



Isle of Man

Ellan Vannin

LICENSING (AMENDMENT) BILL 2012

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Explanatory Memorandum

1. This Bill is promoted by Mr Leonard Singer, MHK.
2. Clause 1 makes provision about the resulting Act's short title.
3. Clause 2 provides for the resulting Act to expire on the day after its promulgation. The expiry does not (a) revive any Act it amended as the Act operated before the amendment commenced, (b) revive anything not in operation or existing when the amendment took effect, or (c) affect the continuing operation of the amendment.
4. Clause 3 amends section 74 of the Licensing Act 1995 (the "1995 Act"). Paragraph (a) contains a minor clerical amendment. Paragraph (b) substitutes section 74(2)(b) of the 1995 Act to enable a police officer to dispose of liquor seized under section 74(1) of that Act (seizure of liquor from a person apparently under 18 in possession of liquor in a highway/other public place) in such manner as the officer considers appropriate.
5. Clause 4(1) substitutes section 76 of the 1995 Act (drinking in public places). The substituted provision is largely based on the existing section which specifies offences in connection with the consumption of liquor, or the carrying of liquor in receptacles, in a designated place. The offences in subsections (1), (3) and (4) are widened in that a person commits an offence under those provisions if they commit the offence in a "public place". Public place is defined in subsection (8). Under the existing equivalent provisions such offences are only committed if the person is in a "designated place" (i.e. a place specified in an order made by the Department of Home Affairs). Another other significant change is in subsection (2). This provision limits the circumstances under which a police officer may give a warning to a person not to consume liquor in a public place. The person must be acting in a specific manner or using indecent or obscene language before such a warning may be given. Finally, the requirement to give notice of the effect of section 76(1) has been removed because the provision now applies to any public place (and not merely designated places).
6. Clause 4(2) repeals section 15 of the Licensing (Amendment) Act 2001 which will be redundant once clause 4(1) comes into operation.
7. In the opinion of the member moving the Bill its provisions are compatible with the Convention rights within the meaning of the Human Rights Act 2001.



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LICENSING (AMENDMENT) BILL 2012

- 1 **A BILL** to amend the Licensing Act 1995 in respect of the disposal of liquor
 2 seized from minors; and drinking in public places.

BE IT ENACTED by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

3 **1 Short title**

4 The short title of this Act is the Licensing (Amendment) Act 2012.

5 **2 Expiry**

6 (1) This Act expires on the day after its promulgation.

7 (2) The expiry does not —

8 (a) revive any Act it amended as the Act operated before the
 9 amendment commenced;

10 (b) revive anything not in operation or existing when the amendment
 11 took effect; or

12 (c) affect the continuing operation of the amendment.

13 **3 Amendment of section 74 of the Licensing Act 1995**

14 In section 74(2) of the Licensing Act 1995¹ (seizure of liquor in possession of
 15 minors) —

16 (a) at the end of paragraph (a) insert “or”; and

17 (b) for paragraph (b) substitute —

18 “(b) disposed of in such manner as the officer considers
 19 appropriate.”.

20 **4 Substitution of section 76 of the Licensing Act 1995**

21 (1) For section 76 of the Licensing Act 1995 (drinking in public places)
 22 substitute —

¹ c.8



“76 Drinking in public places

- (1) A person who consumes liquor in a public place after being warned by a police officer not to do so commits an offence and is liable on summary conviction to a fine not exceeding £500.
- (2) A police officer may not give a warning under subsection (1) unless it appears to the officer that the person concerned —
- (a) is acting in an indecent or disorderly manner;
 - (b) is using indecent or obscene language;
 - (c) is acting in a manner that has resulted, or is likely to result, in any member of the public being intimidated, harassed, alarmed or distressed;
 - (d) is acting in a manner that has resulted, or is likely to result, in any member of the public being disturbed in his or her peaceful enjoyment of the public place; or
 - (e) is acting in a manner that has caused, or is likely to cause, nuisance or annoyance to any member of the public.
- (3) A person against whom an order under section 33(4)(a) or 75(5)(a) (restriction on purchasing liquor from licence holder) is in force and who consumes liquor in a public place commits an offence and is liable on summary conviction to a fine not exceeding £500.
- (4) A person who —
- (a) is carrying in a public place an open bottle, flask, can, glass, cup or other vessel which contains or has contained liquor; and
 - (b) refuses to comply with a request by a police officer immediately to deposit the vessel in a receptacle for the deposit of litter or to deliver it to the officer,
- commits an offence and is liable on summary conviction to a fine not exceeding £500.
- (5) Where an offence under subsection (4) is committed, a police officer may seize the vessel and may dispose of it as the officer thinks fit.
- (6) Nothing in subsections (4) and (5) applies to —
- (a) a flask designed to hold no more than 0.2 litres of spirits and to be carried on the person; or
 - (b) a chalice or other vessel used in the course of a religious service.
- (7) A police officer may require a person who appears to be committing or to have committed an offence under subsection (1), (3) or (4) to leave the public place in question immediately, and, if

- 1 the person fails to do so, the officer may arrest the person without
2 warrant.
- 3 (8) In this section, “public place” means —
- 4 (a) any highway; and
- 5 (b) any place to which at the material time the public or any
6 section of the public has access, on payment or otherwise,
7 as of right or by virtue of any express or implied
8 permission,
- 9 not being—
- 10 (i) a place within the curtilage of any on-licensed
11 premises or club premises; or
- 12 (ii) premises at which the sale of liquor is, or has within
13 the previous 15 minutes, been authorised by virtue
14 of an occasional licence.
- 15 (9) The Department may by a direction in writing provide that
16 subsection (1) shall not apply to a public place specified in the
17 direction on such day, and for such period (not exceeding 12
18 hours), as may be so specified.”
- 19 (2) Section 15 of the Licensing (Amendment) Act 2001² is repealed.

² c.17

IN THE KEYS

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A **BILL** to amend the Licensing Act 1995 in respect of the disposal of liquor seized from minors; and drinking in public places.

Leave to introduce given by the Keys
on 24 April 2012.

MR SINGER

JUNE 2012