1988 No. 220

MAGISTRATES' COURTS

Magistrates' Courts (Licensing) Rules (Northern Ireland) 1988

Made	*15th June 1988*
Coming into operation . .	*1st July 1988*

The Lord Chancellor, in exercise of the powers conferred upon him by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981(**a**), paragraph 4 of Schedule 4, paragraph 2 of Schedule 5, paragraph 3 of Schedule 6, paragraph 4 of Schedule 7, paragraph 3 of Schedule 8A and paragraph 3 of Schedule 9 to the Licensing Act (Northern Ireland) 1971(**b**), and of all other powers enabling him in that behalf, on the advice of the Magistrates' Courts Rules Committee and after consultation with the Lord Chief Justice, hereby makes the following rules:—

PART I

Citation and commencement

1. These rules may be cited as the Magistrates' Courts (Licensing) Rules (Northern Ireland) 1988 and shall come into operation on 1st July 1988.

Revocations and saving

2. The Magistrates' Courts (Licensing) Rules (Northern Ireland) 1975(**c**), the Magistrates' Courts (Licensing) (Amendment) Rules (Northern Ireland) 1977(**d**) and the Magistrates' Courts (Licensing) (Amendment) Rules (Northern Ireland) 1979(**e**) are hereby revoked, except in relation to any application notice of which has been given before 1st July 1988.

Interpretation

3.—(1) In these rules "the Act" means the Licensing Act (Northern Ireland) 1971; and a reference to a section or Schedule by number is a reference to that section or Schedule as numbered in the Act.

(2) Any reference in these rules to a form by number is a reference to that form so numbered in the Schedule to these rules.

(3) 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.

(a) S.I. 1981/1675 (N.I. 26)
(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.R. 1975 No. 349
(d) S.R. 1977 No. 200
(e) S.R. 1979 No. 133

(4) Any reference in these rules to the clerk of petty sessions is a reference to the clerk of petty sessions for the petty sessions district in which the application is made.

PART II

RENEWAL OF LICENCES

Applications for the renewal of licences

4.—(1) Notice of application for the renewal of a licence shall be in Form 1.

(2) Where on such application the applicant intends also to make an application under section 29 (for an order specifying part of premises as suitable for extension licences) or under section 44 (for an order directing that the hours be alternative permitted hours) he shall attach to the notice in Form 1 served on the clerk of petty sessions for the petty sessions district in which the premises are situated, and to the copies required to be served by paragraph 3 of Schedule 4 a notice in Form 2 or 3, as may be appropriate, and, a plan of the premises distinguishing the part thereof to which the application relates.

(3) Notice of intention to object to the renewal of a licence shall be in Form 4.

Plans to be attached to notices of renewal

5.—(1) The plan referred to in rule 4(2) must be to scale on substantial paper or other material and shall show each floor of the premises on a separate page measuring approximately eighteen inches by eighteen inches and certified as true and correct by an architect, surveyor or 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.

PART III

DOCUMENTS

Documents to be produced at hearing of applications

6.—(1) The applicant for an order under section 29, in relation to premises of a kind mentioned in section 3(1)(*a*), shall produce to the court a copy of the certificate of the Northern Ireland Tourist Board that the premises for which the licence is sought to be renewed are registered in the register of restaurants maintained by the Board under section 10 of the Development of Tourist Traffic Act (Northern Ireland) 1948(**a**).

(2) Where application is made for the renewal of a licence for an hotel or restaurant, a copy of the certificate of the Northern Ireland Tourist Board that the premises are registered in the appropriate register under section 10 of the Development of Tourist Traffic Act (Northern Ireland) 1948 and, in the case

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

of a restaurant, comply with the requirements of section 84(1) shall be lodged with the notice of application.

(3) Evidence for the purposes of section 84(4) that a licence was granted before 31st July 1902, or that the accommodation provided on the premises is approved by the Northern Ireland Tourist Board or that premises are in the register of guest houses, as the case may be, produced to the clerk of petty sessions may be in the form of a certified extract from the register of licences or a certificate of the Board, as may be appropriate.

(4) Where application is made—

(*a*) for the renewal of a licence for an hotel, restaurant or premises of a kind mentioned in section 3(1)(*a*) and either an application is to be made or an order is in force for the premises under section 45;

(*b*) for an order under section 45 other than on renewal; or

(*c*) for the renewal of a licence for any place of entertainment,

any licence required for those premises by a council under Schedule 1 to the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985(**a**) shall be produced to the court.

PART IV

TRANSFER OF LICENCES AND AUTHORISATIONS UNDER SECTION 26

Applications for transfer

7.—(1) Notice of application for the transfer of a licence shall be in Form 5 and notice of application for the transfer and renewal of a licence under section 20 shall be in Form 6.

