1979 No. 447

JUDICATURE, NORTHERN IRELAND

COUNTY COURTS

County Court (Licensing) Rules (Northern Ireland) 1979

Made . . . . . 14*th December* 1979

Coming into operation . . . 1*st January* 1980

We, the County Court Rules Committee, appointed by the Lord Chancellor under section 146 of the County Courts Act (Northern Ireland) 1959(a) hereby, in accordance with that section, section 86(1) of, paragraph 2 of Schedule 1, paragraph 3(2) of Schedule 3, and paragraph 3 of Schedule 8 to the Licensing Act (Northern Ireland) 1971(b), make the following Rules:—

PART I

GENERAL

Citation

1. These Rules may be cited as the County Court (Licensing) Rules (Northern Ireland) 1979.

Revocations

2. The following Rules are hereby revoked—

the County Court (Licensing) Rules (Northern Ireland) 1971(c);

the County Court (Licensing) (Amendment) Rules (Northern Ireland) 1975(d);

the County Court (Licensing) (Amendment) Rules (Northern Ireland) 1976(e);

the County Court (Licensing) (Amendment) Rules (Northern Ireland) 1977(f); and

the County Court (Licensing) (Amendment) Rules (Northern Ireland) 1979(g).

Interpretation

3.—(1) In these Rules—

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

(2) A reference to a Form by number is a reference to that Form as numbered in the Schedule to these Rules.

(3) A reference to the chief clerk is a reference to the chief clerk for the county court division in which the application is being made.

(a) 1959 c. 25 (N.I.) as amended by 1978 c. 23
(b) 1971 c. 13 (N.I.)
(c) S.R. & O. (N.I.) 1971 No. 174 (p. 797)
(d) S.R. 1975 No. 348 (II, p. 1703)
(e) S.R. 1976 No. 209 (II, p. 960)
(f) S.R. 1977 No. 325 (II, p. 1766)
(g) S.R. 1979 No. 116

PART II

APPLICATIONS FOR THE GRANT OF LICENCES

Notices of application

4.—(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 the forms numbered 1 to 8 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 may omit to specify the address of the applicant for the licence or of the owner of the premises where the notice gives the address of the solicitor for the applicant.

(2) A person intending to make an application for the grant or provisional 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 application is to be made at the time of the grant or provisional grant of the licence for an order under—

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

(*b*) section 44 directing that the permitted hours for premises such as are specified in section 3(1)(*b*) or for part of such premises as are specified in section 3(1)(*a*) shall be the alternative permitted hours (for the sale of intoxicating liquor for consumption off the premises or such part thereof); or

(*c*) section 45 directing that on certain weekdays in a specified part or parts of a hotel or restaurant (used for providing entertainment and refreshment) certain additional hours shall be included in the permitted hours,

such intention shall be stated in the notice of application; and, where the application is for an order under section 29, 44(1)(*a*), 44(2) or section 45, 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 the kind approved for that site by the declaration.

(5) A person entitled to appear at the hearing of an application and object to the provisional grant to a housing authority of a licence being declared final may, in addition or in the alternative to objecting on the ground specified in paragraph 11 of Schedule 1 to the Act, object on the ground that the premises have not been completed as required by section 7(7)(i) and, accordingly, that paragraph shall be modified by inserting at the end the words "or on the ground that the premises have not been completed as required by section 7(7)(i) or on both such grounds."

(6) 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 9 and the applicant shall attach the licence to the notice for the purposes of section 7(10).

(7) A notice such as referred to in paragraph (6) shall be served by a person specified in section 7(7)(*a*) on the chief clerk and a copy thereof on the divisional commander of the police division in which the premises for which the licence was provisionally granted are situated and Part III of Schedule 1 to the Act shall, in relation to such person, have effect as if for paragraphs 9 and 11 of that Schedule respectively there were substituted the following paragraphs—

"**9.** Where a licence has been provisionally granted to a person who proposes to be the owner of the business to be carried on under the licence and he intends to apply to have the grant declared final, he shall, not less than three weeks before the time of the opening of the court sittings at which the application is to be made, serve notice of the application upon the chief clerk and at the same time serve a copy of the notice upon the divisional commander of the police division in which the premises for which the licence was provisionally granted are situated.

