



CONSULTATION ON POLICY

THE TOURISM (NORTHERN IRELAND) ORDER (AMENDMENT) BILL 2010

Consultation on:

- 1. Statutory Inspection of Tourist Accommodation**
- 2. Appointment of the Chair of the Northern Ireland
Tourist Board**

Closing Date for Responses: Friday 2 October 2009

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CONTENTS	Page
Purpose of the Consultation	2
Tourism (Northern Ireland) Order (Amendment) Bill	2
List of Questions for Consultees	2
The Current Arrangements and Need for Change	3
Statutory Inspection of Tourist Accommodation	3
Appointment of the Chair of the Northern Ireland Tourist Board	6
Equality, Regulatory and Rural Impact Aspects	7
How to Respond	8
Help With Queries	8
Confidentiality and Data Protection	8
<u>ANNEXES</u>	
ANNEX A Glossary of Terms, Bibliography and Useful Reference Materials	10
ANNEX B List of Consultees	11

PURPOSE OF THE CONSULTATION

Tourism (Northern Ireland) Order (Amendment) Bill

1. The Department of Enterprise, Trade and Investment (DETI) proposes amending the Tourism (Northern Ireland) Order 1992 (the “Tourism Order”). The Tourism Order is the primary legislation under which the Northern Ireland Tourist Board (NITB) is constituted. NITB’s powers to develop, promote and market Northern Ireland tourism are contained in the Tourism Order.
2. DETI, in consultation with the NITB, has identified two areas of the Tourism Order which should be amended. These are:
 - (i) the frequency whereby NITB is required to conduct statutory inspections of tourist accommodation establishments; and
 - (ii) the mechanism for appointing the Chair of the NITB.
3. Any changes to the Tourism Order will require the introduction of a new Tourism (Northern Ireland) Order (Amendment) Bill which will be subject to approval by the Northern Ireland Assembly.

List of Questions for Consultees

4. The questions consultees are asked to consider are:

Statutory Inspection of Tourist Accommodation

What are your views on tourist accommodation establishments being inspected once every four years, rather than annually as at present?

What are your views on tourist accommodation establishments being required to complete/submit annual registration statements during the period between statutory inspections?

Appointment of the Chair of the Northern Ireland Tourist Board

What are your views regarding the proposal that the legislation should be amended to permit the Chair of the NITB to be appointed by outside competition rather than from among the Board Members?

THE CURRENT ARRANGEMENTS AND NEED FOR CHANGE

Statutory Inspection of Tourist Accommodation

Review of Regulation of Tourist Accommodation

5. DETI, in consultation with the NITB, has undertaken a review of the arrangements within the Tourism Order which govern the regulation of tourist accommodation in Northern Ireland. Northern Ireland is unique within the United Kingdom in providing by statute that all overnight tourist accommodation, offered by way of trade or business, is subject to compulsory certification and annual inspection.
6. There are currently five statutory categories of tourist accommodation establishment in Northern Ireland – hotels, guest houses, bed and breakfast establishments, self catering establishments and hostels. Each category of accommodation has specified criteria denoting the minimum standard that an establishment must achieve in order to be awarded a certificate by the NITB.
7. The current review has built upon previous work (which included tourism industry consultation) undertaken in 2003 and 2004. This identified that:
 - (i) statutory regulation should be retained as it has played an important part in improving the standard of tourist accommodation in Northern Ireland; and
 - (ii) statutory regulation should be updated to address more appropriately the current and future needs of the industry (including reducing, where possible, the regulatory burden on tourist accommodation businesses) and its customers.
8. DETI has identified proposed changes which would significantly update statutory regulation arrangements. A number of these relate to updating the criteria by which tourist accommodation is assessed and will require changes to be made to tourism subordinate legislation (the current criteria are set out in Statutory Rule No 149: Categories of Tourist Establishment (Statutory Criteria) Regulations (Northern Ireland) 1992). These changes have been included in a separate consultation document entitled “Consultation on Policy – The Statutory Regulation of Tourist Accommodation in Northern Ireland” which may be accessed at www.detini.gov.uk.

Changing the Frequency of Statutory Inspections

9. In addition to amending subordinate legislation DETI has also identified proposed changes to the Tourism Order in respect of the statutory inspection of tourist accommodation. Under the existing statutory regulation procedures (contained in Part IV of the Tourism Order), the NITB is required to carry out an annual inspection of all certified tourist accommodation establishments. The NITB's Quality and Standards Unit undertakes this annual inspection which focuses primarily on the physical attributes of each establishment.
10. In most cases there is little significant change in an establishment from year to year. It is proposed therefore to amend this requirement for annual statutory inspections as follows:
 - (i) statutory inspections will take place once every four years;
 - (ii) to ensure that establishments continue to comply with the minimum standards required by legislation it is proposed that tourist accommodation providers will be required to provide annual 'registration' statements. The aim of these will be to:
 - require providers to declare that they continue to offer tourist accommodation and that they continue to comply with all statutory requirements; and
 - to identify whether any changes have been made to establishments in the previous 12 months, which may merit an inspection by NITB.
 - (iii) NITB will still retain the power to carry out ad hoc inspections as required (as is the case at present under the Tourism Order), for example, to investigate complaints about establishments.
11. The Tourism Order requires that a fee shall be paid in respect of a statutory inspection, or other inspection at the request of a proprietor of a tourist establishment (the current fees are set out in subordinate legislation - Statutory Rule No 136: Statutory Inspection of Tourist Establishments (Fees) Regulations (Northern Ireland) 1992). The fees charged for statutory inspections have been reviewed by DETI, in consultation with NITB, to ensure that they recover the full cost of the statutory regulation scheme. Proposed revised fee structures form part of the separate consultation referred to in paragraph 8 above.

