through the courts. It is the responsibility of the licence holder to ensure that they, their servants and agents, are fully aware of their requirements under licensing law.

Copies of the Act and associated regulations may be purchased from the Stationery Office at www.tsoshop.co.uk or by contacting the TSO Customer Services on 0870 6005522.

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Background

The Department for Communities is responsible for the policy and legislation relating to the retail sale and supply of alcoholic drinks in Northern Ireland.

The current law dates back to 1996 and its reform was one of the Minister for Communities' priorities on her appointment, and the Executive's under the New Decade New Approach Deal. The Licensing and Registration of Clubs (Amendment) Bill 2016, the previous attempt to reform licensing, was nearing the end of its Committee Stage when it fell with the dissolution of the Assembly in January 2017.

The aim of licensing law is to try and strike a balance between the controls which are necessary for the protection of public health and the preservation of public order, the demand for individual freedom of choice and the opportunity for local businesses to continue to provide a high level of service to their customers, which will ensure that Northern Ireland has a more flexible and modern licensing framework to respond to changing expectations and lifestyles.

The Act amends the Licensing (Northern Ireland) Order 1996 (the Licensing Order) and the Registration of Clubs (Northern Ireland) Order 1996 (the Clubs Order).

The key changes include*:

- Pubs and Hotels can apply to open until 2am up to 104 nights per year;
- Smaller pubs will be able to open to 1am up to 104 nights per year;
- Drinking-up time will be increased to 1 hour;
- All additional restrictions on opening hours over Easter weekend will be removed;
- Opening hours on Sunday evenings will be the same as any other night;
- There will be flexibility around opening hours for bars at major events;
- A new category of licence will be created for local producers of craft beers, ciders and spirits;
- Cinemas will be able to apply for a liquor licence and serve drink to customers watching a movie;
- Sporting clubs will be able to use their grounds for functions up to 6 times per year;
- Registered clubs will be able to open to 1am up to 104 nights per year;

- Self-service of alcohol and sales by vending machines will be prohibited;
- Restrictions will be placed on off-sales drinks promotions;
- Loyalty schemes will not be able to award or redeem points for the sale of alcoholic drinks

***The changes made by the Act will not come into operation at the same time. This guide will be updated as and when outstanding changes are due to come into effect.**

Overview of the changes coming into effect from 1 October 2021

PART 1 LICENSING

Section 1: Removal of additional restrictions at Easter

Easter weekend permitted hours now mirror what is available for any other weekend throughout the year.

Section 1 amends Article 30 of the Licensing Order (Occasional licences), Article 42 (General permitted hours), Article 44 (Additional permitted hours), Article 45 (Authorisations for additional permitted hours), Article 47 (Extension licences) and Article 50 (Restrictions as to sales for consumption off premises) by removing all references to Good Friday and Easter Sunday.

The above Articles relate to the permitted hours for the sale of intoxicating liquor under the authority of an occasional licence or in licensed premises (both on and off-sales).

Section 2: Removal of restrictions on late opening for on-sales on Sunday

This section brings the end of general and additional permitted hours on any Sunday into line with those permitted on any other day (11pm with general permitted hours, 1am the following morning with additional hours, or 2am the following morning in pubs and hotels with further additional permitted hours).

Opening times for on-sales on Sundays (12.30pm) and Christmas Day hours (12.30pm -10pm) remain the same.

Section 2 amends Article 30 of the Licensing Order (Occasional licences), Article 42 (General permitted hours), Article 44 (Additional permitted hours), Article 45 (Authorisations for additional permitted hours) and Article 47 (Extension licences) and removes the restrictions on late night permitted hours on a Sunday (currently restricted to 10pm with general permitted hours or 12 midnight with additional hours) for premises licensed for the sale and consumption of intoxicating liquor on the premises.

Section 3: Public houses and hotels: further additional hours

This section allows certain pubs and hotels to apply for an additional hour up to 104 times per year.

Section 3 introduces new Articles 44A and 44B in the Licensing Order in relation to further later opening for public houses and hotels.

The new Article 44A (Order for further additional permitted hours) gives a court ¹or clerk of petty sessions a power, in certain circumstances, to extend later opening by one hour in public houses or hotels which are structurally adapted to provide

¹ an application can be made to the county court at the grant of a licence application or a magistrates' court at any point in the future

entertainment and/or substantial refreshment and which hold a court order for later opening under Article 44.

This means that on a night that a pub or hotel has an Article 44 order in place (until 1am), an order under Article 44A permits later opening for an additional one hour (2am).

On a night that a pub or hotel, which has an Article 44 order but not for that night, an order under Article 44A also permits later opening for three hours in premises (11.00pm – 2.00am).

Musical or other entertainment and/or substantial refreshment must be provided throughout the later opening just as if an order under Article 44 applied that day.

A late licence granted under an Article 44A may be made for a maximum of 104 days in any year (twelve month period) but may not be made for Christmas Day.

