Stirling Council

Alcohol (Licensing, Public Health and Criminal Justice) (Scotland) Bill

Do you support the Bill as a whole?
No, I do not support the Bill as a whole

Do you support particular provisions in the Bill?
Yes, please see below

Do you have concerns about particular provisions in the Bill?
Yes, please see detail below

Alcoholic Drinks Containing Caffeine: -
This section should be defined more within the Act. I think it may lead to confusion as many drinks contain caffeine such as liqueur coffees etc. I note that the guidance explains that it is geared to particular brands of drinks but there have been challenges in the past. See the next section regarding Container Marking for details.

Container Marking – Off Sales: -
Whilst I support this measure, I feel this should also be aimed at off and on sales premises. This may help deal with premises who are not managing an outdoor area correctly with patrons removing drink undetected when leaving. This may also help identify premises established within the night-time economy where hotspots of antisocial behaviour occur in the respect of an individual having being searched by Police and found with alcohol on them at the time of the incident. This scheme would also help Police in successfully convicting an individual. This could also help if there is a suspicion that proxy purchases are taking place, where adults are accosted and asked to buy alcohol on behalf of children or young persons.

I note from the guidance that it is assumed that the cost for this initiative would fall on Local Authorities to purchase relevant equipment for the scheme, but feel it should not be expected to raise the annual fees of current licensed premises in order to pay for this. There may be a benefit of any funds raised by way of Fixed Penalty Orders being reinvested to pay for this.

The Scheme should be drawn up in writing and agreed between Local Authorities and Police for each area of what equipment is to be used and what markings are to be given. This document should be kept between the Licensing Board and Police in order to protect the identity of markings to ensure other establishments do not forge them.

I would further add at this point that Bottle Marking has been brought into question previously and challenged by particular manufactures and it was retracted. When the case was heard in Court the Assistant Chief Constable at that time gave undertakings to avoid further action being taken.

I attach a link to the article: - http://www.bbc.co.uk/news/uk-scotland-25989700
Applications for, or to vary, premises licence: consultation and publicity:
This section is suggesting that a time limit for an application should be increased from 21 days to 42 days. Some Licensing Boards in Scotland work to a ‘last lodging date’ and by increasing the number of days for consultation this will have an impact on the number of times a Licensing Board may sit each year. At present a Board can be arranged to average 6 meetings a year, but with the increase of the days to 42, this would allow less meetings and opportunities for applicants to lodge new applications and in turn may cause a back log on applications being decided.

With the prospect of Licensing Boards sitting less this would also have an impact on the requirement stated under Licensing (Procedure) (Scotland) Regulations 2007, Section 11, that applications are to be determined no later than 119 days, especially if the site notice requires to be re-displayed for a further 21 days. This could potentially lead to a surge of applications for Occasional Licences to be sought which can be dealt with under delegated powers, for a premises to allow them trade whilst the application is waiting to be heard by the Board.

This also may have an effect on other types of business being determined by the Board if there are less Licensing Boards a year. Also a further impact on this would be if an application were to be adjourned to another Licensing Board that may be weeks away due to the advertising time scales being increased.

Ban on Alcohol Advertising Near Schools etc. Section 6(1)(3): -
This section should also include QR Codes (barcodes) that are displayed on items such as flyers etc. This becomes active if the individual has an application on their phone and they are able to scan this and a short advertisement for a particular product can be viewed via the mobile phone.

Alcohol Education Policy Statement: -
I note the guidance states that this is for Scottish Ministers to produce and I am of a view that this should be circulated to all Licensing Boards within Scotland which could in turn be put into any future Licensing Policy Statements in line with Licensing Objectives.

Drinking Banning Orders: -
I note from the guidance a Court Order can be applied for by Police and Local Authorities, I feel this should be extended to include members of an established/constituted Local Pubwatch Group.

My thoughts on this is: it states there are two tests that a Sheriff would need 1) to be satisfied that the accused was under the influence of alcohol and 2) it is necessary for other persons to be protected.

Licensed premises that participate in these schemes deal with incidents on a regular basis and share information regarding individuals. When incidents occurs on the premises management are quick to establish if the individual is under the influence of alcohol and if they need to be removed from the premises to protect others. In theory both above grounds are established. The
premises would then circulate the incident online for the group to vote with the view to having the individual banned.

These incidents are discussed at subsequent meetings so other premises can confirm if the individual has tried to enter and been refused.

If the group are of a mind to ban the individual then steps are taken to establish the name of the individual, assisted by Police Scotland and that person is banned and written to, to advise of the ban.

If the groups were allowed under this Bill to apply for a Drinking Banning Order to the Sheriff then the consequences of breaching the terms of the banning order would be more severe to the individual than the current system allows.

Restrictions on advertising of alcohol (Chapter 2 – sections 6 to 13): -
This section details the way Fixed Penalty Notices may be issued in terms of advertising for the premises. The guidance suggests that they can be issued from Officers of the Local Authority that have enforcement powers and the processing done under the smoking ban with any revenue generated credited to the Environmental Health Budget. However, most Local Authorities Licensing Standards Officers fall under different departments and may not have the powers given under the smoking remit.

This in my view is not practicable as Licensing Standards Officers carry out checks on licensed premises that involve compliance with the 2005 Act. This type of power should be for Licensing Standards Officers to decide if the premises are in breach of conditions/legislation and should be allowed to exercise judgement in if matters are dealt with by a Board or by way of a fine.

The fines are likely to generate income and should go back to the Licensing budget in order for various schemes to be paid for such as the suggested container marking scheme or providing more resources such as campaign documents to help better educate licence holders, local communities, schools etc.

How will the particular provisions in the Bill fit with your work, or the work of your organisation?
The Bill as a whole will impact on administrative time and costs in terms of notification to existing licence holders of any changes made.

In terms of increasing the application period this may cause a backlog in applications pending. This in turn will impact on the Board possibly having longer meetings with the amount of pending applications/business due to be heard. If applications are heard at a Board and then continued this would take longer until the next Licensing Board to be dealt with.

With the prospect of meetings taking longer on the day this would also impact on Elected Members time.
Will the Bill have financial or resource implications for you or your organisation?
This Bill will have financial impact on licence holders in the respect of the possibility of raising annual fees to pay for proposed schemes in this Bill. This will also impact on Local Authorities as current budgets/annual fees are used to pay for the resources as they stand. Unless there is a self-funding way to pay for initiatives such as bottle marking then there is a risk that local authorities will not break even at the end of each financial year.

Do you have any other comments or suggestions relevant to the Bill?
No

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