STATUTORY RULES OF NORTHERN IRELAND

1997 No. 61

COUNTY COURTS

County Court (Amendment No. 2) Rules (Northern Ireland) 1997

Made - - - -	*17th February 1997*
Coming into operation	*20th February 1997*

We, the County Court Rules Committee appointed by the Lord Chancellor under Article 46 of the County Courts (Northern Ireland) Order 1980(**1**), in exercise of the powers conferred on us by Article 47 of that Order, Article 85(1) of, paragraphs 2 and 12 of Schedule 1 and paragraph 3(2) of Schedule 3 to, the Licensing (Northern Ireland) Order 1996(**2**), Article 52(1) of, and paragraph 2(1) of Schedule 2 to, the Registration of Clubs (Northern Ireland) Order 1996(**3**), and all other powers enabling us in that behalf hereby make the following Rules:—

Citation and interpretation

1.—(1) These Rules may be cited as the County Court (Amendment No. 2) Rules (Northern Ireland) 1997.

(2) In these Rules a reference to an Order, Appendix or Form by number is a reference to that Order, Appendix or Form so numbered in the County Count Rules (Northern Ireland) 1981(**4**).

Amendment of the County Court Rules (Northern Ireland) 1981

2. For Order 48 there shall be substituted the new Order 48 set out in Schedule 1.

3.—(1) For Forms 194 to 201, 305 and 306 there shall be substituted the new Forms set out in Schedule 2.

(2) The new Forms set out in Schedule 3 shall be inserted in Appendix 1 in the place appropriate to their number and letter.

(3) Forms 202 to 211 and 307 shall be amended to the extent set out in Schedule 4.

(**1**) S.I.1980/397 (N.I. 3)
(**2**) S.I. 1996/3158 (N.I. 22)
(**3**) S.I. 1996/3159 (N.I. 23)
(**4**) S.R. 1981 No. 225

We, the undersigned members of the County Court Rules Committee, having by virtue of the powers vested in us in this behalf made the foregoing Rules, do hereby certify the same under our hand and submit them to the Lord Chancellor accordingly.

A. R. Hart
John J. Curran
T. A. Burgess
Barry Valentine
H. McM. Keegan
Brian F. Walker
G. H. Keatley

Dated 30th January 1997.

After consultation with the Lord Chief Justice, I allow these Rules which shall come into operation on 20th February 1997.

Dated 17th February 1997. *Mackay of Clashfern,* C.

SCHEDULE 1 Rule 2

Rules to be inserted as Order 48

"ORDER 48

Licensing and Registration of Clubs

Part 1

General

Interpretation

1.—(1) In this Order;

in Parts II to IV and VI "the Licensing Order" means the Licensing (Northern Ireland) Order 1996(**5**) and expressions which are defined in that Order have the same meaning as in that Order;

in Parts V and VI, "the Registration of Clubs Order" means the Registration of Clubs (Northern Ireland) Order 1996(**6**) and expressions which are defined in that Order have the same meaning as in that Order;

"the chief clerk" means the chief clerk for the county court division in which the application is being made.

(2) The notes appended to the forms do not form any part thereof and are so appended only for the purpose of assisting their proper completion.

Part II

Applications for the Grant of Licences

Notices of application

2.—(1) Notice of application in accordance with Articles 7 or 9 of and Schedule 1 to the Licensing Order for the grant or, as the case may be, for the provisional grant of a licence shall be in one of Forms 194 to 201 as may be appropriate; so, however, that the notice required by paragraph (1)(*a*) of that Schedule to be inserted in the newspapers referred to in that paragraph and the notice required by paragraph (1)(*b*) of that Schedule to be displayed for the time and in the manner specified by that paragraph, may omit to specify the address of the applicant for the licence where the notice gives the address of the solicitor for the applicant.

(2) A person intending to make an application for the grant or declaration of the final grant of a licence, in addition to complying with paragraph 1 or paragraph 11 of Schedule 1 to the Licensing Order, as the case may be, shall not less than three weeks before the time of the opening of the court at which the application is to be heard, serve a copy of the notice upon the clerk of petty sessions for the petty sessions district in which the premises are situated.

(3) Where it is intended to apply to the court which grants a licence or declares a licence provisionally granted to be final for—

(**5**) S.I. 1996/3158 (N.I. 22)
(**6**) S.I. 1996/3159 (N.I. 23)

(a) an order under Article 43 of the Licensing Order directing that the permitted hours for part of such premises of a kind mentioned in Article 5(1)(*a*) of the Licensing Order for which the court imposes a condition under Article 43(2) of the Licensing Order shall be the hours mentioned in Article 42(2) of the said Order; or

(b) an order under Article 44 of the Licensing Order directing that, on such days as may be specified, the hours mentioned in Article 44(2) of the Licensing Order shall, in addition to the hours mentioned in Article 42(1) of the said Order, be included in the permitted hours for such part or parts of the premises which are specified in the order; or

(c) an order under Article 48 of the Licensing Order specifying any part of the premises as suitable for functions such as are mentioned in Article 47(5) of the Licensing Order (functions for which extension licences may be granted); or

(d) the grant of a children's certificate under Article 59 of the Licensing Order,

such intention shall be stated in the notice of application for the grant or in the notice of application for the provisional grant, as the case may be; and the plan attached to the notice in accordance with paragraph 3 of Schedule 1 to the Licensing Order shall particularly delineate or distinguish the part of the premises for which the order or certificate is sought.