The Department may, subject to the approval of the NI Assembly, make regulations in the future to change the number of days on which orders under Article 44A may be made.

The new Article 44B (Orders under Article 44A: revocation, modification etc.) provides powers for a magistrates' court to revoke or modify an order for further later opening or to place terms and conditions on an order.

These powers mirror the powers a court has for later opening made under Article 44. The reasons why it may be necessary to revoke or modify a late opening order are if the business was conducted in such a manner to cause undue inconvenience to local residents, or that the hours caused undue inconvenience to local residents, or that the part of the premises mentioned in the order wasn't being used for the purposes of providing entertainment and/or substantial refreshment.

A licence holder applying to a court of summary jurisdiction for an order under 44A is required to follow the process set out in Schedule 9 to the Licensing Order (procedure for certain applications), including placing a notice of the application in local newspapers and display the notice on or near the premises.

Section 4: Alignment of closing time for liquor and entertainment

This section ensures that entertainment stops at the end of drinking-up time.²

Section 4 adds a new Article 44C in the Licensing Order (Alignment of closing time for liquor and entertainment) to ensure that the entertainment provided during later opening under Article 44, or further later opening under Article 44A, is not allowed to continue after the end of "drinking-up time". This ensures that entertainment must end

² If a licence holder wishes to continue entertainment beyond drinking-up time, any order for additional (or further) additional permitted hours is invalidated, and the sale of intoxicating liquor must cease at 11pm.

at the latest at 2.00am when an Article 44 order applies and 3.00am when an Article 44A order applies.

Section 5: Police authorisations for additional hours

This section does two things;

- allows pubs which have an Article 44 order in place to apply to the police for ad-hoc late opening, up to 20 times per year; and
- increases the number of times smaller pubs, (which are not structurally adapted and therefore can't apply for an Article 44 order), can apply to the police for late opening from 20 to 104.

Article 45(1) of the Licensing Order (authorisations for additional permitted hours) is amended to allow police to authorise later opening (11.00pm- 1.00am), in pubs which have a court order for later opening under Article 44, on a day that is not covered in the Article 44 order.

These pubs can apply for the ad-hoc late nights up to 20 times in any year, and must continue to provide entertainment and or substantial refreshment on the ad-hoc nights granted by the police.

A new Article 45(2A) increases the number of authorisations to pubs not holding an order for later opening under Article 44 from 20 days to 104 days in any year. Multiple dates may be included in one application to the police.

A new Article 45(2B) provides the Department with a power to make regulations [subject to the approval of the NI Assembly] to change the number of days in which orders under Article 45(2) or (2A) may be made.

It is important to note that subsection (4) inserts new paragraphs (4) to (8) to Article 45 to require a licence holder applying for an authorisation under this Article, to display a notice of the application on or near the relevant premises during the three weeks before the first occasion to which the application relates.

A copy of the notice must also be served on the district council.

Furthermore, there is provision for complaints from the police, council or any person owning or residing in premises within the vicinity, to be made to the courts where undue inconvenience is caused to local residents as a result of a late night authorisation. Courts are given the power to revoke an authorisation, modify the hours of an authorisation, or make an authorisation subject to such terms and conditions as it thinks fit, including those requested by the district commander of the police of the district in which the premises are situated.

Section 6: Extension of “drinking-up time”

This section increases drinking-up time from 30 minutes to 1 hour.

Section 6 amends Article 46 of the Licensing Order (Exceptions from prohibition of sale etc., of intoxicating liquor outside permitted hours).

Subsection (1) amends Article 46(1) which provides for the duration of the “drinking-up time” at the end of normal opening hours or later opening in licensed premises, substituting the current “30 minutes” with “60 minutes”.

Subsection (2) provides the Department with a power to make regulations to allow “drinking-up time” to revert to 30 minutes, subject to the approval of the NI Assembly

Section 8: Licensed race tracks: Sunday sales

This section allows the sale of intoxicating liquor at licensed race tracks on a Sunday.

Section 8 amends Article 42 of the Licensing Order (General permitted hours) to permit “licensed race tracks”³, within the “place of public entertainment” category of premises which may be granted a liquor licence, to sell intoxicating liquor on Sundays (not including Christmas Day) from 30 minutes before the entertainment and 30 minutes after, between the hours of 12.30pm and 11.00pm.

Section 21: Minimum price for alcohol

This section places a duty on the Department of Health to, within 3 years of whole of this Act coming into operation, bring forward to the Assembly, legislation introducing minimum pricing for the sale and supply of intoxicating liquor and to prohibit its sale or supply below that price.

It is expected this Act will come into operation in phases between 2021 and 2023.

Section 23: Independent review of licensing system including surrender principle

This section places a duty on the Department for Communities to appoint an independent person, within one year of this Act receiving Royal Assent, to undertake a review of the licensing system.