11. A divisional commander upon whom notice is required by paragraph 9 to be served (or any other member of the Royal Ulster Constabularly, not below the rank of sergeant, nominated by him) shall be entitled to appear at the hearing of the application and object to the grant of the licence being declared final on the ground that the premises have not been completed as required by section 7(7)(i).".

(8) A person wishing to apply for the consent of the court under section 7(6) to the modification of plans at any time before a licence which has been provisionally granted is declared final shall serve notice in Form 10 on the chief clerk and a copy of the notice on the divisional commander of the police division to which the premises for which the licence was provisionally granted are or are to be situated, not less than three weeks before the time of the opening of the court sittings at which the application for such consent is to be heard, and shall attach to such notice and copy a copy of the modified plans complying with Rule 8 and clearly showing the proposed modifications.

(9) A notice of intention to object in accordance with paragraphs 4 and 6 or 11 of Schedule 1 to the Act to the grant or final grant of a licence shall be in Form 11.

(10) A notice published in the newspapers required by paragraph 1(*a*) in Schedule 1 to the Act 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, the chief clerk and the divisional commander of the police division in which the premises for which the licence is sought are situated, 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.

(11) 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 12.

Documents to be produced at hearing of application

5.—(1) Where the application is for the grant or final grant of a licence for an hotel, evidence that the premises comply with section 84(1) of the Act 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(**h**) 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.

(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 application is made for an order under section 45 or for a licence under the Act for any place of entertainment any licence required by the sanitary authority under section 31 of the Local Government Act (Northern Ireland) 1934(**i**) must be produced at the hearing of the application.

(5) Where application is made to the court under section 12 of and Schedule 2 to the Intoxicating Liquor and Licensing Act (Northern Ireland) 1927(**j**) for the grant of a licence for premises primarily and ordinarily used as a theatre or music hall and also for a licence of the kind referred to in section 3(1)(*e*) of the Licensing Act (Northern Ireland) 1971 for the same premises the applications shall be heard together.

PART III

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

6.—(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 13.

(2) Notice of intention to object in accordance with the said paragraph 3 shall be in Form 14.

(3) Such a declaration shall be in Form 15.

PART IV

APPLICATIONS UNDER SECTION 31(1)(i) OF THE ACT FOR CONSENT TO ALTERATIONS TO LICENSED PREMISES

7.—(1) Notice of application for an order under section 31(1)(i) of the Act for the consent of the court to such alterations as are referred to in section 31(1)(*a*) to (*d*) thereof shall be in Form 16.

(2) Notice of intention to object under paragraph 5 of Schedule 8 to the Act shall be in Form 17.

(3) An order consenting to such alterations shall be in Form 18.

(**h**) 1948 c. 4 (N.I.)
(**i**) 24 & 25 Geo. 5 c. 22 (N.I.)
(**j**) 17 & 18 Geo. 5 c. 21 (N.I.)

Requirements for plans to be attached to notice of application

8.—(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 linen or substantial paper 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*) in which customers who are not residents or the guests of residents may be served with intoxicating liquor;

(*b*) in which only residents may be so served;

(*c*) set apart for the service of main table meals only to residents and their guests;

(*d*) set apart for the service of main table meals whether to the public or to residents or their guests;

(*e*) set apart for the service of intoxicating liquor and other beverages to diners before or after such meals.

Copies of notices for divisional commander to be lodged at police station within police division

9.—(1) Any notice, document or copy thereof required by the Act or these Rules to be served upon the divisional commander of a police division shall be served, unless the divisional commander otherwise directs, by being lodged with the member of the Royal Ulster Constabulary for the time being in charge of a police station within the division in which the premises to which the document relates are situated.

(2) Notwithstanding anything in section 84(8), where the applicant is a body corporate, paragraph (1) shall have effect as if for the reference to the police division in which the applicant resides there were substituted a reference to that in which the body has its principal or registered office.

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.

James A. Brown
J. P. Higgins
Harold McKee
Harry Coll
H. Collen
T. F. Glass

After consultation with the Lord Chief Justice I allow these Rules which shall come into operation on 1st January 1980.

Dated 14th December 1979.

Hailsham of St. Marylebone, C.