



LICENSING (AMENDMENT) BILL

EXPLANATORY NOTES

These notes are circulated for the information of Members with the approval of the Member in charge of the Bill, Hon. Graham Cregeen, MHK

INTRODUCTION

- 1.** These explanatory notes relate to the Licensing (Amendment) Bill 2020. They have been prepared by the Department of Home Affairs in order to assist readers of the Bill. They do not form part of the Bill and have not been endorsed by the House of Keys.
- 2.** The notes need to be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill.

SUMMARY AND BACKGROUND

- 3.** The Coronavirus global pandemic has altered all areas of normal human life both globally and locally. Every part of society has been impacted, and the consequences of the changes needed to support the emergency measures are likely to be with us for the foreseeable future.
- 4.** The effect of the emergency has been felt across multiple industry areas. This has had a significant knock on effect in relation to the licensed alcohol industry from pubs and restaurants to off-licenses and one off occasions and, of course, the related security staff personnel.
- 5.** Already the 'high season' of the TT, along with a number of other large events planned for 2020 have been unavoidably lost. The recent enforced closures, whilst required, have themselves caused additional hardship counted in costs from lost stock (spoilage) and lost revenue from regular day-to-day events such as weddings, birthday parties, etc.
- 6.** Under the Licensing Act 1995, licensees are required to renew their licence in a triennial period, following a set calendar. They must appear before the licensing court, which will consider the renewal of their licence.
- 7.** The administrative process supporting the triennial licence renewal must commence in September 2020, for the planned triennial end of March 2021. This ensures compliance with statutory provisions. Due to this timeline it is essential that any change to the planned triennial period must be in place in advance of September 2020.
- 8.** Applications for licenses to be renewed incur a dedicated fee, which is payable by each licensee for the combined triennial period. The fees themselves are set by Order made by the Treasury under the Interpretation Act 2015. The fees are variable, depending on the size and rateable value of the premises, but present a considerable financial consideration for any premises looking to continue to be licensed (ranging from around £900 to £3,000).
- 9.** Triennials are a key area of expenditure for the industry, as they require the payment of a substantial fee. This is at a time when many premises are likely to be suffering

financially after months of closure. To date, while financial support packages have been provided for employees, the businesses themselves have yet to benefit from relief packages.

- 10.** It is noted the fees associated with premises applying for a Music and Dancing licence follow the same pattern and would also be suspended until 2022, as there would be little mileage in retaining that one aspect of the triennial.
- 11.** In light of the above, this Bill will defer the planned triennials for a further year to provide the industry with a one year period, during which no licence fee is levied. The industry has indicated this financial benefit would be very welcome.
- 12.** These changes should help to ensure the continued viability of businesses and allow them time to come to terms with the "new normal". This would be without administrative burden falling upon the Courts.
- 13.** The Department has a relationship with the licensed trade by virtue of its responsibility for licensing legislation, and has maintained that relationship through the Licensing Forum. The Forum contains representatives from the Department, the Isle of Man Constabulary and the industry. The Department has recently formed a further working relationship with the Department for Enterprise (DfE) as it seeks to support industries generally in the Island during the emergency and the aftermath. The DfE is supportive of this measure, as are representatives from the licensed trade.
- 14.** The General Registry has indicated their understanding of the fiscal burden represented by the Licensing Triennials, due in March 2021, and is content with their postponement for a year pending, the outcome of forthcoming legislation proposed in the Licensing Bill 2020. In addition, the Constabulary support the proposed changes as the work associated with the triennials and related Licensing Court matters are a considerable administrative burden at a time when it has been concentrating on the emergency, and its immediate aftermath.

15. EUROPEAN CONVENTION ON HUMAN RIGHTS

Section 16 of the Human Rights Act 2001 requires the Member moving the Bill to make a statement about the compatibility of the provisions of the Bill with Convention rights (as defined by section 1 of that Act). In the opinion of the Member moving the Bill, the provisions of the Licensing (Amendment) Bill 2020 are compatible with those rights.

16. FINANCIAL EFFECTS OF THE BILL

The effect of this Bill would be a proportional reduction of the triennial fee where the scheduled fee of around £340,000 in 2021 would instead be proportionally reduced with a fee of £226,667 paid in 2022. Treasury has given concurrence to this matter in view of the financial benefit to the economy.

NOTES ON CLAUSES

- 16. Clauses 1 and 2** provide that the short title of the Act will be the Licensing (Amendment) Act 2020; and that the Act will come into operation at such time and in such manner as the Department, by order, may determine.
- 17. Clause 3** amends section 4 (Sittings of the court) of the Licensing Act by inserting subsection (5), which provides that where a triennial sitting of the court is due to be held before 31st March 2021 it will instead be held before 31st March 2022.
- 18. Clause 4** amends section 7 (Terms of licence) of the Music and Dancing Act 1961 by adding provision at the end of paragraph (c) to the effect that where a licence is due to expire on a specified day in the year 2021, or on 1st April 2021, the licence will instead expire on the corresponding day in the year 2022.

19. Clause 5 empowers the Department to make such provision as it considers necessary by regulations for the purposes of giving full effect to or in consequence of any provision of this amendment Act. Subsection (2) empowers regulations to make supplementary, incidental or consequential provision as well as transitory, transitional or saving provision.

20. Clause 6 says the Act will cease to have effect on 1st April 2022.