

EXPLANATORY MEMORANDUM TO

The Licensing of Pavement Cafés (Register of Licences) Regulations (Northern Ireland) 2016

SR No. 127

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department for Social Development to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under The Licensing of Pavement Cafés Act (Northern Ireland) 2014 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. The Statutory Rule will set out the matters a district council must notify and the documentation it must send to the person responsible for maintaining the register of licences under Article 34 of The Licensing (Northern Ireland) Order 1996 (licences permitting premises to sell intoxicating liquor by retail to the public) in relation to a pavement café area associated with such premises. It also sets out what the responsible person for maintaining the licensing register must record in the register and the documents they must keep.

3. Background

- 3.1. Although pavement cafés are becoming more commonplace in Northern Ireland there was no legislation to regulate this activity. The Roads (NI) Order 1993 makes it unlawful to cause obstruction to a road. At present TransportNI generally 'tolerates' pavement cafés provided they do not restrict the free flow of pedestrians or vehicles or compromise public safety. Legislation is already in place in other jurisdictions to regulate pavement cafés. The Licensing of Pavement Cafés Act (Northern Ireland) 2014 introduces a statutory licensing scheme for the regulation of pavement cafés by district councils in Northern Ireland for the first time.

4. Consultation

- 4.1. The consultation of the Licensing of Pavement Cafés Bill was carried out during the period 1 December 2010 to 25 February 2011. The consultation generally sought comments from all stakeholders on the proposal to provide district councils with the power to regulate pavement cafés in their areas, including specific comments on whether any specific regulations required to be examined or modified to accommodate pavement cafés. The overall response to the consultation was very positive. Therefore, further consultation on the contents of these technical regulations was not considered necessary.

5. Equality Impact

- 5.1. In accordance with its duty under Section 75 of the Northern Ireland Act 1998 the Department has conducted a screening exercise on the legislative proposals for these Regulations. The Department has concluded that the proposals would not have significant implications for equality of opportunity and therefore considered an Equality Impact Assessment was not necessary.

6. Regulatory Impact

- 6.1. The Regulatory Impact Assessment (RIA) carried out for the Licensing of Pavement Cafés Act (Northern Ireland) 2014 noted that the statutory licensing scheme will impact mainly on cafés, restaurants and pubs. The introduction of a new statutory licensing scheme could provide a new revenue stream but ultimately it will be a commercial decision for business owners having regard to the costs of establishing a pavement café and the expected profit. District councils will be able to charge a fee to cover administration costs. The RIA concluded that, overall, the expected benefits justify the costs of regulation.

7. Financial Implications

- 7.1. No financial implications.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied that the Statutory Rule is not incompatible with the convention rights, is not incompatible with community law, does not discriminate against a person or class of person on the grounds of religious belief or political opinion and does not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1. Not applicable.

10. Parity or Replicatory Measure

- 10.1. In both Great Britain and Republic of Ireland, café, restaurant and pub owners may apply to their local council for permission to place tables and chairs on the pavement outside their premises. However, in Northern Ireland the provision of tables and chairs on the pavement is prohibited under the Roads (NI) Order 1993. TransportNI has taken a pragmatic approach to the setting-up of pavement cafés, but this is regarded as an interim arrangement, pending introduction of a formal licensing scheme.

11. Additional Information

- 11.1. Not applicable.