1988 No. 234

COUNTY COURTS

County Court (Amendment No. 3) Rules (Northern Ireland) 1988

Made	*27th June 1988*
Coming into operation . .	*1st July 1988*

We, the County Court Rules Committee, appointed by the Lord Chancellor under Article 46 of the County Courts (Northern Ireland) Order 1980(**a**), in exercise of the powers conferred by; Article 47 of that Order; section 86(1) of, paragraphs 2 and 10 of Schedule 1, paragraph 2 of Schedule 3 and paragraph 3 of Schedule 8 to, the Licensing Act (Northern Ireland) 1971(**b**); section 47(1) of, and paragraph 2(1) of Schedule 2 to, the Registration of Clubs (Northern Ireland) Order 1987(**c**); and all other powers enabling us in that behalf, hereby make the following rules:—

Citation

1. These Rules may be cited as the County Court (Amendment No. 3) Rules (Northern Ireland) 1988.

Interpretation

2. In these Rules a reference to an Order or an Appendix by number is a reference to that Order or Appendix as numbered in the County Court Rules (Northern Ireland) 1981(**d**).

Amendment of the County Court Rules (Northern Ireland) 1981

3.—(1) For Order 48 there shall be substituted the Order set out in Schedule 1.

(2) In Appendix 1;

(*a*) for Forms 194 to 211 there shall be substituted the Forms set out in Schedule 2;

(*b*) after Form 304 there shall be inserted the Forms set out in Schedule 3.

Saving for previous application of pre-existing rules

4. Nothing in these Rules shall affect any application in respect of which notice has been given before the coming into operation of these Rules.

(a) S.I. 1980/397 (N.I. 3)
(b) 1971 c. 13 (N.I.), as amended by S.I. 1978/1044 (N.I. 14) and S.I. 1987/1277 (N.I. 13)
(c) S.I. 1987/1278 (N.I. 14)
(d) 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.

John K. Pringle
J. F. B. Russell
Barry Valentine
S. D. Massey

After consultation with the Lord Chief Justice, I allow these rules which shall come into operation on 1st July 1988.

Dated 27th June 1988. *Mackay of Clashfern,* C.

SCHEDULE 1 Rule 3(1)

Rules to be inserted as Order 48

ORDER 48

Licensing and Registration of Clubs

PART I

GENERAL

Interpretation

1.—(1) In this Order—

"the Act" means the Licensing Act (Northern Ireland) 1971(**a**); and a reference to a section is a reference to that section as numbered in the Act;

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

Notwithstanding Rule 1 of Order 58,

"the Order" means the Registration of Clubs (Northern Ireland) Order 1987(**b**); and a reference to an Article is a reference to an Article as numbered in the Order.

(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 section 4 or 7 of and Schedule 1 to the Act 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)(*aa*) 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 shall, in addition to complying with paragraph 1 of Schedule 1 to the Act, 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 an order under—

(*a*) section 29 specifying any part of the premises as suitable for functions such as are mentioned in section 49(6) (functions for which extension licences may be granted); or

(*b*) section 44 directing that the permitted hours for part of such premises of a kind mentioned in section 3(1)(*a*) for which the court imposes a condition under section 44(2) shall be the hours mentioned in section 42(2),

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(**a**) 1971 c. 13 (N.I.), as amended by S.I. 1978/1044 (N.I. 14) and S.I. 1987/1277 (N.I. 13)
(**b**) S.I. 1987/1278 (N.I. 14)

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 Act shall particularly delineate or distinguish the part of the premises for which the order 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 section 8 the notice shall refer to the fact that the premises are of a kind approved for that site by the declaration.

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

(6) A person intending to apply for the consent of the court under section 7(6) 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 the application is to be heard, serve notice in Form 203 on the chief clerk and serve copies of that 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 paragraphs 4 and 6 or 11 and 12 of Schedule 1 to the Act to the grant, provisional grant or grant of the licence being declared final, as the case may be, shall be in Form 204.

(8) A notice published in the newspapers as required by paragraph 1(*a*) of Schedule 1 to the Act and a notice displayed at the premises as required by paragraph 1(*aa*) 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 Act, 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 paragraph 4 of that Schedule, namely, unfitness of applicant, unsuitability of premises and, where the premises are of a kind mentioned in section 3(1)(*a*) or (*b*) only and section 5(3) or paragraph 6 of Schedule 3 does not apply, that the number of licensed premises of that kind in the vicinity is or will be adequate;

(*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 Act, 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, evidence that the premises comply with section 84(1) as being registered in the register of hotels maintained by the Northern Ireland Tourist Board under section 10 of the Development of Tourist Traffic Act (Northern Ireland) 1948(**a**) shall be given at the hearing of the application by production of a certificate to that effect purporting to be authenticated in the manner provided by section 2 of that Act.

(**a**) 1948 c. 4 (N.I.)

(2) Where the application is for the grant or declaration of the final grant of a licence for a restaurant, the certificate from the said Board referred to in the said section 84(1) (as to registration and compliance by the premises with certain requirements) and purporting to be so authenticated shall be produced at the hearing of the application.

(3) Where application is made for an order under section 29, the certificate from the Northern Ireland Tourist Board stating that the premises are registered in the register of restaurants maintained by the Board under section 10 of the Development of Tourist Traffic Act (Northern Ireland) 1948 shall be produced at the hearing of the application.

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

PART III

APPLICATIONS FOR DECLARATIONS OF APPROVED SITES UNDER SECTION 8 OF THE ACT

4.—(1) Notice of application in accordance with paragraph 3 of Schedule 3 to the Act for a declaration under section 8 of the Act shall be in Form 206.

(2) Notice of intention to object in accordance with the said paragraph 3 shall be in Form 207.

(3) Such a declaration shall be in Form 208.

PART IV

MISCELLANEOUS

Application under section 31(1)(i)

5.—(1) Notice of application in accordance with paragraph 2 of Schedule 8 to the Act for an order under section 31(1)(i) for the consent of the court to such alterations as are referred to in section 31(1)(*a*) to (*d*) shall be in Form 209.

(2) Notice of intention to object under paragraph 5 of Schedule 8 to the Act shall be in Form 210.

(3) An order consenting to such alterations shall be in Form 211.

Requirements for plans to be attached to notice of application

6.—(1) The plan required by paragraph 3(2) of Schedule 1 to the Act to be attached to a notice of application for the grant of a licence shall be to scale on substantial paper or material and shall show each floor of the premises on a separate page measuring, where practicable, approximately eighteen inches by eighteen inches and certified by an architect, surveyor or any other person considered by the court to be competent to do so.

(2) The plan shall show the parts of the premises in which intoxicating liquor is sold, or in which it is intended that intoxicating liquor should be sold, by clearly distinguishing in bold hatched or shaded colour between that and other parts of the premises.

(3) Where the application relates to an hotel, each of the following parts shall be clearly distinguished (by shading in separately each part in a different colour from the others) namely, the part—

(a) S.I. 1985/1208 (N.I. 15)