(2) A short extract from a copy of the newspapers bearing the notices referred to in paragraph 1(*a*) of Schedule 5 and the date on which they were published shall be lodged with the clerk of petty sessions a reasonable time before the hearing of the application.

(3) Notice of intention to object to a transfer shall be in Form 7.

Protection Orders and authorisation of continuance in business

8.—(1) Notice of application for a protection order shall be in Form 8.

(2) Notice that a person is carrying on business by virtue of section 25 shall be in Form 9.

(3) Notice of application for an order under section 26 authorising the continuance of business under a licence in temporary or other premises shall be in Form 10.

(4) Notice of intention to object to the making of a protection order or an order under section 26 shall be in Form 11.

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

PART V

OCCASIONAL LICENCES

Applications for the grant of an occasional licence

9.—(1) A notice of application for the grant of an occasional licence shall be served not less than fourteen days before the time of the court sitting at which the application is to be made.

(2) Notice of application for the grant of an occasional licence shall be in Form 12.

(3) An occasional licence shall be in Form 13.

(4) The applicant for an occasional licence shall attach to the notice of application and to the copies thereof to be served on the sub-divisional commander and the district council a written statement containing the particulars referred to in paragraph (5) made by the body organising the function to which the application relates.

(5) The written statement referred to in paragraph (4) shall be signed by an officer of the body and set out the name and purposes of the body, the nature of the function, the premises on which and the times during which the function is to be held. It shall state the names and addresses of each of the persons to be in personal charge of running the function.

(6) A caution such as is referred to in paragraph 3 of Schedule 7 shall be in Form 14 and the cautioner shall in addition to complying with that paragraph serve a copy of the caution on the person to whom the licence was granted.

(7) The sub-divisional commander, the district council or a cautioner who intends to object to the grant of an occasional licence shall serve notice of his intention to object and his grounds for doing so in Form 15 upon the applicant and upon the clerk of petty sessions; but where the court is satisfied that the person intending to object has reasonable grounds for failure to serve any such notice, the court may nevertheless hear such person in considering the application.

(8) Where the sub-divisional commander does not object to the grant of the licence he shall so state on the bottom of the copy of the notice of the application which he receives and shall cause the form to be delivered to the clerk of petty sessions not later than the day before the court sitting at which the application is to be made.

PART VI

ALTERATIONS TO LICENSED PREMISES

Notice required by section 31(1)(ii)

10.—(1) The notice of an alteration to licensed premises required by order of some lawful authority referred to in section 31(1)(ii) shall be in Form 16.

(2) The proposed alterations shown in the plan required to be attached to Form 16 under paragraph 8(1) of Schedule 8 should be authenticated on behalf of the authority in question by the signature of an officer thereof having power to do so.

PART VII

ADDITIONAL PERMITTED HOURS

Applications under section 45

11.—(1) Notice of application for an order under section 45 shall be in Form 17.

(2) Where an application for an order is made under section 45 the applicant shall attach to the notice in Form 17 served on the clerk of petty sessions and to the copies required to be served by paragraph 2 of Schedule 8A (except where an order under section 45 is in force in relation to the part of the premises to which the plan relates and no structural alteration to the premises has been made to that part since a section 45 order was last granted in respect of the premises or since the licence for the premises was last renewed), a plan of the premises distinguishing the part thereof to which the application relates.

(3) The plan referred to in paragraph (2) shall comply with the requirements in rule 5.

(4) Notice of intention to object to the making of an order under section 45 shall be in Form 18.

PART VIII

EXTENSION LICENCES

Applications for extension licences

12.—(1) A notice of application for the grant of an extension licence shall be served not less than fourteen days before the time at which the person who intends to make the application wishes it to be considered.

(2) Notice of application for an extension licence shall be in Form 19 and of intention to object thereto shall be in Form 20.

(3) Paragraphs (4), (5) and (8) of rule 9 shall apply to applications for the grant of extension licences as they apply to occasional licences, and paragraph (8) of rule 9 shall, in so applying, have effect as if for the words "the court sitting at which the application is to be made" there were substituted the words "the day on which the application is to be considered".

PART IX

MISCELLANEOUS

Costs

13. Article 163 of the Magistrates' Courts (Northern Ireland) Order 1981(**a**) (Costs) shall apply to an application under Schedule 4, 5, 6, 7, 8, 8A or 9 as if any objector to the application were a respondent.

Plans

14.—(1) Where premises were licensed for which plans were deposited in the office of the chief clerk and have been sent to the clerk of petty sessions or

(a) S.I. 1981/1675 (N.I. 26)