Subsections (2) and (3) set out the areas to be covered by the review and stipulate that the appointed person must report and make recommendations within two years of their appointment.

Subsections (4), (5) and (6) require the Department to lay the report of the review before the Assembly, publish the report, and, within six months of publication, produce and publish an action plan to address the recommendations of the review report.

³ As defined in Article 2 of the Licensing Order place of public entertainment (c) premises on a licensed track within the meaning of the [1985 NI 11.] Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985

Subsections (7) and (8) give the Department the power to modify by regulation the time periods by which the review and the Department's response must be completed, subject to the approval of the Assembly.

Section 24: Annual publication of the number of licences

This section requires the Department for Communities to publish an annual statement of the number of liquor licences in force for public houses and off-licences and any trends which may be observed from these numbers.

Licensed public houses are to be listed by district electoral area or, where feasible, by reference to smaller areas within each of those areas.

Section 27: Removal of exemption for angostura bitters

This section effectively includes angostura bitters, a product of high alcohol content which is used to flavour a wide variety of drinks and food, in the definition of intoxicating liquor. This means that they may only be sold in licensed premises, or in the licensed part of premises.

PART 2 - REGISTRATION OF CLUBS

Section 30: Removal of additional restrictions at Easter

Easter weekend permitted hours now mirror what is available for any other weekend throughout the year.

Section 30 amends Article 24 (general permitted hours), Article 25 (consumption of liquor after permitted hours) and Article 26 (authorisations for special occasions) of the Clubs Order to remove all Easter restrictions.

This corresponds with changes made for licensed premises in Section 1 of the Act.

Section 31: Removal of restrictions on late opening on Sunday

This section brings the end of general and extended permitted hours on any Sunday into line with those permitted on any other day (11pm with general permitted hours, and 1am the following morning for special occasions).

Opening times on Sundays (12.30pm) and Christmas Day hours (12.30pm -10pm) remain the same.

Section 31 amends Article 24 of the Clubs Order (general permitted hours) and Article 26 (authorisations for special occasions) and removes the restrictions on late night permitted hours on a Sunday (currently restricted to 10pm and 12pm respectively) for registered clubs.

Section 32: Extension of “drinking-up time”

This section increases drinking-up time from 30 minutes to 1 hour.

Section 32 amends Article 25 of the Clubs Order (consumption after permitted hours of liquor supplied during those hours) to create similar provisions for the duration of the “drinking-up time” in private members’ clubs to those set out in Section 6 of the Act in relation to licensed premises⁴.

Section 33: Increase in number of authorisations for special occasions

This section increases the number of late nights a club can apply to the police for.

Section 33 amends Article 26 of the Clubs Order (authorisation for special occasions) to increase the number of authorisations which can be granted by the police to any club in any year from 85 to 104.

Subsection (2) inserts new paragraphs (2A) and (2B) to Article 25 to give the Department the power to modify by regulation, subject to Assembly approval, the number of authorisations which can be granted for the time specified.

It is important to note that subsection (3) inserts new paragraphs (5) to (9) to Article 26 to require a person applying for an authorisation under this Article, to display a notice of the application on or near the club premises for which the authorisation is sought during the three weeks before the first occasion to which the application relates.

A copy of the notice must also be served on the district council.

Furthermore, there is provision for complaints to be made from the police, council or any person owning or residing in premises within the vicinity, to the courts where undue inconvenience is caused to local residents as a result of a late night authorisation. Courts are given the power to revoke an authorisation, modify the hours of an authorisation, or make an authorisation subject to such terms and conditions as it thinks fit, including any which may be requested by the district commander of the police of the district in which the club premises are situated.

PART 3 - GENERAL

Section 42: Guidance

This section places a duty on the Department for Communities to produce and publish guidance on the effects of the licensing legislation and the registration of clubs legislation, the effects of the provisions of this Act and the practical implementation of Part 1, and any other matters it considers appropriate in relation to those issues.

⁴ See page 7 of this guide for Section 6

Section 43: Review

This section requires the Department for Communities to review and report on each of the provisions in Parts 1 and 2 of this legislation as soon as is practicable after the third anniversary of the commencement of that provision and thereafter, at least once in every five years. The Department is required to lay each of these reports before the Assembly, and must then publish the reports.

The Department has a power to make regulations to discontinue these requirements, but not from any date earlier than the tenth anniversary of the Act receiving Royal Assent. The regulations cannot come into operation unless and until approved by the Assembly.

SCHEDULES

Schedule 1: Minor and consequential amendments

Schedule 1 to the Act details the minor and consequential amendments to the Licensing Order and the Clubs Order contained within the Act.

Paragraph 19 of Schedule 1 introduces a new paragraph 13A to Schedule 1 of the Clubs Order (provisions to be included in rules of club) to clarify that the policy intent of paragraph 13 of that Schedule (day membership at sporting clubs) is to allow persons to use the facilities of the club on the day in question only if the person engages in sporting activities of the club on that day.