



Isle of Man Office of Fair Trading

Proposals for Changes to the Legal Quantities for Sales of Intoxicating Liquor

Initial Consultation Paper

November 2012

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1. Introduction and Purpose

It is apparent from correspondence that the trade would like changes to be made to the legal quantities for sales of intoxicating liquor. These are driven in part by concerns about the continued availability of 1/5 gill spirit measuring instruments (commonly referred to as 'optics') and 1/5 gill capacity measures (commonly referred to as 'thimble' measures) and also in part by the need to promote sensible drinking and events such as wine tastings and beer festivals. Whether or not any such changes would be supported by consumers is open to debate and so there is a case for undertaking this initial public consultation before any changes are considered.

The purposes of this consultation paper are:-

- to make interested parties aware of a number of proposals put forward by the Isle of Man Office of Fair Trading ('the OFT') for changes to the legal quantities for sales of intoxicating liquor;
- to make interested parties aware of the current situation both in the Island and in the UK; and
- to seek the views of interested parties on the proposals.

The questions in bold within the 'Proposals and Questions' section are intended to prompt debate and are by no means exhaustive. Respondents may wish to quote the numbers of the questions, i.e. 1, 2, etc., in their responses but there is no requirement for responses to be so specific. The OFT will welcome both specific and wide-ranging responses. There is also no requirement for responses to be limited to the content of this paper as long as they address the main subject matter, i.e. the legal quantities for sales of intoxicating liquor.

The OFT will consult further and in more detail once any secondary legislation necessary to make changes to the legal quantities for sales of intoxicating liquor has been drafted.

2. Background

The OFT has received a number of letters on the subject of legal quantities for sales of intoxicating liquor from different sectors of the trade separately:-

- proposing the introduction of 2/3 pint as a legal quantity for sales of beer and 75 ml as a legal quantity for sales of wine;
- expressing concern about the continued availability of 1/5 gill spirit measuring instruments and proposing that consideration be given to the introduction of a metric quantity as a legal quantity for sales of spirits to replace 1/5 gill;
- expressing concern about the continued availability of 1/5 gill spirit measuring instruments and 1/5 gill capacity measures and seeking advice on the feasibility of introducing a new legal quantity for sales of spirits to replace 1/5 gill; and
- proposing the introduction of 1/4 pint as a legal quantity for sales of beer.

Legal quantities for sales of intoxicating liquor in the Island are prescribed by the Weights and Measures (Intoxicating Liquor) Order 2001 ('the 2001 Order'), which came into force on 1st July 2001.

The relevant requirements of the 2001 Order, i.e. those which are specifically addressed in this paper, can be summarised:-

- The 2001 Order specifies that draught beer or cider (both referred to as 'beer' from now on) sold by retail for consumption on the premises at which it is sold, e.g. in a public house or a restaurant, shall only be sold in a quantity of 1/3 pint, 1/2 pint or a multiple of 1/2 pint and only in a capacity measure, e.g. a glass, of the quantity in question. Most draught beer is sold in

quantities of 1/2 pint and 1 pint but it could also be sold in quantities of a quart (equivalent to two pints) or 1/3 pint.

- The 2001 Order specifies that gin, rum, vodka, whisky and brandy sold by retail for consumption on the premises at which it is sold shall only be sold in quantities of one fluid ounce (equivalent to 1/5 gill) or multiples thereof.
- The 2001 Order specifies that when sold in the glass or other vessel from which it is intended to be drunk, wine for consumption on the premises at which it is sold shall be sold only in, or in a multiple of, the following quantities, that is to say, 125 ml and 175 ml.

In the UK, the equivalent prescribed legal quantities are:-

- For sales of beer: 1/3 pint, 1/2 pint, 2/3 pint or a multiple of 1/2 pint. (Note that 1/4 pint is not a prescribed legal quantity in either the UK or the Island.)
- For sales of spirits: 25 ml or 35 ml or multiples of either of those quantities. (Note that 1/5 gill is equivalent to 28.4 ml.)
- For sales of wine: 125 ml and 175 ml or multiples of either of those quantities with the exception of fortified wines and other wines in quantities of less than 75 ml. Fortified wines shall only be sold in quantities of 50 ml or 70 ml or multiples of either of those quantities.

An order amending or replacing the 2001 Order would be required to introduce the new legal quantities for sales of intoxicating liquor proposed in the letters from the trade.

In addition, and as a consequence, Schedule 2 of the Weights and Measures Act 1989 would have to be amended by order, other existing secondary legislation may

have to be amended or replaced and new secondary legislation may have to be introduced.

Having considered the content of the letters from the trade and after monitoring developments in the UK, the OFT is now putting forward a number of proposals which are outlined in the next section.

3. Proposals and Questions

It is proposed that draught beer sold by retail for consumption on the premises at which it is sold, e.g. in a public house or a restaurant, shall only be sold in a quantity of 1/4 pint, 1/3 pint, 1/2 pint, 2/3 pint or a multiple of 1/2 pint and only in a capacity measure, e.g. a glass, of the quantity in question.

The proposed introduction of two new legal quantities, i.e. 1/4 pint and 2/3 pint, would promote sensible drinking and facilitate beer festivals.

There may be a problem with the proposed introduction of 1/4 pint as a new legal quantity as this is not a prescribed legal quantity in the UK and, as a consequence, 1/4 pint capacity measures may not be easy to source. On this basis, there is perhaps a case for deregulating sales of beer in quantities of less than say 1/3 pint. This would facilitate beer festivals as draught beer could legally be sold in any quantity of less than 1/3 pint.

Questions:

1. Is there any need to introduce either of the proposed two new legal quantities, i.e. 1/4 pint and 2/3 pint, given the fact that beer can already be sold in quantities of 1/3 pint and 1/2 pint?