(4) Where notice is given of an application for the grant or provisional grant of a licence for premises on a site approved by declaration under Article 10 of the Licensing Order the notice shall refer to the fact that the premises are of a kind approved for that site by declaration.

(5) A notice of application for a declaration that the grant of a licence is final in accordance with Article 9(7) of the Licensing Order shall be in Form 202 and the applicant shall attach the licence to the notice for the purposes of Article 9(10) of the Licensing Order.

(6) A person intending to apply for the consent of the court under Article 9(6) to the Licensing Order to the modification of plans at any time before a licence provisionally granted has been declared final shall—

(a) not less than three weeks before the time of the opening of the court sittings at which application is to be heard, serve notice in Form 203 on the chief clerk and serve copies of the notice on the sub-divisional commander of the police sub-division in which the premises are or are to be situated and on the district council for the district in which the premises are or are to be situated;

(b) attach to such notice and copy notices copies of the modified plans complying with Rule 6 and clearly showing the proposed modifications.

(7) A notice of intention to object in accordance with—

(a) paragraphs 4 and 6 or 13 and 14 of Schedule 1 to the Licensing Order to the grant, provisional grant or grant of the licence being declared final, as the case may be, shall be in Form 204;

(b) paragraphs 7A and 7B of Schedule 1 to the Licensing Order to—

(i) the making of an order under Article 43 of the Licensing Order (alternative permitted hours for off sales);

(ii) the making of an order under Article 44 of the Licensing Order (additional permitted hours);

(iii) the making of an order under Article 48 of the Licensing Order (suitability of premises for functions); or

(iv) the grant of a children's certificate under Article 59 of the Licensing Order,

shall be in Form 204A.

(8) A notice published in the newspapers as required by paragraph 1(*a*) of Schedule 1 to the Licensing Order and a notice displayed at the premises as required by paragraph 1(*b*) of that Schedule shall—

(a) include a reference to the requirement that any person owning or residing or carrying on business in premises in the vicinity of the premises for which the licence is sought who intends to object to the grant of the licence must, in accordance with paragraph 6 of Schedule 1 to the Licensing Order, serve notice of his intention to object upon the applicant and the chief clerk, not less than one week before the time of the opening of the court sitting specified in the notice so published;

(b) state that the permissible grounds of objection are such as are specified in Article 7(4)(*a*) to (*e*)(i) of the Licensing Order, namely, failure to comply with the correct procedure, unfitness of applicant, unsuitability of premises and, where the premises are of a kind mentioned in Article 5(1)(*a*) or (*b*) only and Article 7(6) or paragraph 6 of Schedule 3 to the Licensing Order does not apply, that the number of licensed premises of that kind in the vicinity is or will be adequate; and

(i) in the case of an application under Article 43, the permissible grounds of objection are as specified in Article 43(2) (structural suitability);

(ii) in the case of an application under Article 44, the permissible grounds of objection are as specified in Article 44(1) and (3) (structural suitability and undue inconvenience to residents);

(iii) in the case of an application under Article 48 the permissible grounds of objection are as specified in Article 48(2) (suitability of premises);

(iv) in the case of an application under Article 59 the permissible grounds of objection as specified in Article 59(2) (suitability of premises for children).

(c) where appropriate, state that a subsisting licence is to be surrendered to the court and give particulars thereof.

(9) A notice of intention to object, under paragraph 5 of Schedule 1 to the Licensing Order, to the surrender of a subsisting licence shall be in Form 205.

Documents to be produced at hearing of application

3.—(1) Where the application is for the grant or declaration of the final grant of a licence for an hotel or a guest house, evidence that the premises comply with Article 2(2) of the Licensing Order as being premises of an establishment allocated by a certificate under Article 13 of the Tourism (Northern Ireland) Order 1992(**7**) to the statutory category of hotel or guest house, as the case may be, shall be given at the hearing of the application by production of a certificate to that effect issued by the Northern Ireland Tourist Board.

(2) Where the application is for the grant or declaration of the final grant of a licence for a conference centre, evidence that the premises comply with Article 2(2) of the Licensing Order as being premises for which there is in force a certificate allocated by the Northern Ireland Tourist Board stating that the premises conform to the prescribed requirements, shall be given at the hearing of the application by production of a certificate to that effect issued by the said Board.

(3) Where the application is made for a licence under the Licensing Order for any place of entertainment, any licence required by a council under Schedule 1 to the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985(**8**) shall be produced at the hearing of the application.

(**7**) S.I. 1992/235 (N.I. 3)
(**8**) S.I. 1985/1208 (N.I. 15)