Questions:

What are your views on tourist accommodation establishments being inspected once every four years, rather than annually as at present?

What are your views on tourist accommodation establishments being required to complete/submit annual registration statements during the period between statutory inspections?

Appointment of the Chair of the Northern Ireland Tourist Board

Current Procedure for Appointing the Chair of the NITB

12. The Tourism Order currently requires that the Board of the NITB shall comprise up to nine Board Members, one of whom is appointed as Chair by the Minister for Enterprise, Trade and Investment. Board Members and the Chair are appointed for three year terms and 'may' be re-appointed for an additional three year term.

Proposed Changes to the Appointment of the Chair of the NITB

13. The Tourism Order currently states that the Minister is required to appoint a Chair from among the Board Members of the NITB. This in effect means that the position cannot be advertised with the aim of appointing a Chair directly to the Board.
14. DETI proposes removing the requirement that the Chair of the NITB must be appointed from among the Board Members. The benefits of this include:
 - (i) permitting the Chair of NITB to be directly appointed by the Minister via external open competition. By making the appointments process truly open to competition the public's confidence will be enhanced;
 - (ii) it is totally consistent with guidance provided by the Office of the Commissioner for Public Appointments for Northern Ireland; and
 - (iii) it is consistent with the legal mechanisms whereby Chairs are appointed to the other Non Departmental Public Bodies in the DETI family, ie the General Consumer Council NI, Health and Safety Executive NI and Invest NI.

Question:

What are your views regarding the proposal that the legislation should be amended to permit the Chair of the NITB to be appointed by outside competition rather than from among the Board Members?

EQUALITY, REGULATORY AND RURAL IMPACT ASPECTS

15. This consultation is being carried out in accordance with the Guiding Principles contained in the Equality Commissions “Guide to the Statutory Duties”.
16. Equality aspects of the changes to the existing arrangements have been considered by DETI in respect of:
 - (i) the statutory inspection of tourist accommodation; and
 - (ii) the appointment of the Chair of the NITB.
17. It is concluded that the proposed policy changes do not have any adverse impact on groups stipulated in Section 75 of the Northern Ireland Act 1998. The revised policy proposals would benefit all providers of tourist accommodation (as regards statutory inspections), and all potential applicants for the position of Chair (as regards the appointment of the Chair of the NITB).
18. DETI has considered the regulatory impact of the changes proposed within this document. No new regulatory burden is being imposed by the proposed changes all of which build on existing regulatory arrangements. Indeed, with respect to the proposal to change the frequency of statutory inspections, there should be a cost saving for tourism accommodation providers as regards fees and a reduced regulatory burden with respect to less frequent inspections.
19. DETI has also considered the rural impact of the proposed changes. The proposed changes will not have an adverse effect on rural communities.

HOW TO RESPOND

20. We would welcome your views. Comments on this consultation should reach DETI on or before **Friday 2 October 2009** and may be sent by email to tourismpolicy@detini.gov.uk or by post to:

John Simms
Tourism Policy Branch
Department of Enterprise, Trade and Investment
Netherleigh
Belfast
BT4 2JP

21. All responses should include the name and postal address of the responder. Please state whether you are responding as an individual or representing the view of an organization. If responding on behalf of an organisation please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

Help With Queries

22. If you have any questions on the consultation document you can contact John Simms:

Tel: (028) 90529418
Email: tourismpolicy@detini.gov.uk

23. If you require access to this document in a different format – eg Braille, disk, audio cassette – or in a minority language, please contact John Simms and appropriate arrangements will be made as soon as possible. Hard copies of the equality, regulatory impact and rural proofing screening forms can also be provided on request.

Confidentiality and Data Protection

24. Your response may be made public by DETI. If you do not want all or part of your response or name made public, please state this clearly in the response by marking your response as 'CONFIDENTIAL'.
25. Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), and the Data Protection Act 1998).

26. If you want other information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.
27. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, in itself, be regarded as binding on the Department.

ANNEX A

GLOSSARY OF TERMS

“**DETI**” means the Department of Enterprise, Trade and Investment

“**NITB**” means the Northern Ireland Tourist Board

“**Tourist**” means a visitor to Northern Ireland, a person spending his holiday in Northern Ireland or a person travelling for pleasure within Northern Ireland, and “tourism” should be construed accordingly.

“**Tourist accommodation**” means overnight sleeping accommodation for tourists provided by way of trade or business.

“**Statutory inspection**” means the inspection of each tourist establishment by an officer of the NITB on at least one occasion each year, “**annual inspection**” may be understood using this definition.

“**Statutory regulation scheme**” means the scheme whereby an officer of the NITB inspects each establishment providing overnight tourist accommodation. This can also be termed **Certification**.

“**FOIA**” means the Freedom of Information Act.

BIBLIOGRAPHY AND USEFUL REFERENCE MATERIALS

* The Tourism (Northern Ireland) Order 1992 – www.opsi.gov.uk

* Statutory Rules of Northern Ireland 1992, No 136: Statutory Inspection of Tourist Establishments (Fees) Regulations (Northern Ireland) 1992

* Statutory Rules of Northern Ireland 1992, No 149: Categories of Tourist Establishment (Statutory Criteria) Regulations (Northern Ireland) 1992

The Northern Ireland Tourist Board industry website – www.nitb.com

* Available from The Stationery Office

ANNEX B

LIST OF CONSULTEES

Northern Ireland Tourist Accommodation Businesses

Northern Ireland Tourist Accommodation Representative Bodies

Other Tourism Interests

Government Interests

Northern Ireland Local Government

Northern Ireland Political Parties

Legal Interests

Commercial Business and Trade Representatives

Community Interests

All Bodies listed in Annex D of the DETI Equality Scheme

A full list of consultees can be provided on request