2. Is there a case for deregulating sales of draught beer in quantities of less than say 1/3 pint?

It is proposed that gin, rum, vodka, whisky and brandy sold by retail for consumption on the premises at which it is sold shall only be sold in quantities of 25ml or 35 ml or multiples of either of those quantities.

There are obviously concerns about the continued availability of 1/5 gill spirit measuring instruments and 1/5 gill capacity measures. If the status quo is retained, these will become expensive (as special production items) or may even become

unavailable. Adopting the proposed new legal quantities would mean that spirit measuring instruments and capacity measures would be readily available as these are also the legal quantities in the UK.

Questions:

3. Given the concerns about the continued availability of 1/5 gill spirit measuring instruments and 1/5 gill capacity measures, is there any valid reason for maintaining the status quo?

4. Given that the current legal quantity of 1/5 gill is equivalent to 28.4 ml, which is nearer to 25 ml than 35 ml, should the Island adopt just the 25ml measure?

It is proposed that, when sold in the glass or other vessel from which it is intended to be drunk, wine for consumption on the premises at which it is sold shall be sold only in, or in a multiple of, the following quantities, that is to say, 125 ml and 175 ml with the exception of fortified wines and other wines in quantities of less than 75 ml.

It is further proposed that fortified wines shall only be sold in quantities of 50 ml or 70 ml or multiples of either of those quantities.

Deregulating sales of wines (other than fortified wines) in quantities of less than 75 ml would facilitate wine tastings as wine could legally be sold in the glass in any quantity of less than 75 ml.

Questions:

5. Is there a case for deregulating sales of wines (other than fortified wines) in the glass in quantities of less than 75 ml?

It is proposed that the possibility of deregulating sales of pre-packed intoxicating liquor should be looked at closely.

The 2001 Order prescribes a range of quantities in which intoxicating liquor may be pre-packed, which means made up in advance ready for sale in a securely closed container, e.g. a bottle or a wine box. For instance, when you buy a bottle or a box of wine in a supermarket the wine will be in a prescribed quantity.

Deregulating sales of pre-packed intoxicating liquor would mean, for example, that wine could legally be sold in a bottle or a box in any quantity as long as the bottle or box was marked with an indication of the nominal quantity.

Question:

6. Is there a case for deregulating sales of pre-packed intoxicating liquor as long as the container is marked with an indication of the nominal quantity?

4. Consultation Process

The OFT would welcome any comments you wish to make on the proposals for changes to the legal quantities for sales of intoxicating liquor.

Electronic copies of the consultation document and a link to an online survey are available on the OFT's website at <http://www.gov.im/oft/consultations.gov>.

Additional copies of the consultation document can be obtained from the OFT by telephoning (01624) 686526.

Comments should be submitted no later than 5 pm on Friday 4th January 2013 by using the online survey link or in writing by post, fax or email to:

Chief Inspector of Trading Standards
Isle of Man Office of Fair Trading
Government Building
Lord Street
Douglas
Isle of Man
IM1 1LE

Tel: (01624) 686526

Fax: (01624) 686504

Email: iomfairtrading@gov.im

When submitting your comments please indicate if you are responding on behalf of an organisation. A list of direct consultees can be found at Appendix 1 to this document. If there is anyone not on the list who you think should be consulted please contact the Chief Inspector of Trading Standards.

To ensure that the process is open and honest and in line with the Government's Code of Conduct on Consultation, responses can only be accepted if you provide

your name with your response. Any abusive or offensive responses will be disregarded.

Unless specifically requested otherwise, any responses received may be published either in part or in their entirety. **Please mark your response clearly if you want it to remain confidential.** Confidential responses will be included in any statistical summary, e.g. in the number of responses received.

Further information on the Code of Conduct on Consultation can be found at Appendix 2 to this document.

A summary of responses will be published within three months of the closing date for this consultation and will be made available on the OFT's website at <http://www.gov.im/oft/consultations.gov> or by contacting the Chief Inspector of Trading Standards.

The purpose of this consultation is to gather information, views and evidence to enable informed decisions on the proposals to be made. It is not a referendum and the responses received do not guarantee changes will be made to what has been proposed.

Appendix 1

List of Direct Consultees

- Tynwald Members
- Attorney General
- Local Authorities
- Chief Officers of Government Departments, Boards and Offices
- Isle of Man Chamber of Commerce
- Isle of Man Law Society
- Isle of Man TUC
- Isle of Man Licensing Forum
- Licensing Court
- Isle of Man Licensed Victuallers Association
- Bushy's Limited
- Heron and Brearley Limited
- Apple Orphanage Company Limited
- Doghouse Brewery Limited
- Isle of Man CAMRA
- Castletown Ale Drinkers Society
- WDS Limited
- D L Gelling (Wholesale)
- Caterquip
- Chemical Services (Manx) Limited

Appendix 2

Code of Practice on Consultation

This consultation follows the Government's Code of Practice on Consultation which has six criteria:-

1. Consult widely throughout the process, allowing a minimum of six weeks for a minimum of one written consultation at least once during the development of the legislation or policy.
2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
3. Ensure your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your Department's effectiveness at consultation.
6. Ensure your consultation follows best practice, including carrying out an Impact Assessment if appropriate.

The full Code of Practice on Consultation is available on the Government's website at http://www.gov.im/lib/docs/cso/consultations/code_of_practice_on_consultation_200.pdf.

Appendix 3

Existing Primary and Secondary Legislation

➤ Primary Legislation

Weights and Measures Act 1989

➤ Secondary Legislation

Ref No		Title
SD	164 01	Weights and Measures (Intoxicating Liquor) Order 2001

Copies of the above legislation may be obtained from the Tynwald Library (Tel: (01624) 685520, Email: library@tynwald.org.im).